

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 8 | Issue 2

2025

© 2025 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Fourth Geneva Convention

KUNIKA SINGH¹

ABSTRACT

The evolution of international humanitarian law (IHL) is more evident now because of the changing nature of armed conflicts and the increase in the number of threats against civilians. The objective of IHL of protecting the non-combatants, medical personnel, and humanitarian workers can be seen as rooted in the Geneva Conventions, especially in the Fourth Geneva Convention of 1949. The addition of various strategies such as asymmetric conflicts, technological advancements, etc, concerning warfare, has resulted in challenges against the implementation of IHL principles. The effectiveness of the same is often undermined due to violations like targeted attacks on civilians and the use of indiscriminate weapons etc. the historical development as well as the contemporary issues, or the requirement of strong enforcing mechanisms to promote the protection of civilians has been explored in this paper.

I. INTRODUCTION

The Geneva Convention, one of the crucial documents in the ambit of international humanitarian law, mainly concerns the safeguards of civilians, medical personnel, non-combatants, humanitarian workers, etc., especially during war. The concerned document is dated 12 August 1949.²

The fourth convention is the result of World War II atrocities, providing protections to human beings irrespective of their race, gender, caste, nationality, etc³. This convention imposes duties on the warring parties not to use violence or commit murder or torture of the people at times of war. This convention has been constructed upon earlier documents that protect the people from the consequences of war.

II. EVOLUTION OF INTERNATIONAL HUMANITARIAN LAW

The need to protect civilians has resulted in the further growth or evolution of the International Humanitarian Law (IHL). The Fourth Geneva Convention, adopted in 1949, outlines the responsibilities of warring parties to safeguard civilian populations from the worst excesses of

¹ Author is an student at Vivekananda Institute Of Professional Studies, India.

² International Committee of the Red Cross (ICRC), "The Geneva Conventions of 1949 and Their Additional Protocols."

³ United Nations Human Rights Office of the High Commissioner, "The Geneva Conventions and Their Legacy."

war. It emphasizes that certain activities and individuals, mainly civilians, should be treated as hors de combat, thereby deserving protection from the direct and indirect effects of conflict.

Throughout recent years, the humanitarian community has encountered numerous difficulties in implementing these safeguards, especially given the changing dynamics of modern warfare. The escalating violence against non-combatants and the adoption of unconventional war strategies have necessitated a renewed emphasis on International Humanitarian Law principles. Advocates contend that despite breaches, international humanitarian law continues to hold significance in modern conflicts, primarily in dealing with matters like ethnic cleansing and safeguarding medical personnel.

Recent international initiatives have expanded the scope of humanitarian protection. These include the 1997 Ottawa Landmines Treaty, which bans antipersonnel landmines; the UN's Guiding Principles for the Protection of Internally Displaced Persons; and the Optional Protocol to the Convention on the Rights of the Child regarding child soldiers. These initiatives reflect a growing recognition of the need to adapt IHL to address the complexities of modern warfare and the specific vulnerabilities of different civilian groups.

The humanitarian community has also emphasized the importance of integrating human rights law with the IHL to provide a more comprehensive framework for civilian protection. This convergence guarantees that safeguards go beyond the immediate setting of armed conflict and meet the wider requirements of the affected communities.

The development of international humanitarian law is marked by an ongoing endeavor to modify legal structures in response to shifting circumstances of conflict, with a primary emphasis on bolstering the safeguarding of non-combatants and holding perpetrators accountable for infractions of the law.

III. TRADITIONAL APPROACH TO PROTECTION IN WARFARE

The concerned approach has focused on differentiating between those objects and people who are targeted by the military and those who come under the category of civilians.⁴ Two major elements which form the basis for this approach are as follows:

1. A little advantage is achieved by attacking civilians to the military.
2. The parties to the conflict optimize their resources by not attacking civilians but rather military assets.

⁴ International Committee of the Red Cross (ICRC), "Customary International Humanitarian Law: Rule 1 – The Principle of Distinction."

As a result, international humanitarian law aims at promoting civilian differentiation and also establishing the military as the primary agent for ensuring civilians' safeguarding. However, this assumption has been proven otherwise in modern conflicts where civilians are deliberately being targeted by the military, thus reducing the impact of traditional protection of civilians.

