

**PREVALENCE OF NON-STATE ACTORS IN 21ST CENTURY ARMED CONFLICTS
AND ITS EFFECT ON WOMEN: A LEGAL APPRAISAL***

Abstract

During times of armed conflict, whether international or non-international armed conflict, International Humanitarian Law is applicable. As a body of law, International Humanitarian Law does not question the cause, course, propriety and/or legality of a conflict but seeks instead to apply humanitarian principles in such times of conflict, it recognizes that war or warfare has limits irrespective of the cause or course thereof, and then strives to establish humanitarian parameters to the means and method of warfare, and to alleviate the suffering so often occasioned on individuals who are not taking part (participating) in the hostilities and the conflict/warfare. This article examines the changing and challenging nature of armed conflicts in the 21st century [modern day] warfare/conflicts. The realities of the modern-day armed conflicts have queried the adequacy of International Humanitarian Law in the face of an evolving pattern of conflict. The objective of the research is to emphasize that there has been a notable shift in the manner in which conflict were traditionally fought in the present-day armed conflict from what was obtainable in early 1990s. Contemporary armed conflicts are now vastly different from those prevailing in the first part of the twentieth century. Presently the new pattern of armed conflicts has become very complex and thus has posed a severe challenge to the implementation of the International Humanitarian Law rules. This paper recommends the need to engage the non-state actors in negotiation, to enhance respect of International Humanitarian Law by the non-state actors and to limit the method and means of warfare while preventing human suffering in times of armed conflict. The methodology used is the doctrinal study of the key subject of this research, and appropriate references made accordingly. Reliance was also placed on other international instruments relevant to the research topic.

Keyword: International, Humanitarian, Law, Armed, Conflict, Non-State, Actors, Women.

1. Introduction

Since the Geneva Conventions were drafted in 1949,¹ a major change has taken place in war fighting around the globe.² Mankind reactions to the amount of carnage suffered by the international community during the Second World War did not stop at the drafting of the Geneva Conventions to regulate the acts of States during on-going conflicts, but States also devised the creation of instruments that would prevent wars from surfacing at all. This is how the United Nations was engendered with the main rationale of preventing the development of armed conflicts among its members.³ Other regional organizations were equally created in the subsequent decades with a similar objective, such as the Organization of American States, (OAS), and the North-Atlantic Treaty Organization, (NATO).⁴ A countless of international treaties and resolutions have been additionally drafted and ratified by most of the States in the world renouncing the use of force against other States, especially the United Nations Charter in its Article 2(4).⁵ International humanitarian law also known as the law of armed conflict or the law of war is that body of law which in war times, protects persons who are not or no longer taking part in hostilities and seeks to limit the means and method of warfare while preventing human suffering

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¹ International Committee of the Red Cross, 'Geneva Convention Relative to the Protection of Civilian Persons in Times of War (Fourth Geneva Convention)' (1949) <<https://www.refworld.org/docid/3ae6b36d2.html>> accessed on May 10, 2021.

² *Ibid*

³ T Londoño-Camargo, *The scope of application of International Humanitarian Law to Non-International Armed Conflicts* (2015) <<https://revistas.javeriana.edu.co/index.php/vnijuri/article/view/13678/11665>> and <<https://www.redalyc.org/pdf/825/82543859007.pdf>> accessed on May 10, 2021.

⁴ *Ibid*.

⁵ *Ibid*.

in times of armed conflict.⁶ International humanitarian law applies only to situations of armed conflict;⁷ it is applicable whenever a situation of violence reaches the level of armed conflict.⁸ International humanitarian law imposes limits on the choice of means and methods of warfare so as to protect civilians and civilian infrastructure against unacceptable harm and destruction,⁹ and also focuses on who and what may be targeted in [armed] conflict, how the targeting is executed, weapons allowed and the rights and obligations of the combatant forces.¹⁰

Lack of respect for the rules of international humanitarian law has been a constant and unfortunate result of the lack of political will and practical ability of states and armed groups engaged in armed conflict to abide by their legal obligations.¹¹ This, admittedly, is not only a problem of international humanitarian law, but may be also said to characterize other bodies of international law aimed at the protection of persons.¹² As the world continues to urbanize, so do its conflicts, making present day armed conflict and its consequences on civilians a pressing concern.¹³ Civilians play an increasingly important and complex role in armed conflicts, both as victims and as perpetrators. The complexity of contemporary armed conflict involving a wide range of actors, from state and non-state actors has created hardship for civilians during armed conflicts.¹⁴ International Humanitarian Law distinguishes between two armed conflict, international armed conflict fought between at least two states and non-international armed conflict that do not involve two states as opposing parties to the fight.¹⁵ Non-international armed conflict which involves a situation of violence involving protracted armed confrontations between the government and one or more organized armed group[s] or between such groups themselves arising on the territory of a state.

