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## THE PRICE OF PEACE: WAR CRIMES, HUMAN RIGHTS VIOLATIONS, AND ACCOUNTABILITY

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### ABSTRACT

War represents the ultimate infringement upon the rights of individuals. It not only violates international laws but also hinders people from enjoying fundamental human rights, including the right to life, personal liberty, healthcare, medicine, and education. These basic human rights are owed to one another, not just as members of our respective nations but also as members of the global community. Over the past few decades, armed conflicts have devastated the lives of countless civilians, witnessing severe breaches of international humanitarian and human rights laws. This article delves into the numerous violations of human rights that can be attributed to ongoing wars and armed conflicts worldwide, highlighting their detrimental impact on various aspects of life and different social groups. The author endeavours to explain the significance of human rights in the context of the ongoing conflicts between Russia and Ukraine, Israel and Palestine, and other parts of the world. The author highlights the importance of the rights outlined in the International Bill of Rights, specifically the Universal Declaration of Human Rights (UDHR), 1948, and the International Covenant on Civil and Political Rights (ICCPR), in upholding human rights in areas affected by war. Both international human rights law and international humanitarian law share the common objective of safeguarding the dignity and humanity of all individuals. This article analyses the relationship between these two bodies of law and determines whether human rights law remains applicable during armed conflicts and war, and if so, how they can mutually reinforce each other. The author has adopted doctrinal research methodology and referred to primary as well as secondary sources in writing this article and in arriving at the aforementioned findings.

**Keywords:** human rights, international humanitarian law, international human rights law, war, armed conflict, human rights violations

### INTRODUCTION

Every person, regardless of their nationality, residence, gender, national or ethnic background, colour, religion, language, or any other distinguishing characteristic, possesses inherent human rights.<sup>817</sup> These rights are interconnected, interdependent, and indivisible, creating a unified framework. Various legal standards, including treaties, customary international law, general principles, and other

international legal sources, articulate and protect these rights. Human rights encompass both entitlements and responsibilities. While individuals have the right to these fundamental freedoms, there is also a shared duty to respect and uphold the human rights of others.

Violence is defined by the World Health Organisation (WHO) as “*intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either result in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or*

<sup>817</sup> Stephen P. Marks, *Human Rights: A Brief Introduction*, HARVARD UNIVERSITY, Harvard T.H. Chan School of Public Health, (2016), <https://www.hsph.harvard.edu/wp-content/uploads/sites/134/2016/07/Human-Rights-A-brief-intro-2016.pdf>.

deprivation.”<sup>818</sup> A comprehensive perception of violence encompasses not just the blatant acts of “behavioural” violence but also recognises the presence of structural violence, often operating beneath conscious awareness. This type of violence arises from unjust and imbalanced socio-economic structures, leading to situations such as poverty and various forms of deprivation. Conversely, cultural violence stems from the undermining and erasure of specific human identities and ways of life. This includes the violent manifestations of sexism, ethnocentrism, racism, colonial mindsets, and other forms of moral exclusion that sanction hostility, supremacy, inequality, and subordination.

*“Because of war’s inherent cruelty and savagery, it is scarcely possible anywhere in the world today to raise a body of reasoned support for the opinion that war is a justifiable activity.”*<sup>819</sup>

- John Keegan

In the past few decades, countless civilian lives have been tragically disturbed by warfare, leading to over 1.6 million violent deaths worldwide each year. The economic impact of such violence is significant, affecting sectors including law enforcement, healthcare, and overall productivity. Violations of international humanitarian and human rights laws are a common occurrence in many wars, with some instances potentially constituting genocide, war crimes, or crimes against humanity.<sup>820</sup> The dynamic nature of warfare requires continual adaptations in international human rights law and humanitarian law to prevent any lapses in protection. Both these legal frameworks aim to

safeguard the same principle: upholding the dignity and humanity of all individuals.

#### NAVIGATING THE INTERPLAY BETWEEN INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONAL HUMANITARIAN LAW IN WARS

International human rights law sets forth universal standards that function as a safeguarding barrier, created to fortify and uphold the human rights of everyone. It establishes the responsibilities of nations, specifying necessary actions they should take, or avoid, in order to secure the fundamental liberties and human rights of people or communities. Nations are obligated to comply with international law, bearing the duty to respect, protect, and realise human rights. The mandate to show respect implies that countries should refrain from impeding or limiting the exercise of human rights. The obligation to safeguard demands that nations shield individuals and communities from infringements upon their human rights. Lastly, the obligation to achieve signifies that nations must take proactive measures to enable the fulfillment of human rights.<sup>821</sup>

International humanitarian law is a set of rules developed for humanitarian purposes in order to lessen the consequences of armed conflicts. It protects persons who are not actively participating in hostilities and limits the techniques and means of combat. Its usefulness is specifically confined to armed conflict circumstances (*ratione materiae*) and it is a component of *jus in bello*, focusing on the lawful use of force, and must be distinguished from *jus ad bellum*, which pertains to the legitimacy of employing force. While the United Nations Charter prohibits the use of force, international humanitarian law is universally applicable to all parties involved in any armed conflict, irrespective of the justifiability of their cause.<sup>822</sup> International humanitarian law

<sup>818</sup> WORLD HEALTH ORGANIZATION, *The VPA Approach*, <https://www.who.int/groups/violence-prevention-alliance/approach> (last visited Nov. 24, 2023).