Moreover, this approach is ingrained in the principles of international humanitarian law. The important principles are as follows:

- a) **Principle of distinction:** as the name suggests, it is talking about the differentiation of both civilian and military objects and individuals, as mentioned above⁵. The prime motive of this principle is to simply ensure the protection of civilians or non-combatants who might get hurt, targeted, or attacked by military objects or people.
- b) **Principle of indiscriminate attack:** This approach simply prohibits attacks that do not respect the differentiation of civilians and military objects as provided in the first principle. ⁶This principle mentions the required ban on the methods of warfare that are inherently discriminating.
- c) **Principle of civilians and civilian objects:** The entire goal or the objective of the Fourth Geneva Convention is to provide certain people, mainly civilians, with protection, including their objectives, as mentioned in the convention during the armed conflict. The convention provides a compulsory prohibition of violence against civilians and ensures their humane treatment.
- d) **Principle of proportionality:** This principle tries to maintain the balance between military necessity and the protection of civilians⁷. According to this principle, even if the military target is legitimate, any anticipated civilian injury must not exceed the military advantage or gains that can be seen from the attack. In simple words, if the war is to cause a notable amount of casualties to civilians or destruction to the civilian object and if this loss does not justify the military benefits, then such damage is deemed to be unlawful.
- e) **Principle of military necessity:** this principle aims at allowing the use of force by the military in a conflict involving arms but only if the military has their legit objective. Military operations must be asserted to confer benefits over an enemy, and the damage that could result from such an operation must be proportional and not excessive to the military advantage gained. As per critics, this principle gives the military the loophole to

⁵ Additional Protocol I to the Geneva Conventions, Article 48, "Basic Rule on the Principle of Distinction."

⁶ ICRC, "Customary IHL: Rule 11 – Indiscriminate Attacks."

⁷ ICRC, "Customary IHL: Rule 14 – Proportionality in Attack."

justify the violations of international humanitarian principles.⁸

The traditional approach for the protection of civilians in warfare could be best characterized by points like the reduction of suffering of civilians, commitment to ensure fair implementation of international humanitarian principles, and the duty to protect human dignity without any differences.

IV. CHANGING NATURE OF MODERN CONFLICTS AND THREAT TO CIVILIANS

The change in the nature of modern conflicts has almost altered the idea of civilian protection in wartime⁹. The modern wartime period is nothing like the principle of distinction, where there is a requirement to establish the differences between the civilians and military objects, as in modern wars the civilians are targeted intentionally and there is the involvement of irregular armed groups. This shift is evident in how civilians are being used as shields on fields or as leverage to create pressure on the other conflicting party. The key factors are as follows.

- **Asymmetrical warfare:** the wars in contemporary times often include nonstate actors such as terrorist groups, who do not stick to the rules of international humanitarian law. These groups make it complicated to differentiate between civilians and combatants because they operate within civilian populations. This non-distinguishment results in various casualties and non-adherence to the principles of IHL.
- **Urban warfare:** most of the wars are fought in urban areas where the civilians are at risk of being caught in crossfire or become direct targets of the military¹⁰. The proximity of civilians to the military raises the possibility of collateral damage leading to a challenge against the principle of proportionality and increasing the risk of injury to non-combatants.
- **Use of indiscriminate weapons:** the expansion of those kinds of weapons that have the ability to cause harm on a large scale, like explosive weapons, poses a risk to civilians. These weapons are unlikely to discriminate between civilians and military targets, resulting in the destruction of civilian properties as well.
- **Targeting humanitarian workers:** humanitarian workers and organizations are at a greater risk of being targeted or attacked in the modern armed conflict¹¹. Not only are

⁸ Schmitt, Michael N., "Military Necessity and Humanity in International Humanitarian Law: Preserving the Delicate Balance."

⁹ UN Secretary-General's Report on the Protection of Civilians in Armed Conflict, 2023.

¹⁰ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Policy Brief on Urban Warfare, 2021

¹¹ Médecins Sans Frontières (MSF), Annual Report on Attacks on Healthcare, 2022.

the essential service providers in danger but also the delivery of aid is hampered, exacerbating the sufferings of the civilians.

- **Emergence of technologies:** although technological advancements have made it easier for the military to carry out precise strikes, legal and ethical questions have also been raised regarding its accountability and the potential to cause civilians harm. The technology has also led to detachment from the human impact of military operations.

Therefore, with the evolving nature of warfare, certain challenges have been posed against the safety and protection of civilians, which has made the reevaluation and reconsideration of the existing legal frameworks and the strengthening and creation of those strategies which will be able to cope with the same.

V. NOVEL STRATEGIES FOR THE PROTECTION OF CIVILIANS

- **Reasserting international humanitarian law:** this approach has given importance to international humanitarian law in the matter of determining the illegal nature of violence against civilians.¹² In order to enforce the rules of international humanitarian law, national as well as international efforts have been promoted. No matter if the war patterns have changed, the IHL still remains essential and necessary for the protection of civilians.
- **Expansion of humanitarian protection:** this approach is a result of the evolving nature of armed conflicts, which makes the understanding of civilians' rights during warfare essential. Protection beyond the traditional IHL is required by various groups, such as internally displaced people and children, and the integration of human rights into humanitarian efforts.
- **Diversifying the implementing strategies:** this strategy involves the development of various techniques to establish humanitarian protection, such as organization in regions and collaboration with bodies like the *United Nations (UN)*. The major objective of this strategy is to create more tactical options to enforce protections for civilians when the traditional mechanisms fail.