Non-international armed conflicts are generally covered by *article 3 common to the Geneva Conventions and by Additional Protocol II*.¹⁶ The existence of non-international armed conflict triggers the application of International Humanitarian Law also known as the law of armed conflict which sets limits on how the parties may conduct hostilities and protect all persons affected by the conflict. *Common Article 3* applies to armed conflicts that are not of an international character occurring in the territory of one of the High Contracting Parties. Depending on the situation, hostilities may occur between governmental armed forces and non-governmental armed groups or between such groups only.¹⁷ Common Article 3 does not attempt to define exactly what is by a non-international armed

⁶ International Committee of Red Cross, Discover the ICRC (2018) <<https://shop.icrc.org/download/ebook?sku=0790/002-ebook>> or <<https://shop.icrc.org/discover-the-icrc-pdf-en>> accessed on May 10, 2021

⁷ H Haider, *International Legal Framework for Humanitarian Action: Topic Guide* (2013) p. 9 <<https://gsdrc.org/wp-content/uploads/2015/07/ILFHA.pdf>> accessed on May 10, 2021.

⁸ ICRC, 28th International Humanitarian Law and the Challenges of Contemporary Armed (2003) <https://www.icrc.org/en/doc/assets/files/other/ihlcontemp_armedconflicts_final_ang.pdf> accessed on May 10, 2021.

⁹ ICRC, *Urban Services during Protracted Armed Conflict: A Call for a Better Approach to Assisting Affected People* (2015) <https://www.icrc.org/sites/default/files/topic/file_plus_list/4249_urban_services_during_protracted_armed_conflict.pdf> accessed on May 10, 2021.

¹⁰ MN Schmitt, '21st Century Conflict: Can the Law Survive?' *Melbourne Journal of International Law*, Vol. 8. (2007)p.444 <https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID1600627_code1411821.pdf?abstractid=1600627&mirid=1> or <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1600627> or <<https://securitypolicy.law.syr.edu/wp-content/uploads/2013/03/Schmitt-M.21st-Century-Conflict.Can-the-Law-Survive.pdf>> accessed on May 10, 2021.

¹¹ ICRC, 'International Humanitarian Law and the Challenges of Contemporary Armed Conflicts', *Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions* (2019) <https://reliefweb.int/sites/reliefweb.int/files/resources/4427_002_IHL-Challenges-Contemporary-Armed-Conflicts_WEB_7.pdf> accessed on February 25, 2021 or <<https://shop.icrc.org/international-humanitarian-law-and-the-challenges-of-contemporary-armed-conflicts-recommitting-to-protection-in-armed-conflict-on-the-70th-anniversary-of-the-geneva-conventions-pdf-en>> accessed on May 10, 2021.

¹² *Ibid*

¹³ *Ibid*

¹⁴ A Wenger & SJA Mason, 'The Civilianization of Armed Conflict: Trends and Implications', *International Review of the Red Cross*, Vol. 90, No. 872 (2008) <<https://international-review.icrc.org/sites/default/files/irrc-872-2.pdf>> or <<https://www.icrc.org/en/doc/assets/files/other/irrc-872-wenger-mason.pdf>> accessed on May 10, 2021.

¹⁵ *Ibid*

¹⁶ The 1980 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 and it was adopted in 1977.

¹⁷ International Criminal Tribunal for the Former Yugoslavia (ICTY), *The Prosecutor v. Dusko Tadic*, Judgment, IT-94-1-T, 7 May 1997, Para. 561-568 <<https://www.icty.org/x/cases/tadic/acjug/en/tad-aj990715e.pdf>> accessed on May 10, 2021; see

conflict. However it applies whenever there is protracted armed violence within the territory of a State between government forces and organized armed groups or between such groups.¹⁸ *Additional Protocol II* applies also to armed conflicts and it states that non-international armed conflict are armed conflict "which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol".¹⁹ This definition is different from the notion of non-international armed conflict under *common Article 3* in two aspects.²⁰ Firstly, whereas *Common Article 3* applies to any armed conflict not of an international character, *Protocol II* has quite strict requirements regarding command of the dissident forces, control of territory and the ability to carry out sustained and concerted operations, *Protocol II* states quite clearly that it "shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature i.e. it applies to situations that are at or very close to the level of a full-blown civil war. Secondly, whereas *Protocol II* applies only to a conflict between a States armed forces and rebel or dissident movements, *common Article 3* is broader and covers a conflict between the same set of groups competing for power within a State when the government is not involved.²¹