<sup>819</sup> John Horgan, *RIP Military Historian John Keegan, Who Saw War as Product of Culture Rather Than Biology*, SCIENTIFIC AMERICAN, (Aug. 4, 2012), <https://blogs.scientificamerican.com/cross-check/rip-military-historian-john-keegan-who-saw-war-as-product-of-culture-rather-than-biology/> (last visited Nov. 24, 2023).

<sup>820</sup> UNITED NATIONS OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, [https://www.ohchr.org/sites/default/files/Documents/Publications/HR\\_in\\_armed\\_conflict.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf) (last visited Nov. 24, 2023).

<sup>821</sup> *Id.*

<sup>822</sup> Lottie Lane, *Mitigating humanitarian crises during non-international armed conflicts—the role of human rights and ceasefire agreements*, 1(2) INT J HUMANITARIAN ACTION, (2016), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2749561](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2749561).

imposes constraints on the utilisation of violence in armed conflicts with the intention of safeguarding individuals who are not actively participating or are no longer directly involved in hostilities. Despite apparent differences in the rules between the two bodies of law, their essence is quite similar, as both frameworks protect individuals in similar ways. The key substantive difference is that international humanitarian law relies largely on distinctions, particularly between civilians and combatants, a concept that is not widely used in international human rights law.<sup>823</sup>

The two legal frameworks—international human rights law and international humanitarian law—are often seen as being bolstered by mutual sources of obligations, particularly in times of war. For example, in their general comments Nos. 29 (2001) and 31 (2004), the Human Rights Committee highlighted that the International Covenant on Civil and Political Rights is applicable even in circumstances of armed conflict, that are regulated by international humanitarian law principles. In a similar vein, the Human Rights Council recognised this through resolution 9/9 the complementary nature of human rights law and international humanitarian law, recognizing their mutual reinforcement.<sup>824</sup> The Council asserted the equal need for protection of all human rights, emphasizing that human rights law continued to apply during armed conflicts, with due consideration for when international humanitarian law operated as *lex specialis*.<sup>825</sup> It reiterated the necessity for effectual steps to ensure and oversee the effective implementation of human rights, specifically for civilian populations in armed conflict situations, including those under foreign occupation. The Council emphasised the imperative of providing

effective protection against human rights violations, aligning with both international human rights law and applicable international humanitarian law.<sup>826</sup>

The legal decisions rendered by the International Court of Justice, acknowledged in the Court's Statute as a supplementary method for establishing legal principles, are progressively incorporate references to the human rights obligations of states in instances of armed conflict.<sup>827</sup> Through these rulings, additional insights have been offered, particularly concerning matters such as the persistent applicability of international human rights law in the context of armed conflicts.

#### PEACE AS AN INHERENT HUMAN RIGHT

The core of peace lies in creating a harmonious society that allows every member to exercise their fundamental freedoms and human rights. It is a vital element required for the recognition of every human right. Peace is an outcome of human rights, and a society's ability to reduce violence and peacefully settle conflicts is directly proportional to its dedication to uphold, safeguard, and fulfill the human rights of its citizens. There is a growing acknowledgement of peace as a human right in its own regard, frequently seen as a developing human right or incorporated into the category of collective rights. The connection between universal human rights and the right to peace is vital, primarily because the lack of peace can lead to numerous infringements on human rights.<sup>828</sup>

The Universal Declaration of Human Rights (UDHR) from 1948 recognises the importance of safety and liberty in Article 3, explicitly bans cruel, inhumane or degrading punishment or treatment through Article 5, and promotes a global environment that enables the rights and

<sup>823</sup> IHL DATABASES, *The Principle of Distinction between Civilians and Combatants*, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule1> (last visited Dec. 17, 2023).

<sup>824</sup> Alexander Orakhelashvili, *The Interaction between Human Rights and Humanitarian Law: Fragmentation, Conflict, Parallelism, or Convergence?*, 19(1) Eur. J. Int. Law. 161, 161 – 182 (2008), <https://academic.oup.com/ejil/article/19/1/161/430791>.

<sup>825</sup> Noam Lubell, *Challenges in applying human rights law to armed conflict*, 87(860) INT'L REV. RED CROSS. 737 (2005), [https://www.icrc.org/en/doc/assets/files/other/irrc\\_860\\_lubell.pdf](https://www.icrc.org/en/doc/assets/files/other/irrc_860_lubell.pdf).

<sup>826</sup> Danio Campanelli, *The law of military occupation put to the test of human rights law*, 90(871) INT'L REV. RED CROSS. 653 (2008), <https://www.icrc.org/en/doc/assets/files/other/irrc-871-campanelli.pdf>.

<sup>827</sup> GENEVA ACADEMY, *Today's Armed Conflicts*, <https://geneva-academy.ch/galleries/today-s-armed-conflicts>.

