



**TFLMUN'26**

**OHCHR STUDY GUIDE**

**Agenda Item: Confronting Systematic Human Rights Abuses and War Crimes in Conflict Zones**

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## **1. Letter from the Secretary General**

Esteemed delegates of TFLMUN'26,

It is a great honour to welcome you to one of the most vivid and inspirational events in our city. As the Secretary General of this valuable conference, it is my pleasure to be a part of the experience.

Our special executives and deliberately selected organization members have set their first priority to seek all of your interests, and we all specifically see our event as a mission to be superior and the most inspirational. Speaking for myself and our team, we worked tirelessly day and night without hesitation for your best interests and to provide you the opportunity to express yourself in every aspect as a delegate of TFLMUN'26. We state that each and every one of our conference's delegates is held in high esteem, and you are welcomed equally. We believe that TFLMUN'26 is going to be one of the only events where everyone is free to be themselves comfortably and enjoy the spirit of Model United Nations.

By attending our conference, you will have the opportunity to engage in meaningful debates, challenge yourself in the aspect of self-confidence, and improve yourself intellectually. You will feel the excitement of new friendships, and most importantly, you will experience the quality of the sensational conference first-hand. We urge you to comprehend that besides being a platform to debate, our conference will be the journey to your personal growth along with unique entertainment.

We look forward to witnessing all of our delegates' efforts and determination. Let TFLMUN'26 be the step for your excellence and self-growth!

Yours faithfully,

Adal Çavuşlu

Secretary General of TFLMUN'26

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## **2. Letter from the Under Secretary General of OHCHR Committee**

Dear delegates,

First of all, I would like to welcome you all to TFLMUN'26! I don't know about you, but as your Under Secretary General, I am looking forward to meeting you and listening to your exciting discussions.

As an agenda item, I have chosen a major issue that the world faces today, as it has in the past: 'Confronting Systematic Human Rights Abuses and War Crimes in Conflict Zones'. We cannot remain silent in the face of this serious problem, because silence means allowing injustice to become normalized. In this committee, we aim to be not just observers, but individuals who think, question, and generate solutions. Every idea expressed, every argument put forward, and every solution proposed will be a meaningful step towards a more just, safer, and more livable world. Our goal in this process is to take responsibility by using our voice and to be an active part of change.

I strongly recommend that you carefully read this study guide, which we have worked on for days, even weeks, for you. In particular, try to come up with logical, feasible, policy-appropriate solutions to the questions at the end of the guide in order to create a resolution paper, which is the goal of our committee. I also recommend that you go beyond the study guide and research your countries' policies on the subject. Good luck with your work! If you have any questions, problems, or concerns, please don't hesitate to contact me.

I would also like to express my deepest gratitude to the academy and the organisation team who made this conference possible and have always been by our side.

Best Regards

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### **3. Introduction to the Committee**

#### **a) What is OHCHR?**

The Office of the High Commissioner for Human Rights (UN Human Rights) is the leading UN entity on human rights. The committee represents the world's commitment to the promotion and protection of the full range of human rights and freedoms set out in the Universal Declaration of Human Rights. The UN General Assembly established The Office of the High Commissioner for Human Rights in December 1993 through its resolution 48/141 which also details its mandate. In carrying out its mandate, OHCHR gives priority to the most urgent human rights violations, both acute and chronic, particularly those that directly threaten personal safety. OHCHR focuses on individuals who are at multiple risks and in vulnerable situations. It places equal emphasis on the realization of civil, cultural, economic, political, and social rights, including the right to development. It measures the impact of its work through the tangible benefits provided to individuals worldwide as a result of these efforts.

To fulfil its mission, OHCHR follows a robust framework of results known as the OHCHR Management Plan (OMP). This roadmap of the current OMP covering the period 2024-2027 is based on lessons learned from implementation, broad consultations with a wide range of stakeholders including Member States, the UN system and civil society in the context of the Human Rights 75 initiative, and an analysis of the impact of major global trends on human rights. The OMP is aligned with and contributes to the delivery of intergovernmental frameworks and it is strongly anchored to the 2030 Agenda for Sustainable Development.

#### **b) OHCHR's Role in Relation to the Agenda Item**

In recent decades, armed conflict has blighted the lives of millions of civilians. Serious violations of international humanitarian and human rights law are common in many armed conflicts. In certain circumstances, some of these violations may even constitute genocide, war crimes or crimes against humanity. Warfare is a phenomenon in constant change, so international human rights law and international humanitarian law must adjust constantly to avoid gaps in the protection they provide. International human rights law and international humanitarian law share the goal of preserving the dignity and humanity of all.

One of the key thematic elements of the Office of the United Nations High Commissioner for Human Rights (OHCHR) Management Plan is work aimed at preventing human rights violations in conflict and insecurity situations. OHCHR operates on the ground to monitor compliance with human rights principles and obligations under international humanitarian law. OHCHR investigates complaints regarding allegations of human rights violations and collaborates with experts under treaty bodies and special procedures to identify such violations and prevent them in the future.

OHCHR also supports the United Nations' fact-finding missions to assist states in addressing violations of international human rights and humanitarian law. Numerous initiatives are also being carried out in other departments to explore ways to ensure the protection of the human rights of persons in conflict situations.

#### **4. Introduction to the Agenda Item**

Armed conflict has long been associated with human rights violations. Today the extent and intensity of conflicts in the world threatens to engulf the system for the promotion and protection of human rights and the standards of international humanitarian law which the international community has worked so hard to build up since the Second World War.

War crimes are violations of international humanitarian law (whose perpetrators incur individual criminal responsibility under international law). Consequently, unlike the crimes of genocide and crimes against humanity, war crimes always take place in the context of an armed conflict, whether international or not.

War crimes include murder, torture, pillage, or intentionally directing attacks against the civilian population, humanitarian aid workers, religious and educational buildings and hospitals. The use of weapons not authorised by international conventions, such as chemical weapons or cluster munitions, can also be considered a war crime. War crimes can be perpetrated against a variety of victims, whether combatants or non-combatants, depending on the type of crime.

##### **a) Key Terms and Definitions**

Human Shields: A human shield is a non-combatant (or a group of non-combatants) who either volunteers or is forced to shield a legitimate military target in order to deter the enemy from attacking it.

Hostage: A person given to or held by a person, organization, etc, as a security or pledge or for ransom, release, exchange for prisoners, etc.

Discrimination: The unjust or prejudicial treatment of different categories of people, especially on the grounds of ethnicity, age, sex, or disability.

Human Rights Violations: Human rights violations occur when fundamental freedoms and rights, as defined by international laws and agreements, are disregarded, restricted, or denied. These violations can be committed by governments, organisations, or individuals and often result in severe consequences, including oppression, discrimination, and violence.

SGBV: Sexual and gender-based violence (SGBV) is violence committed against a person because of his or her sex or gender.

Jus ad Bellum: Jus ad bellum refers to the conditions under which States may resort to war or to the use of armed force in general.

Jus in Bello: Jus in bello regulates the conduct of parties engaged in an armed conflict.

Internally Displaced Persons (IDPs): Individuals or groups of people that have been compelled to leave their homes due to armed conflicts, violations of human rights, or catastrophes, but have not moved beyond an internationally recognized border.

Genocide: Acts intended to destroy a group (national, ethnic, racial, or religious), such as killing, harming, or preventing its future.

Impunity: Failing to punish those who commit heinous acts, usually due to inadequate systems or political will. It results in increased criminal activities and erosion of the rule of law.

Principle of Proportionality: The principle that prohibits an attack if the harm to civilians outweighs the military advantage anticipated.

## **5. Forms of Systematic Abuses Against Civilians**

### **a) Targeting of Civilians and Civilian Objects**

Our century has witnessed increasingly destructive armed conflicts driven by advances in science and technology. The use of various weapons and methods ‘particularly nuclear, chemical, and biological weapons’ that cause widespread devastation underscores the need to protect civilians more than ever before. The pain and losses experienced as a result of the two world wars and the numerous armed conflicts that followed have led humanity to re-examine the rules of armed conflict.

Who is a civilian? Another justification put forward by the perpetrators of attacks against civilians is that the individuals targeted are somehow not entitled to civilian status. As discussed earlier, the distinction between civilians and combatants is fundamental to the protections of international humanitarian law. Under IHL, anyone who is not a combatant is considered a civilian. Reserve or off-duty soldiers are considered civilians unless they take part directly in hostilities, or become subject to military command. Civilians lose their civilian protection if they directly participate in armed hostilities, but only during the period of that participation; they regain civilian status once they are no longer directly engaged in hostilities.

