
THE CHALLENGES AND PROTECTIONS FOR INTERNALLY DISPLACED PERSONS UNDER INTERNATIONAL HUMANITARIAN LAW

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ABSTRACT

In war-torn regions, displacement of people is inevitable. While some are forced to seek shelter with other nations as refugees, others do not get the opportunity to do so. They are forced to remain as displaced individuals within the borders of their home nation. Such internally displaced persons (IDPs) endure harsher consequences of conflict, as compared to other demographic segments. This paper delves into the multifaceted impacts of warfare on the lives of IDPs. It elucidates the intricate web of challenges they confront and the protections guaranteed, but not often delivered, by International Humanitarian Law (IHL), to them. Displacement inflicts profound trauma as IDPs are forcibly uprooted from their homes, severed from familiar environments and subjected to uncertainty regarding their lives and future.

Psychologically, the toll of displacement is staggering as IDPs grapple with intense feelings of loss, grief and dislocation. The rupture of families, community ties and social support networks intensifies their isolation, exacerbating mental health challenges and emotional distress. Moreover, protection gaps and non-access to essential services further compound their plight. This systemic neglect perpetuates cycles of displacement, impeding the prospects for durable solutions and long-term stability.

Addressing the distinct needs of IDPs necessitates a multifaceted approach encompassing targeted interventions and policy measures within the broader framework of conflict resolution. Robust legal frameworks must be established to safeguard the rights of IDPs, ensuring their access to justice, protection and redress. Comprehensive humanitarian-aid programs should prioritize the provision of essential services tailored to their specific needs. Additionally, initiatives aimed at fostering social cohesion, reconciliation and sustainable peace are essential for addressing the root causes of displacement, and facilitating their reintegration into their communities.

By illuminating the unique challenges faced by IDPs as a consequence of

war, this paper underscores the urgent imperative for concerted action to mitigate their suffering and uphold their dignity and rights as envisioned under IHL.

Keywords: Internally Displaced Person, War, International Humanitarian Law, Legal Protections.

I. Introduction

War, in simple terms, is a state of conflict impacting the power dynamics between factions in a society, which may involve either State and non-State actors, or the relationship of two or more nations with each other. The phenomenon of war is one which has been pervasive and entrenched in our society since ancient times. As such, there have always been certain rules and taboos that have governed warfare, be they spoken or unspoken. These rules were accepted and followed by warring States or factions to firstly, protect their soldiers and secondly, to protect their societies from the impact of prolonged use of force. With time, these rules came together to form International Humanitarian Law (IHL), also known as the “law of armed conflict”. Codified over the course of a long period of time, IHL has gained the status of customary international law. These laws aim to protect not only those who do not participate in the conflict but also those who have ceased to participate in the armed conflict. Being customary in nature, these laws are binding not only on those States that are signatories but also on States that have not signed or ratified the conventions.

The “principle of distinction” between combatants and civilians, which was first laid down in the St. Petersburg Declaration of 1868, is an intrinsic part of IHL. The Declaration states that “the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy”.¹ This principle finds mention in Articles 48-52 of the Additional Protocol I of the Geneva Convention, which implies that any attack against those not directly involved in the hostilities will be considered a violation of the Convention. It can thus be seen that over the years, the focus of IHL has increasingly shifted from combatants to protection of civilians. This ensures that non-combatants suffer the least amount of harm ensuing from the armed conflict. Therefore, International Humanitarian Law safeguards the international society by:

¹Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, 1868, available at: <https://ihl-databases.icrc.org/en/ihl-treaties/st-petersburg-decl-1868/declaration?activeTab=undefined> (visited on April 12, 2025).

1. Protecting those not involved or who have ceased to be involved in the hostilities-civilians, prisoners of war, and sick, wounded or shipwrecked combatants; and
2. Regulating the “method and means of warfare.”²

Regardless of its causes, any instance of Non-International (State and non-State actors or two or more non-State actors) or International (conflict between States) Armed Conflict results in massive loss of life and destruction of property, human right violations as well as forcing thousands of people to become homeless. Violations of IHL during those times only add to the number of people left displaced. While many of those so displaced cross international borders and seek refuge from a safer nation, thus becoming refugees, others are left unable or unwilling to leave their home country despite being forced into displacement. This category of people is known as Internally Displaced Persons (IDPs). And while the rights of refugees are protected by the Refugee Convention of 1951, IDPs have no such universal legal instrument addressing their plight.