<sup>828</sup> INTERNATIONAL PEACE INSTITUTE, *Human Rights and Sustaining Peace*, (2017) [https://www.ipinst.org/wp-content/uploads/2017/12/1712\\_Human-Rights-and-Sustaining-Peace.pdf](https://www.ipinst.org/wp-content/uploads/2017/12/1712_Human-Rights-and-Sustaining-Peace.pdf) (last visited Dec. 17, 2023).

freedoms outlined in the declaration to be fully realised via Article 28. The International Covenant on Civil and Political Rights (ICCPR) takes it a step further by prohibiting war propaganda and the “promotion of national, racial or religious hatred that leads to discrimination, hostility or violence” in its Article 20. Adopted in 2015, the United Nations Sustainable Development Goals (SDGs) highlight the vital role security plays in promoting development. SDG 16, often dubbed as “Peace and Justice,” aims to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”<sup>829</sup>

The right to peace is enshrined in certain regional documents, including the African Charter on Human and Peoples’ Rights and the Asian Human Rights Charter.<sup>830</sup> The establishment of the Council of Europe was founded on the belief that “the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation.”<sup>831</sup> The right to peace is also acknowledged in the UN Human Rights Council as “The Human Rights Council 1. Reaffirms that the peoples of our planet have a sacred right to peace; 2. Also reaffirms that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of all States;...”

The International Congress on the Human Right to Peace led to the adoption of the Santiago Declaration on the Human Right to Peace, 2010 which stands as one of the most inclusive documents addressing peace as an inherent

human right. The declaration in its Article 1 acknowledges individuals, groups, peoples, and all humankind as bearers of the “inalienable right to a just, sustainable, and lasting peace.”<sup>832</sup> It designates “States, individually, jointly or as part of multilateral organisations as the principal duty holders of the human right to peace.”<sup>833</sup> The document also emphasises the right to human security and to dwell in a safe, secure, and sanitary environment, encompassing “freedom from fear and from want” as integral components of positive peace.<sup>834</sup> Furthermore, the expression of the right to peace encompasses various aspects, such as the right to engage in civil disobedience and conscientious objection, the right to resist and challenge oppression, and the right to promote disarmament.

#### ONGOING WARS IN RUSSIA–UKRAINE, ISRAEL–PALESTINE AND BEYOND: A WORLD IN FLAMES

Every year, countless individuals experience the devastating impact of armed conflict and warfare, causing their lives to be shattered. From Palestine to Ukraine to Yemen, these conflicts are wreaking havoc and taking a toll on millions of people.<sup>835</sup> The prevalence of conflict is increasing, resulting in mass displacement and disregard for international law. Criminal networks exploit this division and violence for their own gain. The causes of these conflicts vary, comprising territorial conflicts, tensions between regions, corruption, and the depletion of resources caused by climate change. These conflicts lead to the disruption of vital services such as food and water, pushing people into the depths of extreme poverty. Unfortunately, it is the impoverished and most vulnerable who bear the brunt of these consequences. Furthermore, aside from the immediate loss of life and destruction of

<sup>829</sup> UNITED NATIONS SUSTAINABLE DEVELOPMENT GOALS, *Goal 16: Promote just, peaceful and inclusive societies*, <https://www.un.org/sustainabledevelopment/peace-justice/> (last visited Nov. 24, 2023).

<sup>830</sup> A. Bolaji Akinyemi, *The African Charter on Human and Peoples’ Rights: An Overview*, 46(2) *IJPS* 207, 207 – 238 (1985), <https://www.jstor.org/stable/41855166>.

<sup>831</sup> THE BRITISH INSTITUTE OF HUMAN RIGHTS, *The Relationship Between the Human Rights Act and the European Convention on Human Rights*, <https://www.bih.org.uk/get-informed/legislation/the-relationship-between-the-human-rights-act-and-the-european-convention-on-human-rights> (last visited Dec. 17, 2023).

<sup>832</sup> The International Congress on the Human Right to Peace, *SANTIAGO DECLARATION ON THE HUMAN RIGHT TO PEACE*, *World Social Forum on Peace Education*, <http://www.aedidh.org/sites/default/files/Santiago-Declaration-en.pdf> (last visited Nov. 24, 2023).

<sup>833</sup> *Id.*

<sup>834</sup> *Supra* note 4.

<sup>835</sup> Tess Lowery, *13 Heartbreaking Facts About Ongoing Conflicts Around the World*, *GLOBAL CITIZEN*, (Apr. 1, 2022), <https://www.globalcitizen.org/en/content/facts-about-world-conflicts/>.

infrastructure, conflict and its aftermath have far-reaching and long-lasting effects that hinder the attainment of the UN Global Goals. Although certain conflicts, like Putin's aggression towards Ukraine or the escalating violence in Israel and Palestine, garner significant media attention, there are countless other conflicts taking place worldwide that often go unnoticed.<sup>836</sup> The United Nations (UN) has issued a warning that global peace is currently facing its greatest threat since the end of World War II.<sup>837</sup>

According to the Global Conflict Tracker by the Council on Foreign Relations, there are currently 32 active conflicts happening around the world. These conflicts are divided into three categories "worsening," "unchanging," and "improving." Among the "worsening" conflicts are the ongoing Israel-Palestine conflict<sup>838</sup>, the war in Ukraine<sup>839</sup>, the conflict in Afghanistan, the rise of violent extremism in the Sahel region, the civil war in Myanmar, the tensions over Taiwan, the unstable situation in Haiti, the Nagorno-Karabakh conflict, ethnic clashes and violent competition for resources involving ethnic militias in the Democratic Republic of Congo, the power struggle in Sudan, and the instability in Pakistan. While some of these conflicts, like Russia's invasion of Ukraine, involve clashes between countries, many others take place within the borders of a single state.<sup>840</sup> In Syria, the government forces, backed by Russia for a long time, are still battling armed groups

supported by foreign entities for territorial control. In Somalia, fighters from the Al-Shabaab armed group persist in resisting the government's efforts to expand its authority.