What are the statuses of individuals in international armed conflicts? The status of persons in international armed conflicts is divided into three categories: “combatants,” “civilians,” and “non-combatants.” The primary purpose of determining these statuses is to establish the rules of armed conflict applicable to each individual. The basis for this distinction, as stated in

Article 22 of the Additional Protocols to the Hague Conventions, lies in drawing a distinction between civilians and combatants as a limit on the means and methods of warfare, and in shaping treatment accordingly.

The first treaty established for the protection of civilians is the 1949 “Fourth Geneva Convention Relative to the Protection of Civilians in Time of War,” and the 1977 First Additional Protocol to the Geneva Conventions Relating to the Protection of Victims of International Armed Conflicts serves as a supplement to this Convention. Numerous painful experiences have shown that in times of war and armed conflict, civilians are the most vulnerable group, and among civilians, those in vulnerable groups are the most affected. Not only civilians but also “civilian objects” must be protected in accordance with the “principle of avoiding unnecessary suffering” and should not be regarded as military targets.

*Why are civilians targeted?* Insurgents often deliberately target civilians as part of their strategy for several reasons. First and foremost, attacking civilians serves to instill fear and terrorize populations, creating a sense of insecurity and vulnerability among civilians. By targeting non-combatants, including women, children, and the elderly, insurgents seek to undermine societal stability, fracture community cohesion, and ultimately erode trust in government institutions. Because civilians are perceived as soft targets, often lacking the protection and defenses of military or security personnel, they are also more susceptible to attacks. Insurgents may also target civilians to incite sectarian or ethnic violence, exacerbate existing tensions, and deepen societal divisions. Symbolically, attacking civilians can serve as a means to garner attention, generate headlines, and attract sympathy or support from sympathetic groups or sympathizers.

Some specific war crimes committed against civilians include (but are not limited to):

- Torture or inhuman treatment
- Unlawful deportation or transfer, or unlawful detention
- Taking hostages
- The transfer of the civilian population to occupied territories or the deportation of the population from occupied territories
- Looting
- Use of human shields
- Use of starvation as a method of warfare

There are many examples of civilians and civilian objects being targeted. A few are listed below;

- **Atomic bombings of Hiroshima and Nagasaki**

On August 6 and 9, 1945, during the final days of World War II, the United States dropped two atomic bombs on the Japanese cities of Hiroshima and Nagasaki, respectively. The airstrikes resulted in the deaths of between 150,000 and 246,000 people, most of whom were civilians, and went down in history as the first and only use of nuclear weapons in

armed conflict. It is estimated that of those killed, 38,000 were children. In the years that followed, many of the survivors would face leukemia, cancer, or other terrible side effects from the radiation. The bomb razed and burnt around 70 per cent of all buildings in Hiroshima.

- **Bombing of RTS Building in Belgrade**

The bombing was part of NATO's air campaign against the Federal Republic of Yugoslavia and caused severe damage to the Belgrade headquarters of Radio Television Serbia (RTS). Other radio and power facilities across the country were also targeted. When a single NATO missile struck the building, sixteen RTS employees were killed. Nearly all of the deceased RTS employees were technicians, security guards, and makeup artists. Many were trapped for days and could only communicate via cell phones.

NATO Headquarters justified the bombing with two arguments: first, that it was necessary "to disrupt and degrade the command, control, and communications network" of the Yugoslav Armed Forces; and second, that the RTS headquarters was a dual-use facility that "was making an important contribution to the propaganda war that orchestrated the campaign against the population of Kosovo."

Amnesty International described the attack as a war crime. However, the committee established by the International Criminal Tribunal for the Former Yugoslavia stated that there was no justification for the UN tribunal to launch an investigation into whether NATO had committed a crime.

- **US Airstrike on Médecins Sans Frontières Hospital in Kunduz**

In August 2011, a trauma hospital opened in the city of Kunduz in northern Afghanistan. The hospital provided high-quality, free surgical care to all trauma victims. The hospital was the only one of its kind in northeastern Afghanistan; previously, critically injured patients had to undertake long and dangerous journeys to the capital, Kabul, or to Pakistan to receive the care they needed. Since the hospital opened in 2011, over 15,000 surgeries have been performed and more than 68,000 emergency patients have been treated. In just a few years, the hospital had become a vital lifeline for people living in Kunduz and the surrounding provinces.

Throughout September 2015, clashes between government and opposition forces intensified and spread to the city of Kunduz. On September 28, 2015, as armed opposition forces seized the city of Kunduz, the hospital suddenly found itself in the midst of a rapidly shifting front line. The team was struggling to cope with hundreds of wounded patients. In the five days leading up to the attack, teams in Kunduz had treated 376 patients in the emergency room.

During the incident that began at 2:08 a.m. on Saturday, October 3, a U.S. AC-130 gunship fired 211 rounds of artillery at the main hospital building while patients were

sleeping in their beds or undergoing surgery in the operating room. At least 42 people were killed, including 24 patients, 14 staff members, and 4 caregivers. Thirty-seven others were injured. Patients burned to death in their beds, and medical staff were killed by decapitation or the loss of limbs. Others were killed by gunfire from the air while trying to escape the burning building.

In the days following the attack, the U.S. military took responsibility, claiming the airstrikes were an accident. The U.S. military claimed to have received reports that active Taliban militants were present in the hospital building. Hospital staff reported that there were no armed fighters or combat taking place on the premises prior to the airstrike.

## **b) Enforced Disappearances**

Enforced disappearance (or forced disappearance) is the secret abduction or detention of a person with the support or acquiescence of the state, followed by a refusal to disclose the person's fate or whereabouts with the intent of placing the victim outside the protection of the law. In many cases, enforced disappearance implies a murder in which the victim is abducted, may be detained unlawfully, is frequently subjected to torture during interrogation, is ultimately killed, and their body is secretly disposed of. Since there is no evidence of the victim's death, the perpetrators have a plausible alibi.

Enforced disappearance was first recognized as a human rights issue following its use by military dictatorships in Latin America during the "Dirty War" in the 1970s. However, this phenomenon has occurred worldwide.

It is characterized by three cumulative elements:

1. Deprivation of liberty against the will of the person;
2. Involvement of government officials, at least by acquiescence;
3. Refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the disappeared person.

A disappearance has a doubly paralysing impact: on the victim, who is removed from the protection of the law, frequently subjected to torture and in constant fear for their lives; and on their families, ignorant of the fate of their loved ones, their emotions alternating between hope and despair, wondering and waiting, sometimes for years, for news that may never come.

These people are often never released and their fate remains unknown. Victims are frequently tortured and many are killed, or live in constant fear of being killed. They know their families have no idea where they are and that there is little chance anyone is coming to help them. Even if they escape death and are eventually released, the physical and psychological scars stay with them.

Enforced disappearance is frequently used as a strategy to spread terror within society. The feeling of insecurity and fear it generates is not limited to the close relatives of the disappeared, but also affects communities and society as a whole.

Once largely used by military dictatorships, disappearances now happen in every region in the world and in a wide range of contexts. They are commonly carried out in internal conflicts, particularly by governments trying to repress political opponents or by armed opposition groups.

### **The measures taken in the past regarding the issue of enforced disappearances:**

*The actions of the Working Group on enforced disappearances (WGEID):* The main function of the WGEID is a humanitarian one, in the sense that it assists families in determining the fate or whereabouts of their loved ones who are reportedly forcibly disappeared. The WGEID acts as a channel of communication between relatives of victims of enforced disappearance or organizations supporting them, and the governments concerned.

For this purpose, the WGEID receives, examines and transmits to governments reports of enforced disappearances submitted by relatives or human rights organizations acting on their behalf. The WGEID requests governments to carry out investigations and share information on the results of said investigations. The WGEID follows up on its requests for information on a periodic basis. Cases remain open in the WGEID's database until the fate or whereabouts of the person is determined.

The increasingly dangerous journeys of migrants and refugees, coupled with the increasingly stringent migration policies of states and supranational organizations such as the European Union, have significantly heightened the risk of migrants becoming victims of enforced disappearance. This has also been acknowledged by the United Nations Working Group on Enforced or Involuntary Disappearances. Furthermore, the United Nations Committee on Enforced Disappearances has acknowledged in the Guiding Principles on the Search for Missing Persons that the risk of enforced disappearance increases as a result of migration.

*International Convention for the Protection of All Persons from Enforced Disappearance:* The International Convention for the Protection of All Persons from Enforced Disappearance came into effect in 2010. It aims to prevent enforced disappearances, uncover the truth when they do happen and make sure survivors and victims' families receive justice, truth and reparation. The Convention is one of the strongest human rights treaties ever adopted by the UN. Unlike other crimes under international law, such as torture, enforced disappearances were not prohibited by a universal legally binding instrument before the Convention came into force in 2010.