2. Interrogating Contemporary Armed Conflicts

There has been notable departure from the manner in which conflicts were traditionally fought, with new actors, new weapons and new tactics. Contemporary armed conflicts have become increasingly complex over the past [recent] years, they are vastly different creatures from those prevailing in the first part of the twentieth century when state negotiated the text of Geneva Convention.²² Gone are the days when belligerent were often easily recognized and were predominately members of the regular armed forces of state confronting one another, as was the case during the first and second world war.²³ Those actively involved in fighting then were usually solders that stood apart from civilians.²⁴ The numbers of wars that are exclusively inter-state in present day armed conflict have reduced and it has equally become increasingly difficult to distinguish between armed conflict and contexts that are shaped by regular instances of violence and crime. The proliferation of non-state armed groups (NSAGs) and the rise of identity-driven insurgency have led to the assumption that we are dealing with an entirely new type of warfare in this present era.²⁵ The multiplication of non-State armed groups signifies a greater strain on resources, especially natural and financial, as every new party needs to sustain itself. As far as humanitarian action is concerned, the capacity or lack of the chain of command or control of some groups poses a challenge not only in terms of security but also for engaging such groups on issues of protection and compliance with International Humanitarian Law rules.²⁶ In the 1960s civilians accounted for 63 per cent of recorded war deaths, in the 1980s 74 per cent, and in the 1990s the figure

also ICTY, *The Prosecutor v. Fatmir Limaj*, Judgment, IT-03-66-T, 30 November 2005, Para. 84 <<https://www.icty.org/x/cases/limaj/tjug/en/lim-tj051130-e.pdf>> accessed on May 10, 2021.

¹⁸ *Ibid.*

¹⁹ *Article 1(1) of the Additional Protocol II to the Geneva Convention* adopted on the 8th of June 1977. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups < https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321.pdf> accessed on May 5, 2021.

²⁰ *Ibid.*

²¹ International Committee of the Red Cross (ICRC), 'The Law of Armed Conflict, Non-International Armed Conflict, Unit of Relations with Armed and Security Forces' (2002) p. 8 <https://www.icrc.org/en/doc/assets/files/other/law10_final.pdf> accessed on May 5, 2021.

²² International Committee of the Red Cross, 'International Humanitarian Law and Challenges of Contemporary Armed Conflict-recommitting to protection in armed conflict on the 70th anniversary of Geneva Convention' (2019) <<https://shop.icrc.org/download/ebook?sku=4427/002-ebook>> accessed on May 5, 2021.

²³ *Ibid.*

²⁴ United Nations Security Council, Report of the Secretary General to the Security Council on the Protection of Civilians in Armed Conflict. Doc. S/2002/33/Para 3 <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_57_2.pdf> accessed on May 5, 2021.

²⁵ B Gade, 'Understanding the Complexity of Armed Violence in the 21st Century', *United Nations System Staff College* (2018) p.3 <<https://www.unssc.org/news-and-insights/blog/understanding-complexity-armed-violence-21st-century/>> accessed on May 5, 2021.

²⁶ *Ibid.*

appears to have risen further.²⁷ Since 2011, the spiral of armed conflict and violence has continued in most parts of the world because of political, ethnic, national or religious grievances resulting in spark of recent outbreaks of hostilities.²⁸ In most armed conflicts, civilians continue to bear the brunt of the hostilities, especially when fighting takes place in densely populated areas or when civilians are deliberately targeted. Thousands of people are being detained; the number of persons going missing as a result of armed conflict is dramatic.²⁹ The devastation caused by violence has prompted increasing numbers of people to flee their communities, leaving their homes and livelihoods behind and facing the prospect of long-term displacement and exile.³⁰

The number of internally displaced persons (IDPs), refugees and asylum seekers uprooted by ongoing armed conflicts and violence worldwide has soared in recent years. In 2013, for the first time since the Second World War, their total number exceeded 50 million people, over half of whom were IDPs.³¹ This negative trend continued in 2014, as conflict situations deteriorated.³² In 2015, the number of ongoing conflicts increased to 50 compared to 41 in 2014.³³ Conflicts are increasingly affecting civilians, particularly where institutions are weak and social norms have become tolerant of violence.³⁴ Massive killings of civilian population are largely due to the fact that present day war are fought largely within and not between countries, villages and street have become battle field. Traditional centaury such as hospital and churches have become target. Armed conflict today destroy crop, school, places of worship nothing is spared, in additions more are more of civilians are involved in armed conflict because of the easily availability of small arms and light weapon which are also inexpensive, reliable and simple to operate.³⁵