VI. ROLE OF PROFESSIONAL GROUPS LIKE THE MEDICAL COMMUNITY IN UPHOLDING THE IHL PRINCIPLES

Some of the professional groups, like those within the medical society, ensure that the IHL

¹² International Committee of the Red Cross (ICRC), Customary International Humanitarian Law Database

principles should be upheld, which is important for the protection of civilians in wartime. These groups have the duty of reinforcing the legal obligations that are imposed on the parties to the conflict under IHL; groups that are concerned in this are *MEDECINS SANS FRONTIERES* and *INTERNATIONAL COMMISSION OF JURISTS*. The following are some contributions made by the professional groups:

- Education of the members relating to the standards of ethical in nature
- documentation of the violated humanitarian principles.
- Strong legal frameworks governing their conduct in warfare.

This mobilization of the medical groups in the face of increasing armed conflicts has supported maintaining the commitment towards existing IHL principles.

The medical community has shown its efforts to combat the participation of healthcare groups in torture and other violence. This is evident from the fact that these professionals have a keen interest in upholding the principles of IHL. By doing so, they not only advocate for the wider safeguarding of civilians from armed conflict but also protect their neutrality.

VII. SPECIFIC ISSUES REGARDING THE PROTECTION IN CONTEMPORARY CONFLICTS

- a. Internally displaced persons:** the issue of involuntary dispositioning of certain individuals within their own nation is one of the most concerning issues in humanitarian law. The IDPs are not adequately protected by traditional humanitarian law because of the fact that they remain under their state's jurisdiction.¹³ This issue has resulted in wider violations against them, implementing the need for the development of the guidelines of protection, like "*GUIDING PRINCIPLES FOR THE PROTECTION OF INTERNALLY DISPLACED PERSONS*", developed by the body of the United Nations.
- b. Child Soldiers:** the recruiting and utilization of soldiers who are not major (not adults) in armed conflicts is directly against humanitarian principles. Approximately 300,000 child soldiers are engaged in such conflict worldwide¹⁴. Measures like the optional protocol to the Convention on the Rights of the Child, which has increased the age of children to 18 years for being recruited in armed conflict, have been taken to resolve this issue. Concerns like demobilization and reintegration of child soldiers into society are pivotal concerns in humanitarian law.

¹³ United Nations, "Guiding Principles on Internal Displacement," 1998.

¹⁴ United Nations Children's Fund (UNICEF), "The State of the World's Children Report," 2022

- c. **Landmines:** Long after the end of armed conflicts, the utilization of those anti-personnel landmines has resulted in threats against civilians. Measures such as the ban on "1997 Ottawa landmines" – the ban was put on the production, use, and transfer of these landmines – are one of crucial steps. ¹⁵The advocacy by the humanitarian and human rights organizations for the states to comply with the treaties and widespread education about the dangers of landmines has been instrumental.

VIII. CHALLENGES FACED DURING THE IMPLEMENTATION OF THE HUMANITARIAN PROTECTION

- **Lack of political will:** the willingness of the states or the parties to the armed conflict is often lacking with regard to compliance with international humanitarian law, or they even actively violate it. Such an issue undermines the enforcement of civilian protection because violators are struggling to be held accountable by the international communities.
- **Complexity in modern conflicts:** modern conflicts have often been seen to be complex because there has been a large emergence of non-state actors and irregular armed groups, which makes the application of traditional humanitarian principles difficult. The inability of these groups to recognize or comply with the IHL makes it difficult to protect civilians effectively.
- **Access to affected populations:** several humanitarian organizations have to face various obstacles in case of accessing those populations that are in need, and these obstacles generally impose restrictions on their ability to provide assistance and protection. These obstacles often involve security concerns, bureaucratic restrictions, active hostilities, etc.
- **Resource constraints:** Most organizations and various groups often face the challenge of resource constraints because of limited funding and other resources that are required for effective implementation of the protections and other measures at times of crisis.
- **Fragmentation of humanitarian efforts:** the effectiveness of the protection measures gets diluted if there is a rise in the actors involved in the armed conflict, which leads to fragmentation and reduced coordination.
- **Cultural and social barriers:** some cultural beliefs make it difficult for some individuals to report any abuse or other wrongs due to cultural stigmas. Social attitudes

¹⁵ International Campaign to Ban Landmines (ICBL), "Mine Ban Treaty Overview," 2023

often include discrimination and marginalization of certain groups in societies, which makes it difficult for organizations to engage, thereby making the individuals isolated and limiting their access to protection. The gender barrier is faced mostly by women and girls, which exacerbates their vulnerability in warfare.

