

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 3
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.

Protection of Women and Children in Armed Conflict: A Study under International Humanitarian Law

SATAYAM RAI¹ AND DR. S.K. BOSE²

ABSTRACT

This paper discusses the sensitive matter of the protection of women and children during armed conflict, from the perspective of International Humanitarian Law (IHL). Even though the building blocks of IHL were established to soften the suffering wrought by war, these categories of vulnerable people are still disproportionately affected. The research delves into the particular vulnerabilities of women and children, examines relevant provisions in IHL instruments, and addresses issues of compliance and accountability. Through an analysis of seminal international legal frameworks and exemplar case studies, this paper brings to the fore the imperative need for more effective implementation and enforcement mechanisms to protect the rights and welfare of women and children in conflict-affected situations.

I. INTRODUCTION

Armed conflict, sadly, is still a reality in much of the world. Although the main objective of International Humanitarian Law (IHL), or the laws of war, is to contain the savagery of armed conflict as well as shield those not involved in combat, there are some groups who always feel the ill effects more severely. Women and children are prominent among them. Their distinctive physiological, psychological, and social features usually subject them to particular types of violence, exploitation, and deprivation in times of war. This paper attempts to examine how IHL is trying to respond to such particular vulnerabilities, its effectiveness extent, and the persisting gaps resulting in continued harm.

The impact of conflict on women and children extends far beyond direct combat. They face displacement, food insecurity, lack of access to healthcare and education, and specific forms of violence such as sexual abuse and forced recruitment. Understanding the nuances of their protection within the framework of IHL is crucial for developing more effective humanitarian responses and accountability mechanisms.

¹ Author is a Student at School of Law, Manav Rachna University, Delhi NCR, India.

² Author is a Professor at School of Law, Manav Rachna University, Delhi NCR, India.

II. UNDERSTANDING INTERNATIONAL HUMANITARIAN LAW (IHL)

IHL is a body of public international law designed to regulate the conduct of armed conflict. Its core purpose is twofold: to protect those not involved in fighting (civilians, medical and religious personnel, aid workers) and to limit the means and methods of warfare. It is distinct from International Human Rights Law (IHRL), though the two bodies of law are complementary. Whereas IHRL holds at all times, both in war and peace, IHL holds only in the case of armed conflict.

The principal sources of IHL are:

The four Geneva Conventions of 1949: These original treaties safeguard particular groups of persons: wounded and sick combatants on land (First Convention), wounded, sick, and shipwrecked members of the armed forces at sea (Second Convention), prisoners of war (Third Convention), and civilians (Fourth Convention).

The two Additional Protocols of 1977: These protocols expand and enhance the protection afforded by the Geneva Conventions and deal with contemporary warfare and internal armed conflicts.

Customary International Humanitarian Law: These are not written but are rules based on a state practice accepted as law. Most IHL rules, although not specifically codified in treaties, are binding as customary law.

The most important principles of IHL applicable in this study are:

Discrimination: Conflict parties should always be able to differentiate between combatants and civilians, as well as between military targets and civilian objects. Military targets alone should be the target of attacks.

Proportionality: Attacks should not lead to incidental loss of civilian life, injury of civilians, or harm to civilian objects that would be disproportionate compared to the concrete and direct expected military advantage.

Precaution: All possible precautions shall be adopted to prevent, or at least reduce to a minimum, incidental loss of civilian life, harm to civilians, and damage to civilian objects.

Humanity: This principle prohibits tactics and weapons of war causing unnecessary injury or superfluous suffering. It also stresses the humane handling of all individuals.

III. PARTICULAR VULNERABILITIES OF WOMEN AND CHILDREN DURING ARMED CONFLICT

Women and children are not merely "civilians"; they live in conflict in distinctly gendered and age-specific terms.

A. Vulnerabilities of Women

Sexual and Gender-Based Violence (SGBV): It is a widespread and frequently weaponized feature of armed conflict. It entails rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization, and other sexual violence. SGBV is frequently employed as a war tactic to terrorize populations, dismantle social fabric, and humiliate the opponent. The long-term physical, psychological, and social impact on survivors is catastrophic.

Displacement and Trafficking: Displacement disproportionately impacts women, who are usually responsible for the first line of care for their families as they move. Women become extremely vulnerable to trafficking, forced labor, and exploitation within refugee camps or while migrating.

Economic Disruption: War annihilates livelihoods, and women, who in many societies play important roles in farming or informal economies, are deprived of their source of support, hence becoming and remaining vulnerable to exploitation and poverty.