Many contemporary situations of armed conflict neither reflect the traditional concept of international armed conflicts where one or more states use force against each other, nor the classical civil wars where there are armed confrontations between government armed forces and armed groups within the territory of a single state. During recent contemporary armed conflict across the world, increasing number of civilians have been killed, wounded, treated without dignity, arbitrarily detained and separated from their families. They have been targeted on purpose, forced to leave homes and deprived of their basic human rights. According to international humanitarian law, all persons not taking part in hostility shall be treated humanely in all circumstances without adverse distinction, the civilian population is protected from military operations. They are entitled to respect for themselves, their honor and family rights.³⁶ Tragically however, contemporary armed conflicts are frequently characterized by massive displacement of population, both within and across international borders. This phenomenon is particularly prevalent in non-international armed conflict, where displacement is often regarded as a strategy of warfare and sometimes even constitutes the very object of the protagonist to the conflict.³⁷ Prisoners of war and detainees under international humanitarian law have to be protected and respected in all circumstances, the detaining authority are held responsible for unlawful acts or omissions causing the death or seriously endangering the health of prisoners.³⁸ In so many cases the current lack of respect

²⁷United Nation Security Council, Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict <https://reliefweb.int/sites/reliefweb.int/files/resources/S_2020_366_E.pdf> accessed on May 5, 2021.

²⁸ *Ibid*

²⁹ *Ibid*

³⁰ *Ibid*

³¹ *Ibid*

³² *Ibid*

³³ A Marc, 'Conflict and Violence in the 21st Century: Current Trend as Observed in Empirical Research and Statistic' (2014) p. 12 <<https://www.un.org/pga/70/wp-content/uploads/sites/10/2016/01/Conflict-and-violence-in-the-21st-century-Current-trends-as-observed-in-empirical-research-and-statistics-Mr.-Alexandre-Marc-Chief-Specialist-Fragility-Conflict-and-Violence-World-Bank-Group.pdf>> accessed on May 5, 2021

³⁴ *Ibid*

³⁵ *Malaysia, Osman v. The Prosecutor*. Law Reports, Vol. 1, 1969, Appeal Cases, pp. 430-455 (P.C.) <<https://casebook.icrc.org/case-study/malaysia-osman-v-prosecutor>> accessed on May 5, 2021.

³⁶ *Article 3 Common to the Geneva Convention 1949* <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321.pdf>

³⁷ ICRC, 'Displaced in Cities: Experiencing and Responding to Urban Internal Displacement Outside Camps' (2018) p. 18 <https://reliefweb.int/sites/reliefweb.int/files/resources/4344_002_Displaced-in-Cities_web.pdf> accessed on May 5, 2021.

³⁸ *Article 75 of Protocol 11 of Geneva Convention. 1977* <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321.pdf> accessed on May 5, 2021

for international humanitarian law causes so much arbitral and abusive deprivation of freedom. The special vulnerability of children in contemporary armed conflict has also long been recognized. Under international humanitarian law, specific rules concerning children have been made, rules concerning the child's wellbeing, education, honor and development³⁹ children including those in detention should be provided with the care and education they require

Today however warfare are being developed and belligerent are adopting new combat strategy, children are increasingly affected by conflict they are often placed at the very heart of conflict and become one of its main victim, because of their extreme vulnerability. Particularly disturbing is the increasing use of young children as soldiers. In recent years, armies, rebels, paramilitary and militia groups all over the world have recruited hundreds of thousands of child soldiers. Currently, there are thought to be around 300,000. Most are adolescents, though many are 10 years of age or younger. A child soldier is any child boy or girl under the age of 18 who is compulsorily, forcibly, voluntarily recruited or otherwise used in hostilities by armed forces, paramilitaries, civil defense units or other armed groups. Child soldiers are used for sexual services, as combatants, as forced wives', messengers, porters, or cooks. The use of child soldiers has remained stubbornly constant over recent years, while the cumulative impact has increased steadily. The estimated of figure of 300,000 child soldiers reflects the number of children being used in combat at any one time.⁴⁰ To lure children to fight, they are given amulets and brainwashed into believing that they are fearless warriors and protected from harm.⁴¹ Regardless of what these children soldiers are assigned to do, they work in close proximity to combat.