#### SEEKING JUSTICE: WOMEN'S STRUGGLE FOR HUMAN RIGHTS IN WAR

Women are the most vulnerable and worst-hit victims of war. War, conflict, and crises expose women and girls to a genuine fear: that their safety and human rights will be disregarded amidst the violence. Due to their gender, women who find themselves in the midst of war are subjected to sexual violence, physical and verbal abuse, and encounter barriers when trying to access resources and have their human rights recognised. All of this is in addition to directly facing conflict on the front lines and being exposed to life-threatening conditions. Women experience unprecedented levels of sexual violence, abuse, and torture in times of war. Conflict perpetuates the objectification of women and girls, viewing them as tools of war to exert control.<sup>841</sup>

During times of conflict, women face immense risks to their health, safety, human rights, and future. The #EqualEverywhere campaign initiated by the United Nations aims to promote gender equality worldwide and has highlighted several key areas where women and girls suffer greatly due to war. These areas include gender-based violence (GBV), displacement, limited access to reproductive healthcare, and forced child marriages.

War and gender-based violence (GBV) are unquestionably connected, as women and children face various forms of abuse – physical, verbal, sexual, and psychological – during times of conflict. In the context of war, violence is employed as a means to establish dominance, dismantle families, perpetrate ethnic cleansing and genocide, suppress resistance, and

<sup>836</sup> Clive Baldwin, *How Does International Humanitarian Law Apply in Israel and Gaza?*, The New Arab, HUMAN RIGHTS WATCH, (Oct. 27, 2023), <https://www.hrw.org/news/2023/10/27/how-does-international-humanitarian-law-apply-israel-and-gaza>.

<sup>837</sup> UNITED NATIONS, *A New Era of Conflict and Violence*, <https://www.un.org/en/un75/new-era-conflict-and-violence> (last visited Nov. 25, 2023).

<sup>838</sup> Zaha Hassan & Yousef Munayyer, *Approaching Peace: Centering Rights in Israel-Palestine Conflict Resolution*, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, (Apr. 29, 2021), <https://carnegieendowment.org/2021/04/29/approaching-peace-centering-rights-in-israel-palestine-conflict-resolution-pub-84397>.

<sup>839</sup> Marika Lerch et. al., *Russia's war on Ukraine in international law and human rights bodies: Bringing institutions back in*, EUROPEAN PARLIAMENT, (Apr. 8, 2022), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/639322/EX\\_PO\\_BRI\(2022\)639322\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/639322/EX_PO_BRI(2022)639322_EN.pdf).

<sup>840</sup> COUNCIL OF EUROPE, *Memorandum on the human rights consequences of the war in Ukraine*, Commissioner for Human Rights, (Jul. 8, 2022), <https://rm.coe.int/memorandum-on-the-human-rights-consequences-of-the-war-in-ukraine/1680a72bd4>.

<sup>841</sup> Khanyi Mlaba, *How Do Women and Girls Experience the Worst of War?*, GLOBAL CITIZEN, (Mar. 23, 2022), <https://www.globalcitizen.org/en/content/women-and-girls-impacts-war-conflict/> (last visited Nov. 24, 2023).

destabilise communities.<sup>842</sup> In Afghanistan, a country where the Taliban forcefully assumed control in 2021, the issue of gender-based violence (GBV) was already prevalent due to the group's prior rule and the violence endured by women and girls. Additionally, even in refugee camps, women and girls are not safe, as a report from the United Nations reveals that approximately one in five female refugees residing in humanitarian settings have been subjected to sexual violence.<sup>843</sup>

According to the UN Refugee Agency, over half of the global population of 80 million displaced individuals are women.<sup>844</sup> The United Nations also highlights that conflicts often reinforce traditional gender roles, with women expected to flee while men fight on the front lines. This creates a situation where women bear the responsibility of providing for, sheltering, and protecting their families. Child marriage is a consequence of war for various reasons. As conflict leads to economic decline and disrupts access to food, families may see child marriage as a desperate solution for financial stability. The highest rates of child marriage in the world are found in countries in West and Central Africa, which can be attributed to political, environmental, and economic instability in these regions.<sup>845</sup> Forced marriage creates a direct obstacle for girls, impeding their access to education. Once married, they are obligated to take on domestic responsibilities that they are too young to handle, such as giving birth, managing the household, and providing for the family.

Due to the devastating impact of violence and warfare on facilities and infrastructure, hospitals and clinics often suffer destruction, leading to a

severe limitation in access to healthcare. Moreover, essential services such as electricity, water, sanitation, and medical supplies are disrupted, making it impossible for people in need to obtain proper health and sanitation resources. This situation particularly endangers women and girls, as the absence of sexual and reproductive healthcare increases the risk of unintended pregnancies and the spread of diseases and infections. According to the UN Population Fund (UNFPA), the loss of infrastructure in Yemen caused by war has resulted in only a few remaining hospitals, with only 20% of them able to provide maternal and child health services.<sup>846</sup> Every two hours in Yemen, a woman loses her life while giving birth, and the reasons behind these deaths are usually avoidable.<sup>847</sup>