Denial of Healthcare and Education: Reproductive healthcare, maternal care, and other basic medical services tend to break down in the context of war, contributing to increased rates of avoidable mortality and morbidity among women. Educational services are also drastically cut back.

Psychological Trauma: Observations of atrocity, exposure to violence, and the threat and insecurity that is permanently present cause deep psychological trauma, depression, and anxiety.

B. Children's Vulnerabilities

Child Soldiers: Perhaps the most ghastly of all the by-products of war is the recruitment and exploitation of children by military forces and armed groups. Boys and girls are employed as combatants, scouts, porters, messengers, and for sexual exploitation. This denies them a childhood, causes them deep trauma, and subjects them to brutal violence. ***Separation from Family:*** Children are often torn away from their parents or guardians in the midst of conflict, leaving them without protection and exposed to exploitation, abuse, and trafficking.

Denial of Access to Education: Schools are often destroyed, taken over, or targeted,

withholding children from their universal right to education. This has lasting effects on their development and on the long-term stability of their communities.

Malnutrition and Disease: Conflict affects food supplies, sanitation infrastructure, and health services, resulting in higher levels of malnutrition and preventable illness among children, who are biologically more vulnerable.

Psychological Impact: Children witness or experience violence, displacement, and the death of loved ones and experience intense and long-lasting psychological trauma, which affects their emotional and cognitive development.

Landmines and Explosive Remnants of War: Children, because of their curiosity and shorter stature, are at special risk of being injured or killed by unexploded ordnance and landmines.

IV. INTERNATIONAL HUMANITARIAN LAW AND THE PROTECTION OF WOMEN AND CHILDREN

Although IHL in general covers all civilians, some provisions specifically apply to the special vulnerabilities of women and children.

A. General Protections for Civilians (Fourth Geneva Convention and Additional Protocols)

The Fourth Geneva Convention (GC IV) is the foundation for civilian protection. It outlines general protections applicable to women and children as a constituent part of the civilian population. The most important articles are:

Article 3 (Common Article 3 to all Geneva Conventions): Is applicable in non-international armed conflicts (civil wars) and enunciates basic humanitarian principles, such as humane treatment of all individuals not taking an active part in the hostilities. It directly prohibits violence to life and person, hostage-taking, outrages upon personal dignity, and passing of sentences without regular trial. These bans are vital for safeguarding women and children against random violence.

Article 27 (GC IV): Provides that protected persons (civilians) are entitled in all cases to respect for their person, honour, family rights, religious convictions and practices, and manners and customs. They shall at all times be humanely treated, and protected against all acts of violence or threats thereof, outrages upon personal dignity, in particular humiliating and degrading treatment, and rape, enforced prostitution and any form of indecent assault. This piece squarely addresses sexual violence.

Article 28 (GC IV): Forbids the utilization of civilians to make certain zones or points

immune to military action. This forestalls the utilization of women and children as human shields.

Article 31 (GC IV): Forbids coercion against safeguarded individuals.

Article 50 (GC IV): Requests protection and registration of children to easily identify orphaned or separated children. It also prescribes welfare measures for them, e.g., special identity cards for children under the age of 12.

B. Specific Protections for Women

Article 76 (Additional Protocol I): States that women should be the subject of special respect and should be specially protected against rape, forced prostitution and any other form of indecent assault. This article reaffirms and enhances Article 27 of GC IV on sexual violence.

Article 75 (Additional Protocol I): Gives general guarantees to all individuals in the hands of a party to the conflict who are not entitled to more favourable treatment, such as protection from different abuses. The general guarantees extend to women and help protect them against torture, cruel treatment, and SGBV.

C. Specific Protections for Children:

Article 77 (Additional Protocol I): Affords children special protection. It states that children shall be the object of special respect and shall be protected against any form of indecent assault. It explicitly states that children under 15 years of age shall not be recruited into armed forces or groups, nor permitted to take part in hostilities. If children above 15 but under 18 are recruited, priority must be given to the oldest.

Article 78 (Additional Protocol I): Discusses the evacuation of children from areas or zones under siege or where they are exposed to harm.

Additional Protocol II (Non-International Armed Conflicts):

Article 4(3)(c): Bans the recruitment into armed forces or groups of children under the age of 15 years and bans their participation in hostilities.

Article 4(3)(d): Mandates that children taking part in hostilities who are arrested or detained shall continue to benefit from special protection.

Article 4(3)(e): Calls for measures to facilitate the reunion of families dispersed by armed conflict.