It was only in 1998 that, under the auspices of the UN General Assembly (UNGA) and the UN Commission on Human Rights, the “Representative of the United Nations Secretary-General on Internally Displaced Persons” (RSG) Francis M Deng, framed the “Guiding Principles on Internal Displacement” (GPID). The primary contribution of the Guiding Principles was that for the first time a definition of an IDP was provided:

“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”³

Till date there’s no specific and binding universal instrument that protects the rights of IDPs. However, this doesn’t imply that the law does not protect them. While the primary duty to protect the rights of its IDP citizens lies with the respective State, their plight also finds refuge

²Global Protection Cluster (GPC), *Handbook for the Protection of Internally Displaced Persons* (2010).

³ UN Commission on Human Rights, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Addendum: Guiding Principles on Internal Displacement*, February 11, 1998, E/CN.4/1998/53/Add.2, available at: <https://www.refworld.org/legal/otherinstr/unchr/1998/en/31759> (visited on April 12, 2025).

in International Human Rights Law (IHRL), International Humanitarian Law (IHL) and International Criminal Law. And like any other person in their country, IDPs are entitled to avail the full gamut of rights and freedoms available to them under both national and international law.⁴ Thus, in situations of war, the role of IHL becomes crucial in protecting these IDPs.

However, the effective implementation of IHL in protecting IDPs remains a significant challenge in many conflict-affected regions. Despite the existence of legal frameworks and conventions, gaps persist in translating these protections into meaningful action on the ground. Issues such as lack of awareness and compliance among warring parties, limited humanitarian access to IDPs and weak accountability mechanisms for violations of IHL continue to undermine efforts to safeguard the rights and dignity of IDPs.⁵

Against this backdrop, this paper seeks to delve into the multifaceted role of IHL in protecting IDPs, examining and analysing the relevant legal frameworks and conventions for their protection, and exploring the gaps and challenges in implementing these protections in practice. The paper then goes on to make certain recommendations to overcome these gaps. By critically discussing these issues, this paper aims to contribute to a deeper understanding of the intersection between IHL and the protection of IDPs, ultimately advocating for stronger adherence to humanitarian principles and greater accountability for violations in conflict-affected regions.

II. International Humanitarian Law and the Protection of IDPs

IHL serves as a crucial framework for protecting IDPs in conflict-affected regions. In the complex landscape of armed conflict, where it is most often the civilians who bear the repercussions of violence and displacement, IHL plays a pivotal role in upholding the rights and dignity of those forcibly displaced within their own countries⁶.

Amidst the turmoil of armed conflict, IDPs face a myriad of challenges ranging from physical threats to psychological trauma and legal vulnerabilities. Rooted in principles of “humanity, neutrality, and impartiality”, IHL seeks to mitigate these challenges by establishing legal

⁴ Global Protection Cluster (GPC), *Handbook for the Protection of Internally Displaced Persons* (2010).

⁵ Walter Kälin, *Internal Displacement and the Law* (Oxford University Press, 2023).

⁶ DJ Cantor, *Returns of Internally Displaced Persons during Armed Conflict: International Law and Its Application in Colombia* (Brill Nijhoff, Leiden, 2018).

protections and standards of conduct for parties to the conflict. By setting clear guidelines for the treatment of civilians, including IDPs, IHL aims to minimize the impact of armed conflict on vulnerable populations and ensure their safety, well-being, and dignity.⁷

At its core, IHL recognizes the inherent rights of all individuals affected by armed conflict, regardless of their nationality or legal status. IDPs, as civilians forcibly displaced within their national borders, are entitled to the same protections afforded to other non-IDP civilians under IHL. These protections include the right to life, liberty, and security of their person; protection against arbitrary displacement and forced recruitment; and the obligation to provide humanitarian assistance to those in need. By upholding these principles, parties to the conflict are obliged to respect and protect the rights and dignity of IDPs, even amidst the chaos of war.⁸

II.A. Overview of Relevant Legal Frameworks and Conventions for the Protection of IDPs

International Humanitarian Law comprises a comprehensive body of laws and conventions aimed at regulating armed conflict and safeguarding the rights, safety and dignity of civilians, including IDPs.⁹ This section provides an overview of key legal instruments that protect the rights of IDPs, outlining their scope, purpose, and significance in the context of war.

II.A.1. The Geneva Conventions of 1949 and its Additional Protocols: The Geneva Conventions, consisting of four treaties adopted on 12 August 1949, and its Additional Protocols serve as the cornerstone of IHL. These conventions establish rules and principles to protect civilians, wounded combatants, prisoners of war (POWs), and other persons hors de combat during armed conflict. The conventions outline fundamental humanitarian principles, including the prohibition of acts of violence, inhumane treatment, and displacement of civilians unless required by military necessity.