Rape, an often overlooked atrocity during times of war, is a grave violation of the 1949 Geneva Convention.<sup>848</sup> Christina Lamb, in her book "Our Bodies, Their Battlefields," asserts that, "War rape [is] met with tacit acceptance and committed with impunity, military and political leaders shrugging it off as a sideshow. Or it was denied to have ever happened." The International Criminal Court (ICC) was founded in 2002 with the purpose of bringing justice to individuals accused of war crimes, crimes against humanity, and genocide. Despite its efforts, the ICC has only achieved a single conviction for sexual slavery and rape. This conviction occurred in 2019 and involved a Congolese warlord.<sup>849</sup> Thus, it is evident that women and girls often bear the brunt and

<sup>842</sup> GSDRC APPLIED KNOWLEDGE SERVICES, *Gender in fragile and conflict-affected environments*, <https://gsdrc.org/topic-guides/gender/gender-in-fragile-and-conflict-affected-environments/> (last visited Nov. 25, 2023).

<sup>843</sup> UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (OCHA), *Global Humanitarian Overview 2019*, <https://reliefweb.int/report/world/global-humanitarian-overview-2019-enaresfrzh> (last visited Nov. 25, 2023).

<sup>844</sup> UNHCR, THE UN REFUGEE AGENCY, *Forced Displacement in 2019*, Global Trends Report, <https://www.unhcr.org/be/wp-content/uploads/sites/46/2020/07/Global-Trends-Report-2019.pdf> (last visited Nov. 25, 2023).

<sup>845</sup> UNICEF, *Child Marriage in West and Central Africa*, (2018) <https://www.unicef.org/wca/media/2596/file> (last visited Nov. 25, 2023).

<sup>846</sup> UNITED NATIONS, *Motherhood on the brink in Yemen*, Global perspective Human stories, (Mar. 26, 2021), <https://news.un.org/en/story/2021/03/1088352> (last visited Nov. 25, 2023).

<sup>847</sup> United Nations Population Fund, *12.6 million women and girls in Yemen need life-saving support*, (Feb. 24, 2023), <https://www.unfpa.org/press/126-million-women-and-girls-yemen-need-life-saving-support#:~:text=One%20woman%20dies%20in%20childbirth,breastfeeding%20women%20are%20acutely%20malnourished> (last visited Dec. 16, 2023).

<sup>848</sup> Judith Matloff, *The War Crime No One Wants to Talk About*, THE NEW YORK TIMES, (Sep. 22, 2020), <https://www.nytimes.com/2020/09/22/books/review/our-bodies-their-battlefields-christina-lamb.html>.

<sup>849</sup> UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (OCHA), *International Criminal Court Upholds Landmark Conviction of Warlord for Atrocities Committed in the Democratic Republic of the Congo*, (Mar. 30, 2021), <https://reliefweb.int/report/democratic-republic-congo/international-criminal-court-upholds-landmark-conviction-warlord#:~:text=In%202019%2C%20Ntaganda%20was%20sentenced,it%20was%20established%20in%202002> (last visited Nov. 25, 2023).



burden of conflict, being viewed as tools of warfare.

Several organisations provide humanitarian aid and support for women and girls affected by war and conflict. Among them are the United Nations Refugee Agency (UNHCR), the United Nations Children’s Fund (UNICEF), the United Nations Population Fund (UNFPA), and Amnesty International. Additionally, there are various frontline organisations such as Education Cannot Wait, Save the Children, the Malala Fund, and the Global Partnership for Education that focus on helping girls access education in times of crisis and conflict.

### THE RAVAGING EFFECTS OF WAR

Regardless of the root cause or the parties involved, the consequences of war remain consistent. Armed conflicts lead to the tragic loss of innocent lives, massive displacement of people, and violations of both human rights and international humanitarian law. A study conducted by the Institute for Economics and Peace in June 2023 revealed that nearly 250,000 individuals lost their lives due to conflicts worldwide in 2022. The invasion of Ukraine by Russia alone accounted for an estimated 82,000 deaths during that year.<sup>850</sup> Additionally, according to the United Nations, a staggering 84 million individuals were forcibly displaced in 2022 as a result of conflict, violence, and human rights abuses.<sup>851</sup> By the end of that year, approximately 339 million individuals were projected to be in need of humanitarian aid.<sup>852</sup>

The cost of warfare is nearly unimaginable. Apart from the suffering endured by humans, the disruption of society, and the destruction of infrastructure, the weight of warfare also

impacts the economies of countries affected by conflict. The Institute for Economics & Peace reports that the financial impact of conflict in the top ten most turbulent countries makes up around 41% of their total gross domestic product (GDP).<sup>853</sup> Conflict is responsible for 80% of humanitarian needs, and in 2016 alone, the global cost of conflict reached a staggering \$14 trillion. This amount is sufficient to eradicate world hunger an astounding 42 times.<sup>854</sup> Franck Bousquet, the senior director of the Fragility, Conflict and Violence (FCV) Group at the World Bank stated that *“The human and economic costs of fragility, conflict, and violence are staggering.”*<sup>855</sup> Hunger, malnutrition, and famine are identified as direct consequences of conflict and violence in a report published in 2023 by the UN Special Rapporteur on the Right to Food.<sup>856</sup> These devastating outcomes highlight the urgent need to address and mitigate the impact of fragility, conflict, and violence.