The Convention provides a definition of the crime of enforced disappearance and outlines necessary state action in order to both prevent the occurrence of the crime and to allow for the investigation and prosecution of those who perpetrate it.

Implementation of the Convention is monitored by the Committee on Enforced Disappearances (CED). At the time of ratifying or acceding to the Convention, or even later, a state may declare that it recognizes the competence of CED to receive and consider communications from or on behalf of victims or other states parties. The CED also provides authoritative interpretations of the Convention.

There are many examples of enforced disappearances. A few are listed below;

Turkiye: Turkish human rights groups hold Turkish security forces responsible for the disappearance of more than 1,500 Kurdish civilians during efforts to eliminate the PKK in the 1980s and 1990s. Since 1995, the Saturday Mothers have been holding silent vigils and sit-ins every Saturday to demand that the missing be found and those responsible be brought to justice. Every year, Yakay-Der, the Turkish Human Rights Association (İHD), and the International Committee for the Abolition of Disappearances (ICAD) organize a series of events in Turkey to mark “Missing Persons Week.”

In April 2009, in response to calls for Turkey’s security agencies to reveal the truth about past abuses, state prosecutors ordered the excavation of various sites across Turkey believed to contain the remains of Kurdish victims of state death squads from the 1980s and 1990s.

Syria: Some 82,000 people have been subjected to enforced disappearance in Syria since 2011. The overwhelming majority of those have vanished into a network of government detention centres, but more than 2,000 individuals have gone missing after being detained by armed opposition groups and the armed group that calls itself the Islamic State.

Amid the brutality and bloodshed of the Syrian conflict, the plight of those who have vanished after being arrested by the authorities or detained by armed groups is a tragedy that has been largely ignored internationally. Tens of thousands of families have been desperately trying to uncover the fate of their missing relatives. In July 2018, the Syrian government confirmed the deaths of at least 161 people known to have been forcibly disappeared since the start of the conflict.

Argentina: Perhaps the best-known instance of mass enforced disappearances in the 20th century was the last dictatorship in Argentina. During military rule in the South American country between 1976-1983, the security forces abducted around 30,000 people, many of whom are still unaccounted for.

Widespread as well as systematic human rights violations occurred, with torture and extrajudicial executions on a grand scale, including notorious “death flights” in which victims were dropped to their deaths from military planes or helicopters.

Amnesty International has long campaigned for justice for victims and conviction of the military officials and government figures suspected of criminal responsibility, many of whom have been brought to justice before ordinary civilian courts in recent years.

### **c) Arbitrary Arrest and Detention**

The notion of ‘arbitrary’ includes both the requirement that a particular form of deprivation of liberty is taken in accordance with the applicable law and procedure and that it is proportional to the aim sought, reasonable and necessary. ‘Arbitrariness’ is not to be equated with ‘against the law’, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law.

Detention may be illegal without being arbitrary and vice-versa. Illegality simply means that the law has not been complied with, whereas arbitrary refers to the inappropriate, unjust, unforeseeable or disproportionate nature of the detention. Arbitrary detention exposes the victim to more human rights violations since they are deprived of means to defend themselves from extrajudicial execution, enforced disappearances, torture and other cruel, inhuman or degrading treatment, etc.

To enable it to carry out its tasks, the Working Group has adopted specific criteria applicable in the consideration of cases submitted to it. Consequently, according to the Working Group, deprivation of liberty is arbitrary if a case falls into one of the following five categories:

*Category I:* When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of their sentence or despite an amnesty law applicable to them);

*Category II:* When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights;

*Category III:* When the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.

*Category IV:* When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy; and

*Category V:* When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; or disability or other status, and which aims towards or can result in ignoring the equality of human rights.

The right to personal liberty is defined by Article 9 of the International Covenant on Civil and Political Rights, which outlines the conditions that render detention arbitrary, especially when:

- The grounds for the arrest are illegal
- The victim was not informed of the reasons for the arrest
- The procedural rights of the victim were not respected
- The victim was not brought before a judge within a reasonable amount of time

During a period of conflict or tensions, arbitrary detention can become a large-scale political tool of intimidation, often used in combination with other violations, such as the suppression of individual liberties, extrajudicial executions, enforced disappearances etc.

There are countless examples of individuals in various conflict zones who are arbitrarily detained without any charges or trial, often for political reasons or due to their ethnic background. For this reason, it is crucial to find a solution to the problem of arbitrary detention in order to ensure the protection of fundamental rights and prevent further violations in conflict situations.

#### **d) Sexual Violence and Gender-Based Crimes**

Gender-based violence, broadly, is violence that is directed against a person on the basis of gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Sexual violence, in particular, concerns “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.” Acts of sexual violence and gender-based violence (SGBV) are proscribed as crimes by many national and international laws and are defined to encompass:

- sexual slavery
- forced prostitution
- forced pregnancy
- forced sterilization
- forced marriage and any other form of sexual violence of a comparable

gravity, including indecent assault, and trafficking. SGBV is often used as a tactic of war to humiliate, dominate, instil fear, disperse and/or forcibly relocate civilians from community or ethnic groups; perpetrated in this manner it can persist long after the cessation of hostilities.

Furthermore, although sexual violence against men and boys is defined as "regular and invariable, widespread and pervasive" (though not at the same rate as sexual violence against women), very little research and policy work has been done on this issue in recent years.

Sexual violence is committed for various reasons, including:

- To deter populations from fighting through terror.
- To brainwash combatants or establish group ties.
- To reward combatants who would otherwise receive no pay ("war spoils").
- To alter the ethnic or social structure of a society (genocide).

Sexual violence has frequently been used as a tactic of war. This is "not just uncontrolled rape, but rape carried out on order to achieve military, political or economic objectives." The struggle to secure justice for women victims of sexual and gender-based violence (SGBV) is further exacerbated by the pre-existing exclusion and discrimination that characterize the status of women in many societies. This, in turn, has the effect of further worsening gender vulnerability in war-ravaged societies.

*Past Actions:* The widespread use of rape and other forms of sexual violence in armed conflicts around the world remains one of the most persistent and neglected injustices. At the 68th United Nations (UN) General Assembly Session (2014), 122 member states endorsed a "Declaration of Commitment to End Sexual Violence in Conflict." The declaration resolved to end the pernicious culture of impunity by bringing to justice the perpetrators of sexual violence in conflicts. A process for concerted action against SGBV during armed conflicts took shape in the wake of the UN Security Council resolutions (1325 and 1820) as well as the incorporation of crimes of sexual violence in the statutes of International Criminal Tribunals and the International Criminal Court (ICC). The Rome Statute of the ICC became the first global treaty that recognises rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and other forms of sexual violence as distinct types of war crimes. The UN reports have defined conflict related sexual violence as: sexual slavery, forced prostitution, forced pregnancy, enforced sterilization and any other form of sexual violence of comparable gravity perpetrated against women, men or children with a direct or indirect (temporal, geographical or causal) link to a conflict. This link to conflict may be evident in the profile and motivations of the perpetrator, the profile of the victim, the climate of impunity or State collapse, any cross-border dimensions or violations of the terms of a ceasefire agreement. (United Nations 2013) The criminal tribunals have limited capacity to provide justice to sufferings borne by women in conflict zones. Though courts recognise a small set of the crimes committed against women, they fall short of addressing all gender-based harms and curing gender biases entrenched in society as well as institutions.

- The conviction rate in cases before the International Criminal Tribunal for Rwanda (ICTR), does not reflect the high levels of gender violence perpetrated during the Rwandan genocide. This is despite the fact that the records of decade-long conflict clearly indicated that rape and sexual violence formed a part of the systematic attack on civilians.
- On the other hand in all cases before the International Criminal Tribunal for the former Yugoslavia (ICTY), till April 2011, 93 individuals were indicted; 44 of those individuals were indicted for crimes involving sexual violence. Of those 44 individuals, 29 were convicted of sexual violence, representing a conviction rate of 69%.
- Also Conflict-related sexual violence in eastern Democratic Republic of Congo has escalated, while support to survivors has significantly dropped. The Rwanda-backed M23 and other armed groups and military forces are using sexual violence as a weapon of war, while survivors experience a climate of impunity that protects those responsible and a healthcare system that has been deprived of the means to support them.