Article 6: Refers to penal prosecutions and provides that children shall not be punished by death for crimes related to the armed conflict.

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC): Technically an IHRL instrument but going far beyond IHL provisions by increasing the minimum age for direct combatant participation and compulsory recruitment to 18, and obliging states to take all possible measures to prevent recruitment of children under 18. The Protocol mirrors the developing international consensus regarding the protection of children from conflict.

V. IMPLEMENTATION AND ACCOUNTABILITY ISSUES

Even with the strong legal framework, the protection of children and women in armed conflict is still a great challenge.

Non-State Armed Groups (NSAGs): Most of the modern-day conflicts have NSAGs which could either not be state parties to IHL treaties or not subscribe to their terms explicitly. Even though customary IHL binds all parties, including NSAGs, it is hard to enforce.

Lack of Political Will: Parties to conflict and states may not have the political will to respect IHL, place military goals ahead of civilian safety, or investigate and prosecute violators.

Impunity: Widespread impunity for committing IHL violations, especially for SGBV and child recruitment, erodes deterrence and fueling cycles of violence. Violators are seldom held accountable.

Hidden Violations: Most of the crimes against women and children, particularly sexual violence, are not reported because of stigma, fear of retaliation, and non-availability of reporting options.

Resource Shortage: Humanitarian agencies in many cases experience severe resource shortages in extending sufficient protection, assistance, and psychosocial care to victims in conflict areas.

Changing Face of Conflict: Contemporary conflicts are frequently long-lasting, entangle intricate webs of players, and occur in cities, rendering it more difficult to distinguish between combatants and non-combatants and creating more collateral damage.

VI. ILLUSTRATIVE CASE EXAMPLES

Exploring particular examples serves to show the shortcomings in protection and the effects of violations. Although precise detailed legal rulings can be involved, the following are summarized examples of kinds of cases that point out IHL violations against women and children:

Case Example 1: Sexual Violence as a Weapon of War (e.g., DRC, Bosnia and Herzegovina, Myanmar):

In the Democratic Republic of Congo (DRC), decades of widespread and systematic sexual violence have been reported, which is mainly committed by different armed groups against women and girls.

This is not by chance but frequently a calculated strategy to terrorize communities, destabilize areas, and exploit resources. Whereas IHL willfully excludes rape and sexual violence as war crimes, the magnitude and ubiquity attest to the failure of national and international avenues to prevent and prosecute them successfully. The ICC has issued arrest warrants and convictions for sexual violence as crimes against humanity and war crimes in cases in DRC (e.g., the conviction of Jean-Pierre Bemba for command responsibility for rapes by his men in CAR, although this was subsequently quashed on appeal on technical grounds of control, the acknowledgment of sexual violence as a core crime persisted). * "Rape camps" and routine sexual violence directed against Bosnian Muslim women were reported during the Bosnian War (1992-1995), resulting in milestone prosecutions at the International Criminal Tribunal for the former Yugoslavia (ICTY). In cases such as *Prosecutor v. Kunarac, Kovac and Vukovic*, sexual enslavement and rape were formally identified as crimes against humanity and war crimes, marking significant precedents. * Case Example 2: Recruitment and Use of Children (e.g., Uganda, Sri Lanka, Syria):

Uganda's Lord Resistance Army (LRA), led by Joseph Kony, is notorious for kidnapping tens of thousands of children and press-ganging them into battle, sexual slavery, and other horrors. LRA leaders have been issued warrants of arrest by the ICC for war crimes such as the conscription and use in hostilities of children under 15 years of age and enlisting and conscripting children aged under 15 years and using them to actively take part in the fighting.

In Syria, children have been systematically recruited by different armed groups, including ISIS and others, as young as seven years old to fight, carry out suicide attacks, and serve as propaganda tools. The long-term character of the conflict and the breakdown of state institutions have made children especially susceptible to recruitment into such forces, and the failure to enforce IHL's ban on child soldiers.

Case Example 3: Attacks on Women's and Children's Civilian Infrastructure (e.g., Yemen, Ukraine):

Attacks on civilian infrastructure on a large scale have been observed throughout Yemen, such as hospitals, schools, and water treatment plants.

These attacks, either deliberate or through indiscriminate bombing, affect women and children disproportionately.