Yemen has been embroiled in a violent internal conflict for a period of nine years. This conflict involves the government forces, which receive support from Saudi Arabia, and the Houthi rebels who have ties to Iran. The toll of this war is devastating, with over 377,000 lives lost. According to the United Nations, approximately 60% of these deaths can be attributed to indirect causes such as food scarcity and limited access to healthcare services. The consequences of this conflict are dire, as millions of Yemenis face the imminent threat of starvation. Among the most vulnerable are 2.2 million children under the age of five, who urgently require treatment for severe

<sup>850</sup> Adan Taylor, *A historic rise in global conflict deaths suggests a violent new era*, THE WASHINGTON POST, (Jun. 29, 2023), <https://www.washingtonpost.com/world/2023/06/29/conflict-war-deaths-global-peace-rise-casualty/>.

<sup>851</sup> UNITED NATIONS, *Violence, insecurity, and climate change drive 84 million people from their homes*, Global perspective Human stories, (Nov. 11, 2021), <https://news.un.org/en/story/2021/11/1105592#:~:text=Violence%2C%20insecurity%20and%20climate%20change%20drive%2084%20million%20people%20from%20their%20homes,11%20November%202021&text=As%20more%20people%20flee%20violence,the%20UN%20refugee%20agency%2C%20UNHCR> (last visited Nov. 25, 2023).

<sup>852</sup> *Id.*

<sup>853</sup> VISION OF HUMANITY, *How High is the Cost of War Around the World in 2019?*, <https://www.visionofhumanity.org/how-does-war-and-violence-affect-an-economy/> (last visited Nov. 25, 2023).

<sup>854</sup> Rob Smith, *Conflict costs the global economy \$14 trillion a year*, WORLD ECONOMIC FORUM, (Jan. 15, 2018), <https://www.weforum.org/agenda/2018/01/conflict-costs-global-economy-14-trillion-a-year/>.

<sup>855</sup> *Supra* note 19.

<sup>856</sup> UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, *Conflict and Violence are the Primary Causes of Hunger and Famine. Special Rapporteur on the Right to Food Tells the Human Rights Council*, Human Rights Council, (Mar. 9, 2023), <https://www.ohchr.org/en/news/2023/03/conflict-and-violence-are-primary-causes-hunger-and-famine-special-rapporteur-right#:~:text=Conflict%20and%20violence%20were%20the,be%20addressed%20through%20political%20action>.

malnutrition.<sup>857</sup> The Taliban's seizure of Afghanistan, following two decades of US-led conflict, has devastated the nation's economy and triggered a widespread hunger crisis, plunging the majority of the population into abject poverty. The World Food Programme (WFP) estimates that approximately 15.3 million Afghans are currently experiencing severe food shortages.<sup>858</sup> In these dire circumstances, numerous young children have tragically perished due to starvation. Faced with such unimaginable suffering, some families have been forced to make the heart-wrenching decision to sell their children, while others have resorted to illegally trafficking their organs on the clandestine market.

At the beginning of the academic year in Europe in September, the UNHCR, also known as the UN's Refugee Agency, issued a cautionary statement regarding the educational challenges faced by young Ukrainian refugees. These children and adolescents have endured three years of interrupted schooling since the country was invaded in February 2022.<sup>859</sup> Based on the report, it is revealed that approximately 30-50% of the 5.9 million Ukrainian refugees scattered across Europe are children. Unfortunately, only around half of these children have been enrolled in schools in the host countries for the current academic year. The impact of conflict and violence on education is not limited to Ukraine alone. In various regions, such as Sudan and Afghanistan, there are approximately 222 million children and teenagers affected by crises who are in dire need of educational assistance. Shockingly, more than half of these individuals are girls.

War has a direct impact on nearly all of the United Nations' Global Goals. These goals, which include achieving gender equality, good health

and well-being for all, and ending extreme poverty, serve as a roadmap for positive change. The consequences of war and conflict are particularly felt by women and girls, affecting their access to quality healthcare (Goal 3), education (Goal 4), and gender equality (Goal 5). War signifies a profound erosion of humanity, compromising the fundamental principles of human rights and the legal framework that safeguards them. Nevertheless, even amidst this turmoil, human rights persist, albeit in a diminished condition. While they might not be very effective, they do offer some level of protection and hope for justice.

#### THE PATH TOWARDS PEACE AND HUMAN SECURITY

The violation of human rights is an inevitable consequence of warfare and violence. It is essential to establish a societal framework that prioritises and safeguards human rights in order to achieve true peace. The attainment of lasting peace and security is contingent upon the active fulfillment of all human rights. Fostering and maintaining a culture of peace requires the collective effort of humanity as a whole. The realisation of such a culture will come to fruition when people worldwide recognise and address global challenges, possess the ability to resolve conflicts peacefully, advocate for justice through nonviolent means, abide by global norms of human rights and equity, value and accept cultural variety, and exhibit reverence for both the environment and one another.<sup>860</sup>

Human security, which is closely tied to the concepts of peace and violence, recognises the interconnectedness between violence and different forms of deprivation. Its focus is on safeguarding individuals and communities not only from the immediate danger of physical violence, but also from indirect threats arising from conditions of poverty and various forms of social, economic, or political disparities, as well as the impact of natural calamities and

<sup>857</sup> WORLD FOOD PROGRAMME, *Yemen emergency*, <https://www.wfp.org/emergencies/yemen-emergency> (last visited Nov. 25, 2023).