The United Nations Population Fund (UNFPA) reported over 80,000 cases of rape in eastern Congo between January and September 2025, a 32 percent increase from the same period in 2024. At the same time, the United States government's sudden and chaotic cuts to international aid in early 2025 abruptly halted emergency health care and other support for thousands of sexual violence survivors. Many contracted HIV or became pregnant as clinics and hospitals across eastern Congo were without stocks of post-exposure prophylactic (PEP) kits, which US-funded projects previously largely supplied. These kits must be administered within 72 hours of exposure to prevent HIV and pregnancy.

Sexual violence by military personnel and members of armed groups has occurred in a range of circumstances: attacks targeting particular ethnic groups during assaults on towns and villages; hostage taking and abductions for sexual slavery; and rape on farms and other workplaces or while women and girls are in transit.

At the same time, an investigation into SGBV crimes presents its own specific challenges that include the under or non-reporting of sexual violence owing to societal, cultural, or religious factors; stigma for victims of sexual and gender-based crimes; limited domestic investigations and associated lack of readily available evidence; lack of forensic or other documentary evidence owing, inter alia, to the passage of time; and inadequate or limited support services at the national level.

### **e) Use of Prohibited Weapons**

War is constantly evolving, and so are the weapons used in conflict. International humanitarian law explicitly prohibits the use of indiscriminate weapons. Such weapons cannot be used to distinguish between civilians and combatants, or between civilian objects and military targets. They are generally inaccurate and cause disproportionate damage. International humanitarian law also prohibits the use of weapons that cause unnecessary injury and unnecessary suffering. Weapons prohibited by specific treaties include:

- Nuclear weapons
- Chemical weapons
- Biological weapons
- Anti-personnel landmines
- Cluster bombs
- Blazing laser weapons

Other weapons, such as very large aerial bombs or unguided rocket salvos, may not be prohibited, but have significantly harmful effects when used among large groups of civilians.

#### Basic Rules

International humanitarian law restricts or prohibits the development, possession and use of certain weapons. The prohibition of such weapons is based on the following criteria:

- Weapons that render death inevitable.
- Weapons that cause superfluous injury or unnecessary suffering.
- Weapons that cannot be directed against a specific military objective or whose effects cannot be limited in accordance with the provisions of international humanitarian law.
- Weapons that cause widespread, long-term and severe damage to the natural environment.

On the basis of these four criteria, a number of specific weapons have been explicitly prohibited by international conventions, including anti-personnel mines, cluster munitions, blinding laser weapons, dum-dum bullets as well as biological and chemical weapons. Some of these prohibitions are now part of customary international law.

The use of weapons in armed conflict is also restricted by the general rules and principles of international humanitarian law which stipulate, in particular, the measures that must be taken to minimise the impact of armed conflict on the civilian population and civilian objects. The principal rules of international humanitarian law governing the use of weapons are:

- The obligation to distinguish between the civilian population and combatants and between civilian objects and military objectives
- The prohibition on indiscriminate attacks

- The obligation to respect the principle of proportionality
- The obligation to take precautions to minimise the consequences of an attack for the civilian population

These rules are part of customary international law and therefore apply to all parties to a conflict, without distinction between States and non-state armed groups and regardless of whether the state concerned has ratified a relevant international treaty.

### **5 Protocols of Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects:**

#### **Protocol I: Non-Detectable Fragments**

Protocol I on Non-Detectable Fragments prohibits the use of any weapon the primary effect of which is to injure by fragments which are not detectable in the human body by X-rays. The reason is that such fragments are difficult to remove and cause unnecessary suffering. The protocol applies when the "primary effect" is to injure by non-detectable fragments and does not prohibit all use of e.g. plastic in weapons design.

#### **Protocol II: Mines, Booby Traps and Other Devices**

Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices was amended on May 3, 1996, to strengthen its provisions and extend the scope of application to cover both international and internal armed conflicts. The protocol regulates, but does not ban, land mines. It prohibits the use of non-detectable anti-personnel mines and their transfer; prohibits the use of non-self-destructing and non-self-deactivating mines outside fenced, monitored and marked areas; prohibits directing mines and booby traps against civilians; requires parties to the conflict to remove mines and booby traps when the conflict ends; broadens obligations of protecting peacekeeping and other missions of the United Nations and its agencies; requires States to enforce compliance with its provisions within their jurisdiction; and calls for penal sanctions in case of violation.

#### **Protocol III: Incendiary Weapons**

Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons prohibits, in all circumstances, making the civilian population as such, individual civilians or civilian objects, the object of attack by any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat or a combination thereof, produced by a chemical reaction of a substance delivered on the target. The protocol also prohibits the use of air-delivered incendiary weapons against military targets within a concentration of civilians, and limits the use of incendiary weapons delivered by other means. Forest and other plants may not be a target unless they are used to conceal combatants or other military objectives. Protocol III lists certain munition types like smoke

shells which only have a secondary or additional incendiary effect; these munition types are not considered to be incendiary weapons.

#### Protocol IV: Blinding Laser Weapons

Protocol IV on Blinding Laser Weapons prohibits the use of laser weapons specifically designed to cause permanent blindness. The parties to the protocol also agree to not transfer such weapons to any state or non-state entity. The protocol does not prohibit laser systems where blinding is an incidental or collateral effect, but parties that agree to it must take all feasible precautions to avoid such effects.

#### Protocol V: Explosive Remnants of War

Protocol V on Explosive Remnants of War requires the clearance of UXO (unexploded ordnance), such as unexploded bomblets from cluster bombs and abandoned explosive weapons. At the cessation of active hostilities, Protocol V establishes a responsibility on parties that have used explosive weapons to assist with the clearance of unexploded ordnance that this use has created. Parties are also required, subject to certain qualifications, to provide information on their use of explosive weapons. Each party is responsible for the territory in their control after a conflict. The protocol does not apply to mines and other weapons covered by protocol II. The protocol came about as a result of a growing awareness during the 1990s that the protection against unexploded ordnance was insufficient. The protocol was adopted in 2003 and entered into force in 2006.

The existence of these treaties and protocols has not prevented their violation. Chemical weapons were used in Syria, cluster munitions have been documented in Ukraine and Yemen, and landmines continue to kill and injure civilians decades after conflicts end. The gap between what international law prohibits and what actually happens on the ground is one of the most pressing challenges in armed conflict.

## **6. Impact of War Crimes on Vulnerable Groups**

Armed conflicts and the systematic commission of war crimes have a significantly unequal impact on different parts of the civilian population. While IHL (*International Humanitarian Law*) provides a protective framework for all civilians, the unequal system of the communities that was affected by war and other vulnerable groups show that certain groups of civilians are affected by an armed conflict and the violence associated with it more than expected, and as a result of these different forms of numerous structural inequalities and social marginalization.

When vulnerable groups are targeted or victimized, that violation has more negative effects than just creating physical injuries; it also leads to permanent damage to social stability, the economy, and causing people to suffer emotional damage from the incident for many

generations. These varied impacts on individuals and societies are important to consider when developing and implementing appropriate legal, humane, and policy approaches.

### **a) Women and Girls**

Different from that experienced by men, women and girls suffer the effects of armed conflict because of fixed gender inequalities and their respective social roles. A number of war crimes involving gender-related violence are committed against women and girls during armed conflicts, including sexual violence, forced pregnancies, trafficking and other forms of exploitation. Gender-related violence is not a natural consequence of armed conflict; it is intentionally used as an instrument of war to intimidate populations, displace communities, and change the demographic makeup of an area.

Sexual and gender-based violence has occurred in most, perhaps all, major armed conflicts. For example, in Bosnia and Herzegovina between 1992 and 1995, systematic rape was utilized as a method of ethnic cleansing, and detention camps were established just because of carrying out this crime against women and girls. Similarly, in Darfur, sexual violence was used strategically against specific ethnic groups to displace large numbers of people while simultaneously contributing to long-term destabilization of the region.

In the more recent conflict in the eastern Democratic Republic of Congo, there are ongoing instances of armed groups using rape and sexual slavery as a means of coercion and intimidation to achieve their objectives. Women and girls often suffer many effects of conflict indirectly, and this has a huge impact on their lives and future. The failure of social and economic structures means many women are forced to find ways to support themselves, and they are therefore more likely to suffer abuse and exploitation. Many women are currently supporting their families and are the main source of income, with the men away due to conflict, yet they still do not have a say in anything.

Practices such as child marriage and forced marriage are also common during war, and this has a huge impact on the lives and future of these young girls and women. During times of conflict, when reproductive health such as maternal healthcare is not provided, these women are more likely to die due to a lack of healthcare and due to childbirth, especially when they are young and subjected to forced marriage and child marriage. In addition to all these problems, women play a vital role in building peaceful communities and building resilient communities, and they are often not recognized and acknowledged for these roles and activities, and they therefore need to be recognized and acknowledged in post-conflict reconstruction and governance.