The destruction of health facilities results in a rise in maternal and child mortality, while the targeting of schools denies children their right to education. Whereas IHL demands distinction and proportionality, the catastrophic humanitarian crisis in Yemen demonstrates consistent violations. * The fighting in Ukraine has also witnessed many cases of civilian infrastructure being attacked, such as schools and hospitals, with heavy casualties among women and children and disruptions in vital services. These occurrences are a matter of concern as far as compliance with IHL principles, especially distinction and proportionality, is concerned. These cases, among many others, underscore that despite clear legal prohibitions, violations persist, often with devastating consequences for women and children.

VII. RECOMMENDATIONS FOR ENHANCED PROTECTION

To strengthen the protection of women and children in armed conflict, a multi-faceted approach is required:

1. Strengthening Accountability and Ending Impunity:

Robust national legal frameworks for prosecuting IHL violations, including those related to SGBV and child recruitment.

Complete collaboration with international mechanisms of justice, including the International Criminal Court (ICC), to hold perpetrators accountable.

Building capacity of national judiciaries and police to investigate and prosecute sophisticated war crimes.

2. Prevention of Violations:

Training for armed forces and militia on IHL, with special emphasis on the particular safeguarding of women and children can prevent all these. Tackling the root causes of conflict, which tend to aggravate vulnerabilities. Early warning systems are to detect and prevent risks of mass atrocities.

Victim-Centred Approach: Complete care for survivors of violence, including medical, psychological, and legal care. Safe and confidential reporting avenues for SGBV. Focusing on reintegrating child soldiers into their communities, with individually-focused psychosocial assistance can help.

Gender-Sensitive and Child-Sensitive Humanitarian Action: Mainstreaming gender and age

analysis across all humanitarian action in order to determine and respond to special needs and vulnerabilities. Facilitating women's active participation in peace negotiations and post-conflict reconstruction efforts and ensuring priority access to education and child protection measures during emergencies.

Increased State Responsibility and Implementation: States have the responsibility to abide by and ensure respect for IHL, both among their own forces and in non-state entities in their own territories. Greater diplomatic pressure and targeted sanctions against states will be systematically disregarding IHL.

VIII. CONCLUSION

The safeguarding of women and children in conflict still represents an ongoing humanitarian imperative. International Humanitarian Law has a solid legal framework, but every day its efficacy is challenged by the complexities of contemporary war. The terrible consequences of war on these groups highlight the ongoing discrepancy between law and law practice.

Moving to real protection means doing better than formal prohibitions on the laws; it means unshakeable political will, strict accountability, and shared responsibility by states, international agencies, and civil society.

By reinforcing enforcement mechanisms, ending impunity, and using truly gender and child-sensitive humanitarian policy and practice, the international community can begin to make good on its pledge to protect the lives, dignity, and futures of women and children trapped in war's barbarism.

IX. REFERENCES

International Legal Instruments:

1. Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 UNTS 287.
2. Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 UNTS
3. Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 UNTS 609.
4. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000, 2171 UNTS 163.
5. Rome Statute of the International Criminal Court, 17 July 1998, UN Doc A/CONF.183/9.

Books and Book Chapters:

1. Pictet, Jean S. Commentary on the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War. Geneva: International Committee of the Red Cross, 1958. (Indispensable for IHL interpretation)
2. Sassòli, Marco, Antoine A. Bouvier, and Katia Martin-Vignerte. How Does Law Protect in War?: Cases, Documents and Teaching Materials on International Humanitarian Law. 4th ed. Geneva: International Committee of the Red Cross, 2011. (Ideal for cases and background)
3. Pattison, James. The Ethics of Humanitarian Intervention. Cambridge University Press, 2010. (Wider context, but mentions protection).
4. Denov, Myriam S., and Christine E. Lesnett, eds. The Palgrave Handbook of Children and War. Palgrave Macmillan, 2018.

Journal Articles:

1. Gardam, Judith. "Women and Armed Conflict: The Protection of Women under International Humanitarian Law." *International Review of the Red Cross* 87, no. 859 (2005): 583-604. (A seminal article)

2. Rubli, Melanie. *"The Protection of Children in Armed Conflict: Developments since the Adoption of the Optional Protocol to the Convention on the Rights of the Child."* *International Review of the Red Cross* 93, no. 883 (2011): 587-604.
3. O'Connell, Mary Ellen. *"The Legal Basis for Protection of Women in Armed Conflict: The Continuing Problem of Sexual Violence."* *Journal of Gender, Social Policy & the Law* 15, no. 2 (2007): 203-228.
4. Drumbl, Mark A. *"Child Soldiers and the International Criminal Court: On the Perils of Abstraction and the Promise of General Principles."* *Human Rights Quarterly* 27, no. 2 (2005): 526-552.