⁷ World Health Organization (WHO), *Health Cluster Guide: A Practical Handbook* (2020).

⁸ UN Commission on Human Rights, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Addendum: Guiding Principles on Internal Displacement*, February 11, 1998, E/CN.4/1998/53/Add.2, available at: <https://www.refworld.org/legal/otherinstr/unchr/1998/en/31759> (visited on April 12, 2025).

⁹ E.C Gillard, "The Role of International Humanitarian Law in the Protection of Internally Displaced Persons" 24 *Refugee Survey Quarterly* 37 (2005), available at: https://www.researchgate.net/publication/240581060_The_Role_of_International_Humanitarian_Law_in_the_Protection_of_Internally_Displaced_Persons (visited on April 12, 2025).

The four conventions are titled as:

- Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.
- Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.
- Convention (III) relative to the Treatment of Prisoners of War.
- Convention (IV) relative to the Protection of Civilian Persons in Time of War.

The focus of the first two Geneva Conventions is on wounded or sick combatants in a conflict, with the First Convention focusing on combatants on land¹⁰ and the Second Convention focusing on combatants at sea while extending its scope to shipwrecked members of the armed forces as well.¹¹ Thereafter, the focus of the Third Convention shifted to POWs, wherein they are protected from inhumane treatment, coercion and acts of violence¹². Finally in the Fourth Convention, the emphasis on protection shifted from combatants to civilians, which includes IDPs, in occupied territories, prohibiting their arbitrary displacement, forcible transfers, and collective punishments.¹³

Subsequently, two Additional Protocols were adopted on 8 June 1977, forming a part of the Geneva Conventions, which further expanded and strengthened the scope of protections afforded to civilians and combatants during armed conflict. These Protocols are:

- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I).

¹⁰ ICRC, “Geneva Convention (I) on the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949”, *available at*: <https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949?activeTab=1949GCs-APs-and-commentaries> (visited on March 30, 2025).

¹¹ ICRC, “Geneva Convention (II) on the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949”, *available at*: <https://ihl-databases.icrc.org/en/ihl-treaties/gcii-1949?activeTab=1949GCs-APs-and-commentaries> (visited on March 30, 2025).

¹² ICRC, “Geneva Convention (III) Relative to the Treatment of Prisoners of War, 1949”, *available at*: <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949?activeTab=1949GCs-APs-and-commentaries> (visited on March 30, 2025).

¹³ ICRC, “Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 1949”, *available at*: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949?activeTab=1949GCs-APs-and-commentaries> (visited on March 30, 2025).

- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

Protocol I enhances the protection of civilians by prohibiting attacks on civilian populations, indiscriminate attacks, and the use of certain weapons causing excessive suffering. Protocol II focuses on the protection of civilians in non-international armed conflicts, reaffirming principles of “humanity, distinction, and proportionality.”¹⁴

Altogether, the aforementioned laws function as fundamental pillars of IHL, establishing rules and standards to protect civilians, including IDPs, during armed conflict. These conventions prohibit the arbitrary displacement of civilians and require the warring parties to adhere to the principles of proportionality and distinction.

The “principle of proportionality”, which is enshrined in Articles 51(5)(b), 57(2)(a)(iii) and 57(2)(b) of Protocol I of the Convention, mandates that warring parties must abstain from any attacks that may bring about excessive harm to civilians or civilian objects, compared to the expected advantage gained militarily.¹⁵

Similarly, the “principle of distinction” laid down in Article 48 and supported by Articles 50 and 51 of Protocol I of the Convention, requires the parties to make a distinction between civilian populations and combatants, ensuring that civilians, including IDPs, are not targeted or subjected to indiscriminate attacks. Furthermore, the Geneva Conventions achieved universal ratification in 2006, thus ensuring that every State is a party to and therefore obliged to uphold them.¹⁶

II.A.2. The Guiding Principles on Internal Displacement: The GPID, adopted during the 54th session of the Commission on Human Rights and by the UNGA in 1998, presents a comprehensive framework of soft laws for safeguarding and assisting IDPs by addressing their needs and emphasizing their rights to “life, liberty, and security of person”. These principles are based on IHRL, IHL, and Refugee law, and outline the rights and responsibilities of

¹⁴ ICRC, “The Geneva Conventions of 1949 and Their Additional Protocols”, available at: <https://www.icrc.org/en/doc/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm> (visited on March 30, 2025).