The factors that trigger and sustain many of today's wars may be complex, but the violations that needlessly intensify their effect on human are basic indiscriminate and deliberate attacks against civilians, torture and other forms of ill-treatment; rape and other sexual violence; attacks on hospitals, medical personnel, and the wounded themselves, hostage-taking, extrajudicial killing and summary executions. To make things worse, a spirit of vengeance has taken hold in some contexts where violations are systematically directed at adversaries and at anyone affiliated with them.⁴²

One of the important principles underplaying humanitarian law is that of distinction between the civilians and combatants and between civilian object and military objectives.⁴³ Attacks must be limited to military objects which by their nature location, purpose or use make an effective contribution to military action.⁴⁴ Indiscriminate attack on civilian objects without distinction is prohibited, when launching an attack two principle have to be respected; proportionality in the military action and due caution deciding the attack. Numerous factors have to be taken into account before launching the attack, example military importance of the attack, density of civilian population, The likely effect of the attack including possible release of hazardous substance, the types of weapons available and the accuracy mode and timing of the attack, in case of doubt about the nature of object about the object its presumed to be a civilian object. In reality however, far too often civilians and civilian objects such as houses, places of worship and schools are targets on purpose. Attacks are sometimes launched against cities or villages, these attacks result in numerous causalities amongst the civilian population and damages to

³⁹ Article 77 of protocol II, of The Geneva Convention 1977 <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321.pdf> accessed on May 5, 2021.

⁴⁰ G Machel, 'The Impact of Armed Conflict on Children: A Critical Review of Progress Made and Obstacles Encountered in Increasing Protection for waraffected Children' (2000) pp. 7 – 8 <<https://reliefweb.int/sites/reliefweb.int/files/resources/INTERNATIONAL%20CONFERENCE%20ON%20WAR.pdf>> accessed on May 5, 2021.

⁴¹ *Ibid.*

⁴² This is the fifth report on IHL and the challenges of contemporary armed conflicts prepared by the International Committee of the Red Cross (ICRC) for the International Conference. The first four reports were submitted to the International Conferences held in 2003, 2007, 2011, and 2015. The purpose of this report is to provide an overview of the main challenges that today's armed conflicts pose for IHL, to prompt discussion of these challenges, and to outline ongoing or prospective ICRC action, positions and areas of interest.

⁴³ Articles 13(2) & 48 of Protocol 11 of Geneva Convention <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321.pdf> accessed on May 5, 2021.

⁴⁴ *Ibid.*

civilian objects.⁴⁵ Number of conflict trends has become even more acute in the last few years, such as the growing complexity of armed conflicts linked to the fragmentation of armed groups and asymmetric warfare; the regionalization of conflicts; the challenges of decades-long wars; the absence of effective international conflict resolution; and the collapse of national systems. With few exceptions, almost all of the armed conflicts that have occurred in the past few years are the result of conflicts provoking another conflict, parties to armed conflict fracturing and multiplying, and new parties intervening in ongoing conflicts. Unresolved tensions that have lasted for years and decades continue to deplete resources and severely erode the social fabric and the means of resilience of affected populations.⁴⁶

Contemporary conflicts are also characterised by a dramatic multiplication of actors and the lack of clear outline between local, national and international as well as between combatant and non-combatant entities.⁴⁷ Accordingly, the concept of new wars, suggesting that while old wars were typically fought between states “for geopolitical interests or for ideology”, new wars “are fought by varying combinations of networks of state and non-state actors, regular armed forces, private security contractors, mercenaries, jihadists, warlords, paramilitaries, *etc* in the name of identity (ethnic, religious or tribal)” and greed. Contemporary conflict can generally be described as a mixture of war, crime, and human rights violations, which give rise to a political economy of violence and left the masses with unspeakable anguish.⁴⁸

3. Effect of Contemporary Armed Conflict on Women

Present-day internal armed conflicts typically take a heavier toll on civilians than inter-State wars because combatants increasingly have made targeting civilians a strategic objective. This disregard for humanitarian norms and for the Geneva Conventions on the rules of war is also evident in the number and impact of internal armed conflicts evident around the world. Modern warfare has had a devastating effect on the lives and dignity of women and girls, as well as on the health and educational services that are essential to family and community survival. Along with reproductive health complications, the adverse effects of conflict hit women and girls harder than it does their male counterparts, majorly because of deliberate gender-based violence and discrimination which is rampant in these settings.⁴⁹ Women and girls constitute close to 80 per cent of internally displaced people and refugees worldwide.⁵⁰ Although war has always victimized non-combatants, contemporary armed conflict exploits and kills civilians more callously and systematically than ever before, this aspect of armed conflict raises serious ethical and operational challenges for the world at large.⁵¹ Women and girls have become the individual and systematic targets of sexual violence, specifically when rape and sexual assault are used as weapons of war.⁵² The presence of peacekeeping organizations in post-conflict settings sometimes has negative consequence for women and girls. Personnel and military forces used for peacekeeping missions are predominantly adult men from differing cultures, health and education statuses. This has resulted in the

⁴⁵ International Committee of the Red Cross, ‘Protection of Victims of Armed Conflict Through Respect For International Humanitarian Law’, *Reference Document – 27th International Conference of the Red Cross and Red Crescent* (1999) <<https://www.icrc.org/en/doc/resources/documents/misc/57jpn.htm>> accessed on May 5, 2021.