### **b) Children and Child Soldiers**

The most vulnerable and highly population of war crimes are children who are subjected to physical, emotional, and psychological harm as a result of war crimes will have severe difficulties in dealing with their physical, emotional, and psychological development for a

long time. Some of the ways children experience harm as a result of violations to their rights during armed conflict include being killed, being recruited or used as child soldiers, being abducted, experiencing sexual violence, and being attacked in schools and hospitals.

One of the worst practices involving children in the context of armed conflicts is the use of child soldiers by armed groups. Children are naïve and can easily be manipulated and are more likely to comply with orders than other recruits into armed groups. This is because they are innocent and can easily be taken advantage of by armed groups due to these characteristics. There are many cases where children who are forcibly recruited into armed conflicts are subjected to initiation rite brutality in the sense that they are forced to commit acts of violence against their own people or families.

One of the most famous armed groups that use child soldiers is the Lord's Resistance Army (LRA) in Uganda. This group has forcibly taken tens of thousands of children from their homes and made them child soldiers over the last few decades. In South Sudan, the Central African Republic, and Myanmar, similar practices of child recruitment into armed groups are present.

### **c) Refugees and Internally Displaced Persons**

One of the most obvious and widespread effects of war crimes is forced displacement. When individuals escape from their homes due to war and insecurity; they either become refugees or internally displaced persons (*IDPs*) if they remain in their own countries. Both categories of displaced individuals are likely to suffer additional war crimes and exploitation.

While displaced individuals seek refuge, they often do so in a chaotic and insecure manner, leaving them without homes, property, and means of livelihood. However, when they move from one place to another, they are likely to suffer physical and sexual abuse, trafficking, and exploitation from both state and non-state actors. For instance, there is a higher risk of sexual exploitation and forced labor among women and children.

As a result of the war in Syria, the largest forced displacement phenomenon occurred in the 20th century, with millions of Syrian refugees fleeing to Turkey, Lebanon, and Jordan, or attempting to find refuge in Europe. The war in Yemen and Ukraine has resulted in a large number of internally displaced persons, posing a serious strain on local communities.

Establishing temporary housing in refugee camps and informal settlements may give many people somewhere to live, however they generally are often built without the proper amount of infrastructure, sanitation and/or security necessary for a person's health.

Overcrowding, inaccessibility of clean and pure drinking water, and a lack of proper medical and healthcare facilities all contribute to disease and further deterioration of living standards. Moreover, there has been evidence that the presence of camps invites armed attacks and becomes the target area where armed groups seek new recruits.

Further barriers that displaced persons face: there is no legal and administrative support, and since most displaced persons do not have any type of official documents, they cannot receive support in the form of education, job opportunities, or legal protection. "Protracted displacement" is defined as a displaced person that does not have a permanent solution to their displacement situation for an extended period of time, thus staying in a "permanent state" and unable to find resolution to their situation for several years or decades.

#### **d) Ethnic, Religious, and Minority Communities**

In times of violence, various ethnic and religious groups tend to be targeted because of their identity, social exclusion, or a grudge that has been existing between two or more groups in history. The various crimes that tend to be carried out against such groups may involve, among other things, planned activities such as massive killings, migration from one area to another, destruction of homes and cultural values, and restriction of certain services or rights.

- The activities that have been outlined above tend to be carried out intentionally with the aim of destroying or reducing the existence, identity, or community of a particular group. The systematic killings of around 800,000 people from both Tutsi and moderate Hutu ethnic groups during the 1994 Rwandan Genocide, for instance, was carried out with the aim of eliminating completely all Tutsis from Rwandan society. Although there were many reports outlining various killings, rapes, and violence carried out during the Rwandan Genocide, there was equally significant division carried out with the aim of destroying social order.

The targeting of minorities can be accomplished through both direct physical means and more structural means. For instance,

- communities may be excluded from accessing political power,
- securing economic opportunities,
- securing access to basic services,
- thereby establishing patterns of marginalization
- corresponding social vulnerability.

In areas of the world where concentrations of ethnic or religious minorities exist, such concentrations frequently coincide with military campaigns, forced displacement and economic dispossession from the cultural heritage of such minorities.

The long-term effects of targeted violence will be felt by survivors in terms of continued trauma, stigma, and a diminished sense of social cohesion within their community. The loss of cultural heritage, particularly religious sites, schools, and historical landmarks, will weaken the community's identity and continuity. The result of mass forced displacement is the prolonged stay of vulnerable populations within refugee or internally displaced persons camps, often with limited access to educational opportunities and in unrelenting poverty and insecurity.

Long after fighting stops, ethnic, racial, religious and other minority groups can find it very hard to go back to their original homes or to get a home or land that belongs to them back again and victims of violence during the conflict. Efforts at reconciling differences among these groups will continue to be challenged by ongoing discrimination and animosities among groups as well. The cycle of vulnerability and exclusion from society for many of these groups will continue indefinitely unless the States take deliberate legal, social and political action to create safe environments for these groups to come back to their homes and reestablish their communities.

- In sum, targeting ethnic, racial, religious and other minority groups during armed conflict is not only a violation of basic human rights but also a tactic for disrupting the social fabric of these groups that will have long-lasting impacts to many generations to follow. Effective legal protections and recovery after conflict for such groups will require a comprehensive approach that incorporates legal accountability, cultural preservation, humanitarian assistance, and a process for including such groups in the political processes of the society from which they have been subjected to violence against their person and communities.

#### **e) Long-Term Psychological and Social Consequences**

War crime consequences aren't limited to the period of time when the war is taking place but also extend to long after the war is over. If an individual survives the war, they are expected to show symptoms of multiple mental disorders. These mental disorders include post-traumatic stress disorder, depression, and anxiety. These disorders are what make an individual fail to perform their day-to-day activities and live a full life.

Children exposed to violence may suffer from

- developmental challenges,
- behavioral disorders,
- difficulties in forming relationships.

Survivors of sexual violence are stigmatized by the community they live in. This can cause the victims of war crimes to be *excluded by the community they live in*, which can cause them *more trauma* and prevent them from getting the justice they deserve.

- Countries like *Cambodia, and Rwanda* which is in a civil war, have set up a Truth and Reconciliation Commission and an International Court to deal with the acts of violence and atrocity that occurred in the country in the past. However, these measures of transitional justice are of little use in creating a sense of accountability and moving towards a healthy society due to the challenges of political will and the social challenges in these countries.

Besides, the effects of war crimes on the economy are seen in

- the damages to buildings,

- the loss of life due to the death of people or because they flee the area,
- the disruption of the markets,

which would definitely have a negative effect on the economy in the long run. When these are added to the various mental and social problems caused by the war, the challenges would prove to be an extremely complex and multi-layered challenge towards peace and development. In order to effectively solve the long-term effects of war crimes, it's important to take an all encompassing approach that includes legal accountability, psychosocial support, inclusive governance, and sustainable development.

## **7. Challenges in Addressing Violations in Ongoing Conflicts**

The issues associated with the enforcement of the law in the context of active conflict lie outside of the capabilities of the legal system. Laws don't always guarantee compliance (*especially given the political instability, weak governance and complex dynamics that are typically present during a war*).

Many of the obstacles to holding individuals accountable for war crimes are based on political barriers, logistical barriers and institutional barriers. These types of challenges to investigating, documenting and prosecuting war crimes often lead to prolonged periods of time before someone receives justice and accountability when they have been victimized by a war crime; this can help create impunity for future crimes to occur (*either through continued violations or escalation of violations*). Understanding these challenges will help identify gaps in the current system. Identifying those gaps will help:

- Creating stronger mechanisms for enforcing.
- Preventing Violations of international human rights law and IHL.

### **a) Political Barriers**

Complex political obstacles at the national and international levels represent significant hurdles when it comes to addressing violations of the laws of war during armed conflict. Political obstacles could mean that states involved in conflicts might be unwilling to investigate or prosecute any individuals who have committed the violations, especially if those individuals responsible for the commission of those acts are government representatives or members of the military, or influential political figures. There can be significant barriers to pursuing criminal responsibility under those conditions, leading to an obstruction or undermining of accountability mechanisms.

While some states may seek to deny the occurrence of violations, restrict access to information in relation to violations, or manipulate the narrative in relation to violations, this is often done with the intention of maintaining legitimate authority and avoiding international scrutiny. Moreover, there could be a lack of willingness or ability to investigate violations on the part of many countries.