¹⁵ Ibid

¹⁶ Ibid

governments, humanitarian organizations and other relevant stakeholders in addressing the needs of IDPs.¹⁷

The most significant contribution of the GPID was that for the first time a tangible definition of who exactly is an IDP was formulated. However, it must be noted that the reasons for displacement provided in the definition are not all-inclusive. It is intended to be descriptive rather than normative, highlighting the traits that make IDPs fundamentally vulnerable.¹⁸

The following broad rights for IDPS are covered by the GPID:¹⁹

- To integrity and physical security;
- To basic necessities;
- Relating to other political and civil issues;
- Relating to other social, cultural and economic needs.

The Guiding Principles offer protection through all the stages of internal displacement, and can broadly be divided into the following stages:²⁰

1. Principles 5-9: Relating to Protection from Displacement.
2. Principles 10-23: Relating to Protection During Displacement.
3. Principles 24-27: Relating to Humanitarian Assistance.

Thus, the GPID underscore the importance of ensuring the safety, dignity, and well-being of IDPs by emphasizing their right to protection from arbitrary displacement, access to humanitarian assistance, access to justice and the right to voluntary return to their “homes or places of habitual residence” or resettlement in dignity and safety at a place conducive to their well-being. Additionally, the Guiding Principles recognize the right of IDPs to freely move and reside within the borders of their nation, ensuring their ability to seek safety and protection

¹⁷ E K Proukaki, *Armed Conflict and Forcible Displacement: Individual Rights under International Law* (Routledge, 2020).

¹⁸ Thomas G. Weiss and David A. Korn, *Internal Displacement Conceptualization and its consequences* (Routledge, Abingdon, 2006).

¹⁹ Global Protection Cluster (GPC), *Handbook for the Protection of Internally Displaced Persons* (2010).

²⁰ Ibid

from persecution within their own country. Furthermore, these principles highlight the need for IDPs to participate in decisions affecting their lives and future, empowering them to have a voice in matters that directly impact their well-being and livelihoods. They also highlight the responsibilities of states to prevent displacement, ensure the protection of IDPs during displacement, and support durable solutions to their displacement, including local integration, resettlement, or return to their places of origin.²¹

II.A.3. Regional Human Rights Instruments - Kampala Convention: In addition to international legal frameworks, regional bodies have also adopted treaties and conventions to protect the rights of the displaced citizens within their respective regions. For example, adopted on 23rd October 2009, the “African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa”, commonly known as the Kampala Convention, establishes norms and standards for redressing the plight of IDPs in Africa. The Convention was largely influenced by domestic as well as international efforts to mitigate the plight of IDPs. In fact, the definition of IDP in the Convention has been taken directly from the GPID.

The Kampala Convention emphasizes the prevention of displacement, the protection of IDPs during displacement, and the support for durable solutions, in line with International Humanitarian as well as Human Rights Law.²²

Article VII of the Kampala Convention especially relates to the protection and assistance of IDPs in cases of armed conflict:²³

- Article VII(3) clearly states that any such protection and assistance to IDPs in Africa would be governed particularly by IHL, apart from the general principles of International Law.
- Article VII(4) assigns criminal responsibility on members of armed groups who violate the

²¹ UN Commission on Human Rights, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Addendum: Guiding Principles on Internal Displacement*, February 11, 1998, E/CN.4/1998/53/Add.2, available at: <https://www.refworld.org/legal/otherinstr/unchr/1998/en/31759> (visited on April 12, 2025).

²² S Ojeda, “The Kampala Convention on Internally Displaced Persons: Some International Humanitarian Law Aspects” 29 *Refugee Survey Quarterly* 58 (2010), available at: <https://academic.oup.com/rsq/article-abstract/29/3/58/1541312> (visited on April 12, 2025).

²³ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), available at: [https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa#:~:text=Share%20Convention%20\(PO\)](https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa#:~:text=Share%20Convention%20(PO)) (visited on April 12, 2025).

rights of IDPs.

- Article VII(5) lists out prohibitions that members of armed groups must refrain from in regards to IDPs, such as carrying out arbitrary displacement, hindering provisions for humanitarian aid and assistance, recruiting of both adults and children to take part in hostilities, restricting their freedom of movement, harmining humanitarian personnel, etc.

Article XIV provides for the establishment of a “Conference of States Parties” (CoSP) which would have the power to monitor and review whether the objectives of the Convention had been implemented as they were intended or not. The CoSP would also facilitate cooperation and mutual support between the State Parties for dealing with the issue of IDPs.²⁴

Overall, the protections guaranteed to IDPs under IHL reaffirm their status as rights-holders entitled to certain inalienable rights by the very virtue of them being human and humanitarian assistance in times of conflict and displacement. By upholding these protections and ensuring their effective implementation, parties to armed conflict can mitigate the impact of displacement on vulnerable populations and uphold the principles of “humanity, neutrality, and impartiality” inherent in IHL.