<sup>858</sup> *Id.*

<sup>859</sup> UNHCR, THE UN REFUGEE AGENCY, *Education on Hold: Almost half of school-aged refugee children from Ukraine missing out on formal education*, (Sep. 8, 2023), <https://www.unhcr.org/neu/112763-education-on-hold-almost-half-of-school-aged-refugee-children-from-ukraine-missing-out-on-formal-education.html> (last visited Nov. 25, 2023).

<sup>860</sup> COUNCIL OF EUROPE PORTAL, *Peace and Violence, Manual for Human Rights Education with Young people*, <https://www.coe.int/en/web/compass/peace-and-violence> (last visited Dec. 15, 2023).

diseases. Human security plays a role in promoting human rights by addressing situations that pose significant risks to these rights.

To accomplish its objectives, human security employs two primary tactics: safeguarding and empowerment. Safeguarding involves shielding individuals from imminent dangers, while also working towards establishing standards, procedures, and organisations that promote security. On the other hand, empowerment enables individuals to fulfill their capabilities and actively participate as valued contributors in decision-making procedures. These two tactics, safeguarding and empowerment, complement each other, and are both vital elements of a successful human security approach.

#### THE NEXUS BETWEEN HUMAN RIGHTS AND WAR

The association between human rights and war is complex, ever-changing, and influential, exerting a continuous influence on both peace and war. Violations of human rights often occur in the midst of armed conflicts. As a result, experts have devoted significant attention to creating measures focused on relieving human suffering during times of war and strife. Human rights law, refugee law, and humanitarian law are the three main categories of modern international law that strive to safeguard victims of war. Even in conditions of armed conflict and occupation, which are likewise controlled by the laws of war, international human rights law remains valid and applicable at all times. In some situations, as the lex specialis, or more specialised regulation for that specific situation, a humanitarian law principle may take precedence over a human rights principle.<sup>861</sup>

Global and regional agreements on human rights, like the ECHR, ICCPR, and the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment (CAT), serve as safeguards for fundamental rights. A significant number of these rights resonate with those bestowed upon combatants and non-combatants under international humanitarian law, including the prohibition of inhumane treatment and torture, requirements of non-discrimination, and the assurance of a just trial.<sup>862</sup> Although both the ECHR and ICCPR permit limitations on specific rights during warfare or national emergencies that pose a threat to the country's existence, any curtailment of rights under such conditions must be an exception, temporary, and absolutely necessary.<sup>863</sup> Certain fundamental rights, such as the right to life, protection against torture and ill-treatment, prevention of unacknowledged detention, access to judicial review for the lawfulness of detention, and the right to a fair trial, are of utmost importance.

During armed conflicts, humanitarian law becomes applicable, imposing constraints on the activities of the fighting parties. Its primary goal is to protect and treat persons who are not engaging or are no longer able to participate in hostilities in a humane manner. Humanitarian law, like international human rights law, protects people's lives and dignity. It expressly condemns torture and harsh treatment, establishes rights for individuals participating in the criminal justice system, opposes discrimination, and includes safeguards to protect women and children. Additionally, it addresses issues such as the provision of medical assistance, access to food and water, and the protection of civilian infrastructure.

There is commonly a distinction drawn between the laws that aim to safeguard individuals affected by armed conflicts, whether military or civilian, and the laws that govern the conduct of warfare. The diplomatic conferences held in Paris (1856), Geneva (1864), St. Petersburg (1868), Brussels (1874), The Hague (1899, 1907),

<sup>861</sup> HUMAN RIGHTS WATCH, *Russia, Ukraine & International Law: On Occupation, Armed Conflict and Human Rights*, (Feb. 23, 2022), <https://www.hrw.org/news/2022/02/23/russia-ukraine-international-law-occupation-armed-conflict-and-human-rights> (last visited Nov. 24, 2023).

<sup>862</sup> Robert J. Delahunty & John C. Yoo, *What is the Role of International Human Rights in the War on Terror?*, 59(3) DEPAUL L. REV. 803 (2010), <https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1187&context=law-review>.

<sup>863</sup> *Id.*

and Geneva (1949 and 1977) were significant milestones in the evolution of humanitarian law in armed conflicts.<sup>864</sup> In “normal” conditions, such as times of peace, human rights law provides the maximum level of protection; yet, its applicability may be limited during periods of non-international armed conflict or international conflict. In circumstances of non-international armed conflict (controlled by Common Article 3 of the Geneva Conventions and Protocol II) and international armed conflict (covered by the four Geneva Conventions and Protocol I), international humanitarian law becomes especially relevant.

The values of humanity, military necessity, and proportionality are embedded in the standards of international humanitarian law, and hence no exceptions are permitted. These universally binding criteria are outlined in Common Article 3 of the Geneva Conventions. The relevant portion of the article states: *“In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:*

*1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:*

*a. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;*

*b. Taking of hostages;*

*c. Outrages upon personal dignity, in particular humiliating and degrading treatment;*

*d. The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples.*

*2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. [...] While human rights law provides for derogation of some rights in times of emergency, it is important to note that several human rights may not be derogated from under any circumstance.”<sup>865</sup>*