At the international level, geopolitical dynamics often have a significant impact on the response to war crimes in conflict situations. Geopolitical considerations limit UN Security Council (UNSC), which has the capacity to refer matters to the International Criminal Court (ICC) or establish special tribunals, from advancing comprehensive accountability mechanisms in situations where the veto of its permanent members exists, as has been the case in connection with ongoing efforts to initiate comprehensive accountability mechanisms relating to the conflict in Syria.

The failure to apply international law consistently by states that are allies for reasons of strategic alliances and economic interest creates an environment in which countries may overlook or minimize the importance of abuses committed by their allies. Such inconsistent enforcement of international law undermines the credibility of international law and creates an impression of double standards.

- The negotiation of peace can lead to a political paradox in that the granting of amnesty or the decision not to prosecute specific individuals can often be perceived as a requirement for achieving a ceasefire or a political agreement. Although these types of compromises can contribute to short-term stability, they often sacrifice justice, and lead to cycles of continued impunity.

### **b) Access to Evidence**

*When trying to collect and maintain evidence* in a conflict zone many issues arise and make it difficult to have that evidence documented correctly, such as:

- the evolving conflict preventing investigators,
- humanitarian organisations,
- journalists from documenting the torture of civilians,
- mass burials,
- destruction of buildings and other evidence in a timely and thorough manner.

Possible Physical Evidence: Mass graves, evidence of destroyed infrastructure, remnants of weapons are typically hidden, destroyed or changed, by the person who perpetrated the crime to avoid being found out as a criminal. Furthermore, as time passes it becomes increasingly hard to find any physical evidence of the crime, as time has a negative impact on the environment which affects the ability to recover physical evidence.

Also, while necessary to document the atrocities occurring in the area, witness testimony has proven to be nearly impossible to recover due to fear of retaliation, lack of faith in investigators, journalists, humanitarian workers, or logistical difficulties with witnesses being displaced from their homes and unable to communicate their experiences.

The emergence of digital evidence has presented both opportunities and challenges to documenting human rights violations. Digital evidence via satellite imagery, social media, cell phone videos etc, has allowed for documentation of violations, but these types of

evidence require careful consideration of issues relating to verification, authenticity and admission into a court of law. Additionally, due to the nature of digital evidence, it is possible to manipulate this type of evidence and/or put it in a context different from its original context, both of which can impact finding an accurate record of what occurred.

- In situations like *Ukraine and Syria*, both independent investigators and international organizations have used Open Source Intelligence (OSINT) to document violations of international law or human rights. The challenges with this information stem from the fact that there is little or no direct access to a crime scene to verify the validity of collected evidence.

### **c) The Role of Non State Actors and State Actors**

The involvement of both state and non-state actors in contemporary wars adds additional complexity to enforcing international law. While states are obliged by treaty obligations and are the primary actors in the realm of international law, usually NSAGs are operating outside of formal legal structures, thus making accountability more difficult to establish.

NSAGs (such as terrorist or insurgent groups, among others) often lack well established chains of command or other means for holding members accountable, which complicates the identification of persons who are responsible for specific acts of unlawful conduct. Furthermore, many of these groups will reject the legitimacy of international legal norms, making enforcement efforts increasingly difficult.

When states are the perpetrators of violations, states may commit unlawful acts (indiscriminate attacks, torture, or arbitrary detention by military or police forces). Consequently, when states are both the perpetrators of violations and the bodies that enforce international law, there is a conflict of interest that frequently leads to inadequate or biased investigations. State or non-state relationships may also blur the lines of responsibility. For example, states may engage in direct or indirect support or assistance of non-state party actors in furtherance of their own (state) strategic goals. Therefore, attribution and the questions of state responsibility for the actions of proxy actors becomes increasingly complicated.

There is an increase in the fragmentation of armed groups, leading to the emergence of many actors involved in a one conflict, this creates interrelated chains of command or unclear lines of authority for various actors involved (due to overlap) and therefore makes it very difficult to establish accountability and enforce compliance with international humanitarian law.

- Furthermore, the involvement of international entities such as
  - foreign military intervention
  - contractors creates added complications to the overall legal framework regarding the jurisdiction,

- applicable law,
- responsibility of those involved (multiple layers)

## **8. International Legal Frameworks and Conventions**

### **a) International Human Rights Law- International Humanitarian Law**

What is International Human Rights Law? International human rights law is a system of international norms designed to protect and promote the human rights of all persons. These rights, which are inherent in all human beings, whatever their nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status, are interrelated, interdependent and indivisible. They are often expressed and guaranteed by law, in the form of treaties, customary international law, general principles and soft law. Human rights entail both rights and obligations. International human rights law lays down the obligations of States to act in certain ways or to refrain from certain acts, in order to promote and protect the human rights and fundamental freedoms of individuals or groups.

What is International Humanitarian Law? International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities, and restricts the means and methods of warfare. Its scope is, therefore, limited *ratione materiae* to situations of armed conflict. International humanitarian law is part of *ius in bello*, which has to be distinguished and separated from *ius ad bellum*. The use of force is prohibited under the Charter of the United Nations. Nevertheless, international humanitarian law has to be applied equally by all sides to every armed conflict, regardless of whether their cause is justified. This equality between the belligerents also crucially distinguishes an armed conflict, to which international humanitarian law applies, from a crime, to which only criminal law and the rules of human rights law on law enforcement apply.

Link Between IHRL and IHL: For years, it was held that the difference between international human rights law and international humanitarian law was that the former applied in times of peace and the latter in situations of armed conflict. Modern international law, however, recognizes that this distinction is inaccurate. Indeed, it is widely recognized nowadays by the international community that since human rights obligations derive from the recognition of inherent rights of all human beings and that these rights could be affected both in times of peace and in times of war, international human rights law continues to apply in situations of armed conflict. Moreover, nothing in human rights treaties indicates that they would not be applicable in times of armed conflict. As a result, the two bodies of law—international human

rights law and international humanitarian law—are considered to be complementary sources of obligations in situations of armed conflict. For example, the Human Rights Committee, in its general comments Nos. 29 (2001) and 31 (2004), recalled that the International Covenant on Civil and Political Rights applied also in situations of armed conflict to which the rules of international humanitarian law were applicable. The Human Rights Council, in its resolution 9/9, further acknowledged that human rights law and international humanitarian law were complementary and mutually reinforcing. The Council considered that all human rights required protection equally and that the protection provided by human rights law continued in armed conflict, taking into account when international humanitarian law applied as *lex specialis*. The Council also reiterated that effective measures to guarantee and monitor the implementation of human rights should be taken in respect of civilian populations in situations of armed conflict, including people under foreign occupation, and that effective protection against violations of their human rights should be provided, in accordance with international human rights law and applicable international humanitarian law.

*State Responsibility:* Over the past few years, the application of the rules of international human rights law and international humanitarian law to situations of armed conflict has raised a series of questions concerning the implementation of the specific protections guaranteed by both bodies of law. Their concurrent application has created confusion about the obligations of the parties to a conflict, the extent of these obligations, the standards to be applied and the beneficiaries of these protections.

State responsibility for violations of international human rights and humanitarian law has long been a foundation of international law. State responsibility stems from the principle of *pacta sunt servanda*, which means that every treaty in force is binding upon the parties to it and must be performed by them in good faith. Even beyond treaty obligations, the International Law Commission's draft articles on State responsibility recall the general principle of international law that the breach of a State's international obligation constitutes an international wrongful act, which entails the international responsibility of that State. In this context, it is useful to recall that a State is responsible for violations of international human rights and humanitarian law in the context of armed conflict if the violations are attributable to it, such as:

- Violations committed by its organs, including its armed forces;
- Violations committed by persons or entities empowered to exercise elements of governmental authority;
- Violations committed by persons or groups acting in fact on its instructions, or under its direction or control;
- Violations committed by private persons or groups which it acknowledges and adopts as its own conduct.

A state may also be responsible for lack of due diligence if it has failed to prevent or punish violations of international human rights and humanitarian law committed by private actors.

Many violations of international human rights and humanitarian law may be considered criminal under domestic law. When certain conditions are met, some of these

violations can also be qualified as crimes under international law, with additional legal consequences for States and individuals. Unlike “simple” violations of international human rights and humanitarian law, international crimes may in particular be prosecuted not only domestically but also internationally. Genocide, crimes against humanity and war crimes, for instance, may be tried by an international criminal tribunal.

## **b) The Geneva Conventions**

The Geneva Conventions are a series of four international agreements that form the core of international humanitarian law, establishing legal standards for the treatment of non-combatants in war. Negotiated in the aftermath of World War II, the Geneva conventions of 1949 consist of four agreements, which replaced three earlier humanitarian conventions of 1906 and 1929 and added two new conventions.