III. Examination of Gaps between Legal Protections and Implementation in Practice

Despite the existence of robust legal frameworks and conventions aimed at protecting Internally Displaced Persons under IHL, significant gaps persist in the implementation and enforcement of these protections in practice. These “protection gaps” pose substantial challenges to ensuring the effective protection of IDPs in conflict-affected regions.²⁵ Despite the clear mandates outlined in IHL instruments such as the Geneva Conventions and its Additional Protocols, as well as the GPID, numerous obstacles hinder the full realization of these protections in practice.

1. **Lack of Awareness and Compliance:** One of the primary challenges in ensuring the effective protection of IDPs under IHL is the lack of awareness and compliance among governments and armed groups regarding their obligations. In many conflict-affected regions, authorities may be uninformed about the specific provisions of IHL related to the protection of civilians,

²⁴ Ibid

²⁵ Walter Kälin, *Internal Displacement and the Law* (Oxford University Press, 2023).

including IDPs, or they may lack the capacity or willingness to adhere to international norms and standards.²⁶

The absence of awareness among government officials and armed groups about their obligations under IHL can lead to a failure to recognize and respect the rights of IDPs. Without a clear understanding of the legal framework governing the treatment of IDPs during armed conflict, authorities may inadvertently violate their rights or fail to provide them with adequate protection and assistance. This lack of awareness can result in IDPs being exposed to heightened risks of displacement, violence, and exploitation without recourse to legal protections. Moreover, even when governments and armed groups are aware of their obligations under IHL, compliance may be hindered by various factors such as political considerations, resource constraints or competing priorities.

In some cases, armed groups may deliberately disregard international norms and standards in pursuit of their military objectives, leading to violations of IHL and the rights of IDPs. Similarly, governments may prioritize security interests over humanitarian concerns, resulting in policies and practices that undermine the protection of IDPs.

The lack of compliance with IHL obligations regarding the protection of IDPs not only exposes them to immediate risks but also perpetuates cycles of violence and displacement in conflict-affected regions. Without accountability for violations and effective mechanisms for monitoring and enforcement, IDPs are left vulnerable to on-going abuses and violations of their rights. Moreover, the failure to comply with IHL undermines efforts to promote stability, peace, and reconciliation in post-conflict settings, prolonging the suffering of IDPs and hindering efforts to achieve durable solutions to displacement.²⁷

2. **Inadequate Humanitarian Access:** Another significant challenge in ensuring the effective protection of IDPs is the limited humanitarian access to those in need, owing to the complexity of modern conflicts and the prevalence of armed non-State groups. In situations where multiple parties are involved in an armed conflict, coordination and cooperation among diverse actors

²⁶ M Ticktin, "Thinking beyond Humanitarian Borders", 83 *Social Research: An International Quarterly* 255 (2016), available at: https://www.researchgate.net/publication/309514428_Thinking_Beyond_Humanitarian_Borders (visited on April 12, 2025).

²⁷ S Weerasinghe, *Bridging the Divide in Approaches to Conflict and Disaster Displacement: Norms, Institutions and Coordination in Afghanistan, Colombia, the Niger, the Philippines and Somalia* (UNHCR and IOM, 2021).

becomes increasingly challenging, with different actors interpreting and implementing IHL provisions inconsistently or selectively.²⁸

Humanitarian organizations frequently encounter various obstacles when attempting to reach conflict-affected areas, including security concerns, logistical challenges, and restrictions imposed by parties to the conflict. Security concerns pose a major obstacle to humanitarian access, particularly in regions where armed conflict is on-going or where armed groups operate. Humanitarian workers face risks to their safety and security when operating in such environments, making it difficult to deliver essential assistance and protection to IDPs. Additionally, the presence of armed actors may lead to heightened tensions and insecurity, further complicating humanitarian operations.²⁹

Logistical challenges also impede humanitarian access to IDPs in conflict-affected areas. Poor infrastructure, damaged roads, and lack of transportation infrastructure can hinder the delivery of humanitarian aid and services to remote or inaccessible locations where IDPs are often concentrated. Moreover, limited resources and capacity constraints may restrict the ability of humanitarian organizations to deploy personnel and assets effectively, delaying or impeding their response efforts.