In order to enhance the effectiveness of the protection of civilians, the abovementioned challenges could be best addressed by two methods: firstly, by reevaluating the existing principles and strategies and secondly, by promoting collaboration among the stakeholders.

IX. INTERNATIONAL INITIATIVES AND TREATIES

- **Geneva Conventions:** there are four Geneva Conventions; all of them have one thing in common, and that is to protect human beings in times of war, but after breaking each of these conventions, we can see that the 1st Convention is about the protection of the wounded and sick in the field, whereas the second one talks about the same but for war at sea, the third is about prisoners of war, and the fourth is the protection of civilians. These conventions are the cornerstone of international humanitarian law, and they provide a legal framework for the just and humane treatment of individuals during armed conflict.¹⁶
- **Additional Protocols:** there were two additional protocols that date back to the year 1977, and these protocols were important because of the idea that they are applicable to both international as well as non-international conflicts. These protocols focus on providing obligations to the parties to the conflict and also the guidelines for the well-being of the individuals at the time of armed conflict.
- **Convention on the Rights of the Children (CRC):** this convention was adopted in 1989. The provisions of the CRC involve the prohibition of recruitment of the children into armed forces and also their protection, followed by the obligation to establish care and rehabilitation for the children affected by such wars.
- **Ottawa Treaty (Mine Ban Treaty):** this pact was adopted in the year 1997¹⁷, and it ensures that the anti-personnel landmines are eliminated. Addresses the issue of humanitarian effect on the civilian population. A framework for the regulation of prohibition, destruction, and clearance of landmines. It also includes the provision of assistance to the affected individuals.

¹⁶ International Committee of the Red Cross (ICRC), "Geneva Conventions and their Additional Protocols," 2023

¹⁷ United Nations, "The Ottawa Treaty: 25 Years of Progress," 2022.

- **Convention on cluster munitions:** dates back to 2008. The provisions are somewhat similar to the Ottawa Treaty because this convention deals with the production, transfer, or use of cluster munitions¹⁸ which can cause serious threats to civilians both before and after the war. Clearance of affected land areas and assistance to the victims of wars are emphasized.

These conventions not only help in the protection of civilians but also promote the accountability of the violations of international humanitarian principles.

X. BALANCING HUMANITARIAN AND POLITICAL INTERVENTION

Although balancing them could be difficult, it can be achieved by considering the following factors:

- **Humanitarian principles vs political objectives:** the principles, like neutrality, impartiality, and independence, guide humanitarian interventions. However, the objectives of politics often drive the interventions, which results in conflict between the need to give aid and to achieve the political outcomes. This can create tension which may result in compromising the effects of aid provided to workers and beneficiaries followed by humanitarian efforts.
- **Operational Constraints:** if the political agendas are influencing the operations carried out by the humanitarian organization in the context in which they operate, this may result in operational constraints. For instance, when there is a restriction to access the affected areas by political considerations, the delivery of aid becomes difficult. This creates the situation where the humanitarian needs are overridden by the political calculations.
- **Long-term stability vs immediate relief:** humanitarian interventions only focus on providing immediate relief, which ignores long-term stability and recovery. Failure to ensure this requirement could result in a cycle of dependency and ongoing instability.
- **Accountability and transparency:** accountability and transparency are the two pivotal elements that keep the trust and faith intact among the affected populations. The act of perceiving political motives to overshadow the humanitarian goals leads to skepticism and resistance from local groups, undermining the effect of intervention.¹⁹
- **Engagement with local actors:** engagement with local actors and communities is

¹⁸ United Nations Office for Disarmament Affairs (UNODA), "Convention on Cluster Munitions Overview," 2023

¹⁹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), "Challenges in Humanitarian and Political Interventions," 2023.

helpful in achieving the required balance between both. The knowledge which these locals have is crucial for ensuring that the interventions are relevant and culturally sensitive. Such engagement helps in fostering local ownership and resilience.

XI. CONCLUSION

The changing landscape of armed conflicts poses notable difficulties for the effectiveness of International Humanitarian Law (IHL). Although the Geneva Conventions and other legal structures offer crucial protections for civilians, the growing adoption of unconventional warfare, advanced weaponry, and intentional breaches of humanitarian principles continue to jeopardize their enforcement. Safeguarding non-combatants, medical staff, and humanitarian workers remains a vital issue in contemporary conflicts. Enhancing IHL necessitates not only stricter mechanisms for compliance but also increased international collaboration and accountability for breaches. As we look ahead, the global community must strive to improve enforcement strategies, adjust legal frameworks to address emerging threats, and foster a stronger dedication to humanitarian values. Only through collaborative efforts can the goals of IHL be successfully achieved, ensuring that the basic rights of civilians are respected even during wartime.