⁴⁶ International Committee of the Red Cross, ‘International Humanitarian Law and the Challenges of Contemporary Armed Conflicts’, *32nd International Conference of the Red Cross and Red Crescent, 321C/15/11* (2015) <<https://reliefweb.int/sites/reliefweb.int/files/resources/32ic-report-on-ihl-and-challenges-of-armed-conflicts.pdf>> accessed on May 5, 2021.

⁴⁷ P Wallenstein & M Sollenberg, ‘Armed Conflict and Regional Conflict Complexes’, *Journal of Peace Research* (1998) Vol. 35 No. 5, pp. 621-634 <<https://doi.org/10.1177/2F0022343398035005005>> accessed on May 5, 2021.

⁴⁸ *Ibid*

⁴⁹ S Metz & P Cuccia, ‘Defining War for The 21st Century’, *Strategic Studies Institute Annual Strategy Conference Report* (2010) p. 23 <<http://www.StrategicStudiesInstitute.army.mil>> accessed on January 15, 2021. Also available at <<https://www.files.ethz.ch/isn/126626/pub1036.pdf>> accessed on May 5, 2021.

⁴⁹ United Nations Populations Fund, ‘Impact of Conflict on Women and Girls: A UNEPA Strategy For Gender Mainstreaming in Areas of Conflict and Reconstruction’ (2013) p.6 <https://www.unfpa.org/sites/default/files/pub-pdf/impact_conflict_women.pdf> accessed on May 4, 2021.

⁵⁰ United Nations Populations Fund, ‘Impact of Conflict on Women and Girls: A UNEPA Strategy for Gender Mainstreaming in Areas of Conflict and Reconstruction’ (2013) p.6 <https://www.unfpa.org/sites/default/files/pub-pdf/impact_conflict_women.pdf> accessed on May 4, 2021.

⁵¹ United Nations Populations Fund, ‘Impact of Conflict on Women and Girls’ (2001) p.4 <https://www.unfpa.org/sites/default/files/pub-pdf/impact_conflict_women.pdf> accessed on May 4, 2021.

⁵² *Ibid*

increased demand for sex and has serious negative effect on the entire community, particularly through the presence of sexual, physical and economic exploitation⁵³ Conflicts and post-conflict situations, have always increased women's vulnerability to violence⁵⁴ in Nigeria, particularly the activities of the *Boko Haram* insurgency have left so many women dehumanized and devastated. Young girls were used as suicide bombers, others were adopted, married off forcefully, kept within the insurgents camp, raped or sexually harassed repeatedly as the insurgents deem fit. It is estimated that close to 90% of current war casualties are civilians, the majority of whom are women and children, compared to a century ago when 90% of those who lost their lives were military personnel.⁵⁵ The widespread insecurity and trauma due to the atrocities and suffering of the civilian population is another terrible legacy of these conflicts. Sexual violence has also been used as a weapon of war. Warring parties resort to rape and sexual slavery of women to humiliate, intimidate and terrorize one another.⁵⁶

Furthermore, women can also be at risk because of their presence amongst the armed forces which is perceived as assisting them or being part of the armed group even if they are there completely against their will. They could be abducted for sex or to cook and clean in the camp. During the period of their abduction and in most cases even afterwards, these women and girls can be in considerable danger from attack by the opposing forces as well as by their abductors.⁵⁷ The very nature of women's vulnerability often lies more in the fact that present day or contemporary armed conflicts have evolved to the extent that the civilian population is totally caught up in the fighting and women are frequently the ones encumbered with the responsibility of trying to maintain and provide for the everyday survival of themselves and their families. The notion of vulnerability also comprises the problem of being at risk (exposure to danger), the ability to cope with the situation and the stress, shock and trauma of warfare. Pregnant women, nursing mothers, mothers of small children, and female heads of households are in a greater extent extremely vulnerable and greatly affected by the outcome of violence.⁵⁸