The First Geneva Convention addresses the treatment of sick and wounded field soldiers, the Second Geneva Convention addresses the treatment of sick and wounded sailors, the Third Geneva Convention addresses the treatment of prisoners of war, and the Fourth Geneva Convention addresses the treatment of civilians during armed conflict. There was considerable debate over whether the Geneva Convention should prohibit indiscriminate forms of warfare, such as aerial bombings, nuclear bombings and starvation, but no agreement was reached on those forms of violence.

Inspired by the wave of humanitarian and pacifistic enthusiasm following World War II and the outrage towards the war crimes disclosed by the Nuremberg and Tokyo trials, a series of conferences were held in 1949 reaffirming, expanding and updating the prior Geneva and Hague Conventions. It yielded four distinct conventions:

1. *The First Geneva Convention* "for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field" was the fourth update of the original 1864 convention and replaced the 1929 convention on the same subject matter.
2. *The Second Geneva Convention* "for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea" replaced the Hague Convention (X) of 1907. It was the first Geneva Convention on the protection of the victims of maritime warfare and mimicked the structure and provisions of the First Geneva Convention.
3. *The Third Geneva Convention* "relative to the Treatment of Prisoners of War" replaced the 1929 Geneva Convention that dealt with prisoners of war.
4. *The Fourth Geneva Convention* "relative to the Protection of Civilian Persons in Time of War" was the first Geneva Convention not to deal with combatants. The 1899 and 1907 Hague Conventions had already contained some provisions on the protection of civilians and occupied territory. Article 154 specifically provides that the Fourth Geneva Convention is supplementary to these provisions in the Hague Conventions.

Artificial intelligence and autonomous weapon systems, such as military robots and cyber-weapons, are creating challenges in the creation, interpretation and application of the laws of armed conflict. The complexity of these new challenges, as well as the speed at which they are developed, complicates the application of the Conventions, which have not been updated in a long time. Adding to this challenge is the very slow speed of the procedure of developing new treaties to deal with new forms of warfare, and determining agreed-upon interpretations to existing ones, meaning that by the time a decision can be made, armed conflict may have already evolved in a way that makes the changes obsolete.

Adopted on 8 June 1977, Protocols I and II are international treaties that supplement the Geneva Conventions of 1949. They significantly improve the legal protection covering civilians and the wounded, and - for the first time - lay down detailed humanitarian rules that apply in civil wars.

They were adopted by States to make international humanitarian law more complete and more universal, and to adapt it better to modern conflicts. The Geneva Conventions of 1949 afforded major improvements in the legal protection of victims of conflict. However, they apply essentially to international conflicts – wars between states. Only Article 3, common to all four Conventions, refers to internal conflicts; its adoption was itself a great step forward but the rules contained in the Article are mainly of a general nature. In addition, most of the countries that became independent after 1945 “inherited” the Geneva Conventions from the former colonial powers – the adoption of the Protocols was also an occasion for them to contribute to developing the law.

*Why are there two protocols?* Protocol I deals with international armed conflicts, Protocol II with non-international ones, a term that includes civil wars. It was necessary to differentiate between the two situations, as States were not prepared to grant the same degree of legal protection in both cases.

In 2005 a third protocol additional to the Geneva Conventions was adopted, establishing a new emblem, the red crystal, which is equal in status to the red cross and red crescent.

*Why Are They Important?* Additional Protocols I and II say that civilians must be spared the worst effects of conflict. They represent a milestone in the long history of efforts by the ICRC (International Committee for the Red Cross) and the international community to secure greater protection.

Additional Protocol I lays down rules on the how wars may be fought. Combatants must take all feasible precautions in choosing weapons and methods of warfare in order to avoid incidental loss of life, injury to civilians and damage to civilian objects.

Additional Protocol II was the first-ever international treaty devoted exclusively to protecting people affected by non-international armed conflicts, or civil wars.

The Additional Protocols also:

grant protection to all medical personnel, units and means of transport so that civilians can receive medical care during wartime

require the warring parties to search for missing persons from the opposing side

strengthen the obligation to provide civilians with food, water and other essentials

Nearly all countries have ratified the first four parts of the Geneva Conventions. However, the Additional Protocols have been signed but not ratified by some important countries, and some have not signed at all. For example;

Some states that have signed but not ratified:

- United States
- Iran
- Pakistan

Some states that have not signed:

- Turkiye
- India
- Israel

This indicates that there is still no full agreement on the Additional Protocols.

## **9. Case Studies**

### **a) Occupied Palestinian Territory (Gaza)**

*Historical Background:* The Israeli-Palestinian conflict, contrary to popular belief, is not a new phenomenon; it is a problem that has persisted since the Ottoman era. Following the Ottoman Empire's defeat in World War I, control of this region, known as the land of Palestine, passed into the hands of Britain. Here, an Arab majority lived alongside a Jewish minority. Tensions between the two populations increased when the international community tasked Britain with establishing a "national homeland" for Jews in Palestine. Jews argued that this was their ancient land, while Palestinians opposed this.

Between the 1920s and 40s, the number of Jews increased, many fleeing persecution in Europe and seeking a homeland after the Holocaust of World War II. Violence between Jews and Arabs, as well as violence against British rule, increased.

In 1947, the United Nations (UN) voted for the partition of Palestine into separate Jewish and Arab states, with Jerusalem becoming a separate city with special status under UN supervision. This plan was accepted by Jewish leaders, but was never implemented because the Arabs rejected it.

Unable to resolve the issue, the British administration left the country in 1948. Jewish leaders declared the establishment of the State of Israel. The decision came into effect on May 15,

when the last British troops left the region. Many Palestinians opposed this, and the war began. Hundreds of thousands of Palestinians were forced to leave their lands or were forcibly expelled from their homes. Palestinians began to commemorate May 15 as "Al-Nakba," meaning "Catastrophe." Neighboring Arab countries also became involved in the war, and their military forces occupied some areas. When the conflicts ended with a ceasefire the following year, Israel controlled most of the region. Egypt occupied the Gaza Strip, a small coastal area on its border. The city of Jerusalem was divided between Israeli forces in the west and Jordanian forces in the east. Because a peace agreement was never reached, more fighting and conflict occurred in the following years.

In 1967, Israel occupied East Jerusalem and the West Bank, as well as the Syrian Golan Heights, Gaza, and much of the Egyptian Sinai Peninsula. Most Palestinian refugees and their children live in Gaza and the West Bank, as well as in neighboring Jordan, Syria, and Lebanon. Israel has not allowed these people to return to their lands, Israel says this would threaten its existence as a Jewish state. Israel still occupies the West Bank. Despite its withdrawal from Gaza, the UN still considers this territory part of the Israeli-occupied lands. While Israel claims all of Jerusalem as its capital, Palestinians say East Jerusalem is the capital of a future Palestinian state. Over the past 50 years, Israel has built settlements in these areas, home to more than 600,000 Jews. Palestinians, supported by most states and international organizations, say these settlements are illegal under international law, a claim Israel denies.



Current Situation: According to Amnesty International's 2024 report, Israel perpetrated the crime of genocide in Gaza by killing Palestinian civilians, causing serious bodily harm or mental harm, and deliberately inflicting conditions of life calculated to bring about

Palestinians' physical destruction by causing mass forced displacement, obstructing or denying life-saving aid, and by damaging or destroying life-sustaining infrastructure.

Israeli attacks during the year caused at least 23,000 immediate fatalities, according to the Health Cluster and WHO in the Occupied Palestinian Territory (OPT). Some 60% of those killed were women, children and older people. The high civilian death toll was a result of direct, disproportionate or indiscriminate attacks. On 16 April, 15 civilians on Market Street in Al-Maghazi refugee camp, central Gaza, were deliberately killed in an Israeli air strike. They included 10 children playing around a football table. One of the children had previously fled Gaza City with his family to avoid starvation. OCHA reported that 52,214 Palestinians suffered conflict-related injuries during the year. Based on reports from doctors treating traumatic injuries to the lower limbs, head and spine, the WHO calculated in July that around 25% of those injured in Gaza would have acute and ongoing rehabilitation needs for years.

Some 90% of Gaza's population were displaced, most of them multiple times. On 6 May, Israel began a large-scale military operation in eastern Rafah that extended to the whole governorate, despite warnings of catastrophic humanitarian consequences and a legally binding order from the International Court of Justice (ICJ) to refrain from doing so. The operation displaced 1.2 million Palestinians living there, the vast majority of whom were already internally displaced. It also closed and destroyed much of the Rafah border crossing with Egypt.