Furthermore, parties to the conflict may impose restrictions on humanitarian access as a tactic to exert control or leverage over the affected population. These restrictions may take the form of bureaucratic hurdles, checkpoints, or outright denials of access to certain areas deemed sensitive or strategically important. Such restrictions not only obstruct the delivery of essential assistance but also violate the rights of IDPs to receive humanitarian aid and protection as mandated by international law.

The consequences of inadequate humanitarian access are severe for IDPs, who rely on humanitarian assistance for their survival and well-being. Without access to life-saving aid, including food, water, shelter, and healthcare, IDPs are at heightened risk of malnutrition, disease, and other health complications. Moreover, inadequate access to protection services

²⁸ M Lattimer and P Sands, *The Grey Zone: Civilian Protection between Human Rights and the Laws of War* (Hart, 2018).

²⁹ Internal Displacement Monitoring Centre (IDMC), *Thematic Report: The Ripple Effect - Multidimensional Impacts of Internal Displacement* (2018).

leaves IDPs vulnerable to exploitation, abuse, and violence, further exacerbating their suffering and insecurity.³⁰

3. **Weak Accountability Mechanisms:** The lack of effective accountability mechanisms for violations of IHL and human rights abuses poses a significant challenge to the protection of IDPs in conflict-affected regions.³¹ In many contexts, perpetrators of violations often go unpunished due to factors such as weak rule of law, lack of political will, and challenges in gathering evidence and prosecuting perpetrators.³²

This impunity not only denies justice to victims but also contributes to a culture that perpetuates cycles of violence, displacement and disrespect for the principles of IHL. Without accountability, victims of violations are denied any opportunity for redress, while perpetrators escape consequences for their actions. This not only fails to address the harm inflicted on IDPs but also perpetuates a sense of injustice and indignation among affected populations.

Moreover, the pervasive impunity for violations erodes trust in the rule of law and undermines efforts to promote respect for human rights and humanitarian principles. When perpetrators of atrocities are not held accountable, it sends a message that violations are tolerated or even condoned, further emboldening those who commit such acts and perpetuating a cycle of violence and abuse. The absence of justice and accountability also undermines prospects for sustainable peace and stability in conflict-affected regions. Without accountability for past atrocities, grievances persist and the likelihood of future conflicts remains high. Additionally, the failure to address the causes of violence and displacement at its very roots perpetuates instability and hinders efforts to achieve reconciliation and lasting peace.³³

³⁰ UNICEF/Internal Displacement Monitoring Centre, *Protecting and Supporting Internally Displaced Children in Urban Settings* (UNICEF, 2019), available at: <https://www.unicef.org/reports/protecting-and-supporting-internally-displaced-children-urban-settings> (visited on April 12, 2025).

³¹ N Pillay, "Establishing Effective Accountability Mechanisms for Human Rights Violations", 49 *UN Chronicle* 8 (2012), available at: <https://www.un-ilibrary.org/content/journals/15643913/49/4/2> (visited on April 12, 2025).

³² Z Mustafa, "Protecting Civilians during Violent Conflict: Challenges Faced by International Humanitarian Law" 1 *RSIL Law Review* 73 (2017), available at: <https://rsilpak.org/wp-content/uploads/2019/06/RSIL-Law-Review-2017-Vol.-1-No.-1.pdf> (visited on April 12, 2025).

³³ Human Rights Intergovernmental Cooperation, "Eradicating Impunity for Serious Human Rights Violations" Council of Europe, available at: <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation/eradication-of-impunity> (visited on April 12, 2025).

IV. Recommendations

1. **Addressing the lack of awareness and compliance:** Addressing the lack of awareness and compliance with IHL among governments and armed groups requires concerted efforts to raise awareness, capacity-building efforts, and promoting adherence to international norms and standards. Training programs, outreach initiatives, and advocacy campaigns can help educate government officials, military personnel, as well as members of armed groups about their obligations under IHL and the importance of protecting the rights of IDPs.³⁴ Awareness campaigns that target both government and community levels could ensure that individuals across all segments of society understand the protections afforded under IHL, thereby creating a culture of respect for human rights. Additionally, specialized training for military and security forces should emphasize the ethical and legal importance of minimizing harm to civilians, avoiding forced displacement, and respecting the rights of IDPs. By integrating IHL principles into military training programs, countries can ensure that troops are equipped to make lawful and humane decisions during conflicts.