According to the Third and Fourth Geneva Conventions, all parties to a conflict must provide the International Committee of the Red Cross (ICRC) and other humanitarian organisations access to prisoners of war (POWs) and imprisoned civilians. The ICRC is authorised to visit individuals who have been detained on a regular basis to examine their confinement conditions and assist them in reconnecting with their families. The ICRC is free to inspect and conduct confidential interviews wherever it thinks fit. Visits can only be denied on grounds of “imperative military necessity,” which is an extraordinary and provisional measure. Other humanitarian organisations may also request access to POWs and detained civilians, which the detaining authorities should accommodate, albeit the number of agencies allowed to visit a person in custody may be limited. According to international humanitarian law, all belligerent parties must ensure that humanitarian relief personnel are free to move

<sup>865</sup> M. Gandhi, *Common Article 3 Of Geneva Conventions, 1949 In The Era Of International Criminal Tribunals*, ISIL Year Book of International Humanitarian and Refugee Law, (2001), <http://www.worldlii.org/int/journals/ISILYBIHRL/2001/11.html#:~:text=Article%203%20offers%20an%20international,protections%20offered%20under%20this%20provision.>

<sup>864</sup> *Supra* note 21.

around to perform their duties. The restriction on their movement can only be temporary and due to reasons of imperative military necessity.

#### RAMIFICATIONS OF BREACHES OF INTERNATIONAL HUMANITARIAN LAW

War crimes are serious violations of international humanitarian law done with criminal intent, either intentionally or unintentionally.<sup>866</sup> These war crimes are outlined in the “grave breaches” sections of the Geneva Conventions, as well as being acknowledged as customary law in the statute of the International Criminal Court and various other sources. These transgressions include a wide array of offences, such as intentional, indiscriminate, and disproportionate assaults causing harm to civilians, the act of taking hostages, employing human shields, and imposing punitive measures on entire communities, among numerous others.<sup>867</sup> The International Criminal Court (ICC) is a permanent global tribunal tasked with the responsibility of examining, accusing, and prosecuting individuals who are believed to have committed acts of genocide, crimes against humanity, and war crimes occurring after July 1, 2002.

Individuals can also be held criminally responsible for attempting to commit a war crime, as well as assisting, facilitating, aiding, or abetting in the commission of a war crime. Responsibility can also be attributed to individuals involved in the planning or initiation of a war crime. When commanders and civilian leaders are aware or should have been aware of the occurrence of war crimes, they may be held accountable for their actions as a matter of command responsibility. This includes cases where they failed to take adequate measures to prevent such crimes or to punish those responsible for them.

The primary duty of the country involved in serious violations is to guarantee justice. It is the responsibility of governments to conduct thorough investigations into such violations, especially if their officials or citizens are implicated. These investigations should be carried out by military, domestic courts, or other impartial institutions in order to determine whether serious violations have taken place. If individuals are found responsible, they should be prosecuted and punished in accordance with international fair trial standards, ensuring that the severity of their actions is reflected in the punishment given. Certain types of serious offenses that violate international law, including war crimes and acts of torture, are governed by the concept of “universal jurisdiction.”<sup>868</sup> This term refers to the jurisdiction of a country’s domestic legal system to investigate, charge, and prosecute certain crimes, even if they occurred outside its borders, involving one of its individuals or affecting one of its citizens.

#### CONCLUSION

This article has delineated the crucial role that human rights play in the midst of ongoing war, highlighting their importance as a guiding light during times of war. While navigating the complexities of modern armed conflicts, it becomes essential to uphold and protect human rights both morally and legally. A deeper understanding of the intricate dynamics of violations in international humanitarian law and their complex relationship with the wider landscape of war and armed conflicts shows that exploring these dynamics and their consequences is essential for making well-informed policy decisions, stressing the importance of upholding human rights even during times of war. Going forward, it is vital for policymakers, international organisations, and societies as a whole to acknowledge the interdependent relationship between human rights and sustainable peace.

<sup>866</sup> UN OFFICE ON GENOCIDE PREVENTION AND THE RESPONSIBILITY TO PROTECT, *War Crimes*, <https://www.un.org/en/genocideprevention/war-crimes.shtml> (last visited Dec.16 2023).

<sup>867</sup> Marco Sassoli, *State responsibility for violations of international humanitarian law*, 84 (84), INT’L REV. RED CROSS. 401, 401 – 417 (2002), [https://www.icrc.org/en/doc/assets/files/other/401\\_434\\_sassoli.pdf](https://www.icrc.org/en/doc/assets/files/other/401_434_sassoli.pdf).

<sup>868</sup> Iliia Siatitsa & Maia Titberidze, *Human Rights in Armed Conflict from the Perspective of the Contemporary State Practice in the United Nations: Factual Answers to Certain Hypothetical Challenges*, UNITED NATIONS, [http://www.rulac.org/assets/downloads/State\\_practice\\_human\\_rights\\_in\\_arm\\_conflict.pdf](http://www.rulac.org/assets/downloads/State_practice_human_rights_in_arm_conflict.pdf) (last visited Dec. 16, 2023).



The analysis presented accentuates the profound influence that a steadfast commitment to human rights can have on shaping the conversation surrounding conflict resolution and rebuilding a more just and compassionate global order. Through this article, the author emphasises the enduring necessity for vigilance, accountability, and collaborative efforts to minimise the detrimental effects of war on human rights, with the ultimate objective of promoting a world where the human rights, dignity, welfare, and security of all individuals are protected, regardless of geopolitical challenges that may arise. By placing human rights at the forefront of discussions on war and conflict, a path is paved for a future where dignity, justice, and respect for human rights and fundamental freedoms remain resilient even in the face of adversity.