Following repeated mass “evacuation” orders, on 6 October Israeli forces ordered the displacement of the remaining 300,000 Palestinians from North Gaza governorate. More than 1 million people, half of whom were children, were living in tents during winter, according to the Norwegian Refugee Council. Five newborn babies died of hypothermia between 24 and 29 December, according to the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Israeli forces attacked hospitals, medical staff and humanitarian workers, killing scores in drone and artillery attacks and air strikes. Of Gaza's 36 hospitals, only 17 were still partially functional at the end of the year, due to Israeli attacks. An Israeli raid on Kamal Adwan hospital on 27 December put the last major health facility in North Gaza out of service, while its director, Hussam Abu Safiya, was arbitrarily detained along with 240 other personnel and patients.

All humanitarian organizations reported excessive Israeli restrictions and delays on approvals of aid transfers. As a result of the Israeli military siege, 96% of Gaza's 1 million children were malnourished, and some 60,000 children under the age of five suffered acute malnutrition by the end of the year. Nearly 2 million people faced critical to catastrophic food insecurity, according to the Integrated Food Security Phase Classification (IPC). At least 34 people died of starvation between April and June, according to UN reports.

Israeli soldiers carried out wanton destruction without imperative military necessity. Areas particularly affected included the eastern perimeter, amounting to 16% of Gaza and particularly its productive agricultural land, and the towns of Khuza'a in the south and Shuja'iya in the north. The conflict reduced Gaza's water supply to less than 5 liters a day per person throughout the year. Oxfam reported in July that severe water shortages were caused

by systematic destruction of Gaza's water and sanitation infrastructure. The WHO reported that 727,909 people, particularly children, had been affected by water- and sanitation-related diseases such as hepatitis A by May 28. All of Gaza's universities and colleges, along with hundreds of mosques and three churches, were damaged or destroyed. Most schools were converted into shelters for displaced people, and in November, UNICEF reported that 95% of school buildings had sustained damage.

*There are many issues that cause disagreement between Israel and the Palestinians: what will happen to Palestinian refugees, whether Jewish settlements will remain in the occupied West Bank, whether the two sides will share Jerusalem, and, perhaps the most difficult, whether a Palestinian state will be established alongside Israel. Repeated vetoes in the UN Security Council have further hindered international efforts to hold parties accountable and enforce compliance with international law. Peace talks have continued intermittently for nearly thirty years, but have so far failed to resolve the conflict.*

## **b) The War in Ukraine**

*Historical Background:* On February 24, 2022, the world watched in horror as Russia launched a full-scale invasion of Ukraine, inciting the largest war in Europe since World War II. In the months prior, Western intelligence had warned that the attack was imminent, amidst a concerning build-up of military force on Ukraine's borders. The intelligence was correct: Putin initiated a so-called "special military operation" under the pretense of securing Ukraine's eastern territories and "liberating" Ukraine from allegedly "Nazi leadership".

Once the invasion started, Western analysts predicted Kyiv would fall in three days. However, Ukrainian resistance proved far stronger than anticipated. Kyiv not only lasted those three days, but it also eventually gained an upper hand, liberating territories Russia had conquered and handing Russia humiliating defeats on the battlefield. Ukraine has endured unthinkable atrocities: mass civilian deaths, infrastructure destruction, torture, kidnapping of children, and relentless shelling of residential areas. But Ukraine persists.

Ukraine had gained significant experience since fighting broke out in its eastern territories following the Euromaidan Revolution in 2014. In that year, Russian-backed separatists fought for control over the Donetsk and Luhansk regions in the Donbas, the area of Ukraine that Russia later claimed was its priority when its attack on Kyiv failed. Also in 2014, Russia illegally annexed Crimea, the historical homeland of indigenous populations that became part of Ukraine in 1954. Ukraine was unprepared to resist, and international condemnation did little to affect Russia's actions.

In the eight years between 2014 and 2022, Ukraine sustained heavy losses in the fight over eastern Ukraine: there were over 14,000 conflict-related casualties and the fighting displaced 1.5 million people. Russia encountered a very different Ukraine in 2022, one that had developed its military capabilities and fine-tuned its extensive and powerful civil society networks after nearly a decade of conflict. Thus, Ukraine, although still dwarfed in

comparison with Russia's GDP (\$536 billion vs. \$4.08 trillion), population (43 million vs. 142 million), and military might (500,000 vs. 1,330,900 personnel; 312 vs. 4,182 aircraft; 1,890 vs. 12,566 tanks; 0 vs. 5,977 nuclear warheads), was ready to fight for its freedom and its homeland. Russia managed to control up to 22% of Ukraine's territory at the peak of its invasion in March 2022 and still holds 17% (up from the 7% controlled by Russia and Russian-backed separatists before the full-scale invasion), but Kyiv still stands and Ukraine as a whole has never been more unified.

*Human Rights Violations:*

The United Nations High Commissioner for Human Rights (OHCHR) documented 75 cases of arbitrary detention of civilians by law enforcement or armed forces; the report stated that some of these cases amounted to enforced disappearance. Russia's invasion of Ukraine has led to a significant number of disappearances since 2014. According to the Interior Ministry, as of October, approximately 26,000 people were missing. As of June, law enforcement had opened more than 3,300 criminal cases and created a national registry of missing persons. (*Enforced Disappearance*)

Russian forces used chemical weapons 465 times between 24 February 2022 and December 2023, according to Ukraine, including K-51 grenades, RGR grenades, Drofa-PM hand gas grenades, and RG-VO gas grenades, which contain an unknown chemical substance. Forbes and CNN reported that they likely used CS gas (tear gas). In May 2023, a television report on Russia's Channel One showed a Russian battalion commander talking about the effectiveness of chemicals used as weapons. The report also showed a drone dropping a tear gas grenade on a dugout. (*Use of Prohibited Weapons*)

The charter of the International Criminal Court defines attacks against civilian infrastructure constitute crimes of war. The UN Human Rights Monitoring Mission in Ukraine said Russia made indiscriminate attacks and strikes on civilian assets like houses, hospitals, schools and kindergartens. On 25 February, Amnesty International said Russian forces had "shown a blatant disregard for civilian lives by using ballistic missiles and other explosive weapons with wide-area effects in densely-populated areas". Russia falsely claimed it only used precision-guided weapons, Amnesty said, and attacks on Vuhledar, Kharkiv and Uman, were likely crimes of war. (*Targeting of Civilians and Civilian Objects*)

In October 2025, The UN's Office for Coordination of Humanitarian Affairs in Ukraine reported that a UN convoy had been struck by Russian drones while delivering aid in southern Ukraine. It condemned the attack as a severe breach of international humanitarian law and a potential war crime, saying that two trucks of the World Food Program had been struck and damaged by the drones, but reported no injuries. (*Targeting of Civilians and Civilian Objects*)

After October 2022, Russia increased the intensity of its attacks on power stations and other civilian infrastructure in a campaign intended to demoralize the Ukrainian people and threaten to leave millions of civilians without heating or water during winter. As of 20

October 2022, up to 40% of Ukraine's power grid has been attacked by Russia. The government has asked citizens to conserve energy, and introduced rolling blackouts. (*Targeting of Civilians and Civilian Objects*)

There are fewer clashes compared to previous years, but the war is still ongoing. The two sides (Ukraine and Russia) have still not reached an agreement. As a committee, what we need to achieve is an agreement that is both sustainable in the long term and acceptable to both sides.

#### **10. Questions a Resolution Should Address**

- 1) How can states and international organizations prevent attacks on civilians and civilian objects such as hospitals, media centers in conflict zones?
- 2) What steps can states and international organizations take to prevent enforced disappearances in conflict zones and to ensure the protection of victims from threats?
- 3) What kind of international mechanisms or frameworks can be implemented to prevent arbitrary detention?
- 4) What steps can be taken to improve protection and support for victims of conflict-related sexual and gender-based violence?
- 5) How can the gap between prohibited weapons and their continued use in armed conflicts be addressed?
- 6) What provisions could be added or amended to improve existing conventions and frameworks in battlefields where new technologies are used?
- 7) How can the usability, acceptance, and impact of the Additional Protocols to the Geneva Conventions be increased by both ratifying and non-ratifying states?
- 8) How can international cooperation be improved to address humanitarian crises in Gaza?
- 9) How can a sustainable and lasting peace agreement be achieved in Ukraine while ensuring the protection of civilians and civilian objects?
- 10) How can accountability mechanisms be strengthened to ensure the prosecution of war crimes and deter future violations in ongoing and post-conflict settings?
- 11) What strategies can be employed to improve the safety of the humanitarian workers and guarantee access to the civilians?

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