Additionally, international organizations and civil society actors play a crucial role in monitoring compliance with IHL, documenting violations, and holding perpetrators accountable for their actions.³⁵ Independent monitoring bodies, such as the Internal Displacement Monitoring Centre (IDMC), can be established and empowered to oversee adherence to IHL provisions in active conflict zones, report violations, and provide recommendations for remedial action. Accountability measures by such non-governmental entities might be more welcomed by the conflicting parties, who would see such entities as neutral third parties in their conflict.

By promoting awareness and compliance with IHL, stakeholders can enhance the protection of IDPs and contribute to the promotion of peace, security, and respect for human rights in conflict-affected regions.

2. **Addressing the challenge of inadequate humanitarian access:** Addressing the challenge of inadequate humanitarian access is crucial for effectively protecting and assisting IDPs in conflict-affected regions. This requires concerted efforts by governments, humanitarian

³⁴ H Aitken, "The Security Council and International Law Enforcement: A Kelsenian Perspective on Civilian Protection Peacekeeping Mandates" 22 *Journal of Conflict and Security Law* 395 (2017), available at: <https://www.jstor.org/stable/26496934> (visited on April 12, 2025).

³⁵ Ibid

organizations, and parties to the conflict to facilitate and prioritize humanitarian access, ensure the safety and security of humanitarian workers, and uphold the rights and dignity of IDPs in accordance with international law.

In situations of armed conflict, advocacy and support should be given to establishing special supply routes/ humanitarian corridors and safe/ neutral zones for humanitarian aid, whereby IDPs can access food, shelter, and medical assistance without the risk of violence. This can be done through diplomatic efforts and negotiations between the parties to the conflict and international humanitarian organisations. These humanitarian corridors and neutral zones should be declared as being non-targets to the warring parties. Any attack on these routes and safe zones should be met with strict repercussions by all the parties- State, non-State as well as international actors.

Logistical challenges can be overcome by collective efforts from the parties to ensure smooth flow of humanitarian aid to the civilians and those who have withdrawn from the conflict. Additionally, promoting local partnerships with community-based organizations can strengthen the delivery of aid and foster trust between IDPs and aid providers, ensuring more effective and sustainable support. By overcoming barriers to access, stakeholders can enhance the humanitarian response and mitigate the suffering of IDPs affected by armed conflict.

3. **Addressing impunity for violations of IHL and human rights abuses:** Addressing impunity for violations of IHL and human rights abuses requires concerted efforts to strengthen mechanisms for accountability and ensure that perpetrators are held liable for their actions. This includes supporting national and international justice mechanisms, such as national courts, hybrid tribunals, and international criminal courts, in prosecuting individuals responsible for serious violations of international law.

National courts should be empowered to prosecute individuals responsible for serious violations, ensuring that justice is accessible to the times at the local level. Where national mechanisms prove ineffective, international accountability bodies can play a pivotal role.

Increased support for international criminal justice mechanisms, including the International Criminal Court (ICC) and special tribunals, would serve as a deterrent against violations and reinforce the notion that serious breaches of IHL will not go unpunished. Tribunals such as the “International Military Tribunal” (IMT), the “International Military Tribunal for the Far East”

(IMTFE), the “International Criminal Tribunal for the former Yugoslavia” (ICTY), etc. have already set precedents for collective international effort in punishing atrocities carried out during war and armed conflict. Such Tribunals can be set up either as deterrents to prevent IHL violations, or to impart justice when violations have already occurred in situations of armed conflict. Imposing targeted sanctions on violators or those who enable them can be a practical approach to deterring IHL violations and protecting IDPs.

Additionally, efforts to combat impunity should be accompanied by measures to support victims, including providing access to justice, reparations, and psychosocial support.³⁶ Truth and reconciliation commissions can offer victims a platform to share their experiences, acknowledge their suffering, and contribute to their healing process. Furthermore, when people are forcibly displaced, they lose access to not only their homes but also to crucial items such as their documents, credentials, identity proof etc. This further impacts their ability to reintegrate into the society. Efforts should be made to help such displaced persons to regain these items, such that they may have a new chance at earning a livelihood, pursue their education, or continue their way of life from before they were forcibly displaced.

By holding perpetrators accountable for their actions and providing redress to affected populations, stakeholders can help break the cycle of impunity and contribute to the protection and well-being of IDPs in conflict-affected regions.

4. **Collective international effort:** One of the primary contentions against collective international effort towards mitigating forceful displacement and resolving the plight of IDPs is that the matter falls in the domain of internal affairs of a nation. And thus, the international society must not interfere in it so as to not infringe on the sovereignty of a nation. However, the principle of “responsibility to protect” places a burden on the international community to protect the rights of all human beings, including IDPs. The balancing of these two principles is a delicate task, for which the GPID provides a solution.