The problems experienced by women in situations of armed conflict has in the past years and in recent years received increased attention from the international community.⁵⁹ The concern to address the problems faced by women more effectively has been reflected in resolutions pertaining specific decisions taken within the International Committee of the Red Cross (ICRC). In 1996, the 26th International Conference of the Red Cross and Red Crescent, in its resolution entitled "Protection of the civilian population in periods of armed conflict", urged that "strong measures be taken to provide women with the protection and assistance to which they are entitled under national and international law". To ensure that women who are victims of conflicts receive medical, psychological and social assistance provided, if possible, by qualified personnel who are aware of the specific issues involved.⁶⁰ The 27th International Conference in 1999 adopted a Plan of Action which contains several specific references to the protection of women in armed conflict, and furthermore requests that the ICRC

⁵³ A Marc, 'Conflict And Violence in the 21st Century' (2016) <<https://www.un.org/pga/71/wp-content/uploads/sites/40/2016/01/Conflict-and-violence-in-the-21st-century-Current-trends-as-observed-in-empirical-research-and-statistics-Mr.-Alexandre-Marc-Chief-Specialist-Fragility-Conflict-and-Violence-World-Bank-Group.pdf>> accessed on May 4, 2021.

⁵⁴ *Ibid*

⁵⁵ G Machel, 'The Impact of Armed Conflict on Children' (1996) <https://www.un.org/ga/search/view_doc.asp?symbol=A/51/306> accessed on May 4, 2021.

⁵⁶ MG Wessells, 'Children, Armed Conflict and Peace', *Journal of Peace Research* (1998) Vol. 35, No.5, p. 635-646 <<https://doi.org/10.1177%2F0022343398035005006>> accessed on May 2021.

⁵⁷ ICRC People on War radio series: "Women on War", March 2000 cited in C Lindsey, 'Women Facing War', *ICRC Study on the Impact of Armed Conflict on Women* <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0798_women_facing_war.pdf> accessed on May 5, 2021.

⁵⁸ C Lindsey, 'Addressing the Needs of Women Affected by Armed Conflict', An *ICRC Guidance Document* <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0840_women_guidance.pdf> accessed on May 5, 2021.

⁵⁹ C Lindsey, 'Women Facing War', *ICRC Study on the Impact of Armed Conflict on Women* <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0798_women_facing_war.pdf> accessed on May 5, 2021.

⁶⁰ International Review of the Red Cross, January-February 1996, No. 310, p. 9 – 10. Resolutions specifically relating to women were agreed upon by members of the International Conference, States party to the Geneva Conventions and members of the International Red Cross and Red Crescent Movement <https://www.loc.gov/law/mlr/pdf/RC_Jan-Feb-1996.pdf> accessed on May 5, 2021.

formulate a set of guidelines aimed at better addressing the protection and assisting the needs of women and girl children affected by armed conflict.⁶¹

Furthermore, in 1999 the ICRC also co-organized a workshop on widowhood and armed conflict to examine ways in which widows (and wives of the disappeared) were coping in situations of armed conflict around the world and how they could best be supported.⁶² The issue of women affected by armed conflict has also been discussed among governments, both in the context of meetings focusing specifically on women such as the 1995 Beijing Fourth World Conference on Women⁶³ and the “Beijing +5” Conference⁶⁴ held in New York in June 2000 and other forum such as the United Nations General Assembly and the United Nations Commission on Human Rights. In its report to the Secretary-General, the UN Commission on the Status of Women points out that the Beijing Platform for Action stated that “international humanitarian law, which prohibits attacks on civilians, is at times systematically ignored, and human rights are often violated in armed conflict affecting the civilian population, especially women, children, the elderly and the disabled”.⁶⁵ A UN Security Council resolution was equally passed in October 2000, inviting the Secretary General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution.⁶⁶

Gender-based violence is an umbrella term for any harm that is perpetrated on a person against her/his will, which has a negative impact on the physical and/or psychological health, development and identity of the person. It is the result of power relationships determined by the social roles ascribed to males and females. Due to the subordinate status of females worldwide, gender-based violence almost always, and across all cultures, disparately impacts women and girls. In periods of conflict, women and girls who typically constitute the majority of refugee and internally displaced populations, may be at even greater risk of gender-based abuses. Recent events on the international stage have brought gender-based violence on refugees, internal displacement and post-conflict situations to the forefront of public awareness. There has been an increasing recognition among humanitarian aid organizations that gender-based violence is a disregard to public health, to universally accepted human rights guarantees and to the restoration and protection of refugees and internally displaced families and communities.⁶⁷ The effect of contemporarily armed conflict on women and girls cannot be overemphasized, although the society in general suffer the consequences of armed conflict, women and girls are particularly significantly affected.⁶⁸

⁶¹ Resolution 1 of the 27th International Conference of the Red Cross and Red Crescent, Geneva, 1999, *International Review of the Red Cross* (1999) <<https://www.icrc.org/en/doc/resources/documents/resolution/27-international-conference-resolution-1-1999.htm>> accessed on May 5, 2021.

⁶² International Committee of the Red Cross, ‘Widowhood and Armed Conflict: Challenges Faced and Strategies Forward’, *Workshop on Widowhood Organised by the International Committee of the Red Cross and the Australian Red Cross, at the 27th International Conference of the Red Cross and Red Crescent* (1999) <<https://www.icrc.org/en/doc/resources/documents/misc/57jqha.htm>> accessed on May 5, 2021.

⁶³ The Beijing Conference aimed “*To Advance the Goals of Equality, Development and Peace For All Women Everywhere in the Interest Of Humanity.*” Platform for Action and the Beijing Declaration, Fourth World Conference on Women, Beijing, China, 4 – 15 September 1995, p.7 <<https://www.un.org/womenwatch/daw/beijing/platform/declar.htm>> accessed on May 5, 2021.

⁶⁴ “Beijing +5” was an extraordinary session of the UN General Assembly, entitled “*Women in the Year 2000. Equality between the sexes, development and peace for the XXIst century*”. This meeting aimed to examine and evaluate the progress accomplished in the “implementation of the Platform for Action, focusing particularly on positive actions, lessons learned, obstacles, key challenges remaining and a vision for gender equality in the next millennium.” Resolution adopted by the UN General Assembly, 52nd session, agenda item 106.A/RES/52/231, 17 June 1998 <<https://www.un.org/womenwatch/daw/followup/beijing+5.htm>> accessed on May 5, 2021.

⁶⁵ UN Commission on the Status of Women, Forty-second session, 2-13 March 1998, Thematic issues before the Commission on the Status of Women, Report of the UN Secretary-General, p. 9 <<https://www.un.org/womenwatch/daw/csw/csw97.htm>> accessed on May 5, 2021.

⁶⁶ United Nations Security Council Resolution 1325: “*Women and Peace and Security*”, 31 October 2000, S/RES/1325 (2000) <<https://www.un.org/womenwatch/osagi/wps/>> accessed on May 5, 2021.

⁶⁷ *Ibid*

⁶⁸ United Nations Department of Public Information, Platform for Action and the Beijing Declaration, Fourth World Conference on Women, Beijing, China, 4th – 15th September 1995 para. 135 at p. 84

4. Conclusion and Recommendations

The lack of political will by powerful government and military representatives is not an excuse for the continued human suffering that takes place as a result of indifference towards international binding laws and treaties. And it is absolutely imperative that the state and its armed forces act in a way that will exemplify correct behavior in times of armed conflict, in order to encourage behavior of positive reciprocity. For lasting solutions to armed conflicts, respect for human rights is imperative, good governance and the strengthening of civil societies are essential for addressing the deepest roots/causes of conflicts. In conflict and post-conflict settings, a guide dialogue and collaborative effort with all concerned bodies involved should be put in place, including relevant United Nations theme Groups, governmental and non-governmental agencies at local, national, and regional levels, using workshops, focus groups, and meetings. There is need to involve victims of gender-based violence and local non-governmental organizations in all advocacy efforts, for example, through support dialogue with local and national authorities and media on gender-based violence sensitization. There is also a need to support the creation and implementation of institutional policies addressing sexual harassment in all international, State and local non-governmental organizations. There are many organization that are regularly engaged with armed non-state groups, including the ICRC, Human Right Watch, Amnesty International and the Center for Humanitarian Dialogue, the activities of each should be regarded as indispensable towards furthering compliance with international humanitarian law. It must be acknowledged that the challenges of disseminating the rules of international humanitarian law to non-state actors is a challenging requirement for its understanding and ultimate application. Indeed an important step in enhancing compliance with international norms is to ensure that the relevant armed non-state actors are aware of their obligation under international humanitarian law. Improving compliance with international humanitarian law and human rights law will always remain distant prospect in the absence of recognizing the need for systematic and consistent engagement with non-state armed groups. Experience shows that lives can be saved by engaging armed groups in order to seek compliances with international humanitarian law in their combat operation and general conduct, gain safe access for humanitarian purpose and dissuade them from using certain types of weapon.⁶⁹

<https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf> accessed on May 4, 2021.

⁶⁹ Report of United Nations Secretary General on the Protection of Civilian in Armed Conflict, UN Security Council UN Doc S/2010/579 (2010) <<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20S2010%20579.pdf>> accessed on May 4, 2021.