As noted by Roberta Cohen, the GPID acknowledges that the primary responsibility to protect its citizens, including IDPs, rests with the national authorities. However, the principle of sovereignty also includes in it a role of the international community to step in and protect

³⁶ H F Cantú Rivera, “Transitional Justice, Human Rights and the Restoration of Credibility: Reconstructing Mexico’s Social Fabric”, 7 *Mexican Law Review* 57 (2014), available at: <https://revistas.juridicas.unam.mx/index.php/mexican-law-review/article/view/7805> (visited on April 12, 2025)..

displaced communities when the national government is unwilling or unable to do so.³⁷ In this way, the GPID balances “sovereignty” with “responsibility to protect”.

Instances of armed conflict already places a huge burden on any State, leaving little room for the national authorities to provide much protection and assistance to the communities that get displaced as a consequence of the conflict. In such situations, it is reasonable for the international community to provide such protection and assistance to these communities as is required by them.

5. **Long term solutions:** Finally, long-term solutions to displacement require a comprehensive approach that addresses the root causes of conflict and displacement. Efforts to promote sustainable peace through diplomatic negotiations, political solutions, and post-conflict reconstruction are essential to preventing future displacements and ensuring the safe return of IDPs to their homes. International organizations, national governments, and the civil society as a whole must work together to create conditions conducive to peace, stability, and development. Addressing underlying issues such as economic inequality, political marginalization, and social grievances can reduce the likelihood of conflict and create an environment where individuals are less likely to be forcibly displaced.

V. Conclusion

War is never a pleasant event, be it for those involved directly in hostilities or for those not involved or who have ceased to be involved in hostilities. It leaves an impact on the society as a whole with some suffering more than others. Thus, International Humanitarian Law safeguards the international society by:

1. Protecting those not involved or who have ceased to be involved in the hostilities; and
2. Regulating the “method and means of warfare”.

During armed conflict, when human suffering often reaches extreme levels, IHL serves as a powerful tool that safeguards human dignity, mitigates suffering, and minimizes damage. Due

³⁷ R Cohen, “The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting”, 10 *Global Governance* 4 (2004), available at: <https://www.refworld.org/policy/legalguidance/brookings/2004/en/74770> (visited on April 12, 2025).

to its universal applicability and binding nature, IHL is especially vital in ensuring the protection of IDPs during situations of war. Under IHL, no person can be forced to leave their “home or place of habitual residence” by the parties involved in the conflict. Even in situations where evacuation becomes absolutely necessary, strict conditions have been laid down such as- ensuring that family members remain together, the evacuation is temporary in nature and that as soon as the causative factor for their displacement ceases to exist, the displaced population will be able to safely return home, etc.³⁸ Additionally, the rules of IHL that ensure that civilians are protected from the harsh consequences of war have the added effect of preventing forceful displacement. This ensures that the number of displaced individuals does not increase exponentially.

Provisions of IHL also demand that it is respected by every party to a conflict, be it International or Non-International. Furthermore, neutral parties are also obliged to ensure that parties to a conflict respect IHL during the course of their conflict.

Thus, IHL plays a critical role in protecting the rights and dignity of IDPs in conflict-affected regions. However, despite IHL's strong foundation, implementation challenges often hinder its effectiveness. Violations by parties involved in conflicts - be they State or non-State actors - persist, and the enforcement mechanisms available to IHL remain somewhat limited. This gap between legal protections and their implementation in practice pose significant challenges to mitigating the plight of IDPs who often face significant vulnerabilities as they lack the support structures, stability, and resources they once had in their homes. During armed conflict, IDPs are not only uprooted from their lives and communities, but they are also frequently subjected to discrimination, exploitation, inadequate access to essential resources, and denial of their basic human rights. Consequently, while IHL offers critical protections in theory, these protections do not always translate into reality, leaving IDPs vulnerable and underserved.

Addressing these challenges requires concerted efforts by governments, humanitarian organizations and the international society as a whole to raise awareness about and strengthen compliance with IHL, improve humanitarian access and enhance accountability for violations. By addressing these issues, stakeholders can mitigate the impact of war on displacement, promote respect for human rights, and work towards durable solutions for the affected

³⁸ Henckaerts J-M and Doswald-Beck L, *Customary International Humanitarian Law: Volume 1, Rules* (Cambridge University Press, 2005).

populations. Through collective action and commitment to respecting human rights and humanitarian principles, the international community can strive to ensure that IDPs receive the protection and assistance they urgently need in times of crisis.