

**LAW RELATING TO WOMEN AMID ARMED CONFLICTS:
INSIGHTS FROM INTERNATIONAL HUMANITARIAN LAW
WITH SPECIAL REFERENCE TO INDIA**

Ajayita Sandhu^{*}
Prof. Jyoti Rattan^{**}

ABSTRACT

Armed conflicts have profound impacts on women, leaving them more vulnerable to gender-based violence within societal and structural contexts. These conflicts lead to shifts in gender dynamics, affecting women's roles, attitudes, identities, legal frameworks, and beliefs. International humanitarian law offers a legal framework to protect women during armed conflicts, ensuring their human rights are respected. These protective measures are widely disseminated and enforced in conflict settings, applying to all parties engaged in armed conflict and UN peacekeeping missions. To address the issue of violence against women in armed conflicts, various experts, scholars, and organisations, including the UN, have generated extensive literature like books, articles, and papers, exploring the legal implications of armed conflict on women before and after such events. This study aims to comprehensively investigate the legal landscape and the challenges women encounter in armed conflicts.

KEYWORDS: *armed; conflict; violence; war; women*

1. INTRODUCTION

In contemporary global conflicts, governments and armed factions commonly target civilians, perpetrate war crimes, and commit severe human rights violations, particularly affecting vulnerable groups like women. The distinct impact on women stems from their heightened vulnerability, making their plight especially challenging to safeguard. Recent years have seen an unprecedented surge in attention toward violations against women during armed conflicts, with frequent media coverage and NGO reports. This issue has infiltrated various sectors of the United Nations, from the Security Council to Special Representatives of the Secretary General, and even organisations like the World Health Organisation and Ad hoc International Criminal Tribunals. Efforts to legally shield women during wartime or armed conflicts have been underway for over a century. Declarations, conventions, and legal documents have been crafted by governments and institutions to uphold women's rights even in the direst circumstances. Women are granted overarching protection as civilians under the laws of armed conflict, with a requirement that female armed forces members receive equitable treatment to men. Specific safeguards encompass protection from indignities like rape, enforced prostitution, and indecent assault, care for expectant mothers, maternity cases, and female detainees being housed separately and supervised by women. Legal endeavours aimed at safeguarding women during times of war or armed conflicts have been ongoing since the early 20th century. In recent years, governments and institutions have

* Assistant Professor, Department of Laws, Panjab University, Chandigarh

** Professor, Department of Laws, Panjab University, Chandigarh

developed declarations, conventions, and other legal instruments to ensure the protection of women's rights, even in the most dire circumstances. Within the laws of armed conflict, women are generally afforded protection as civilians, and it is mandated that female members of armed forces receive treatment equal to that of men. Additionally, specific provisions exist to shield women from various forms of harm, such as rape, forced prostitution, and indecent assault. Expectant mothers, maternity cases, and mothers of infants are also provided with special safeguards. Furthermore, regulations dictate that women who are deprived of liberty, such as civilian internees or prisoners of war, must be housed separately from male counterparts and be supervised by female authorities.

Throughout history, war was an unconstrained method of resolving disputes between nations, allowing for unrestricted actions during combat. With growing recognition of the humanitarian catastrophes brought by warfare, efforts to regulate combatant behaviour have expanded, leading to the establishment of conventions, agreements, and international organisations to limit and prohibit war. This study delves into how international law safeguards women in armed conflicts through conventions and protocols, examining the enforcement of such protection and concluding with recommendations for improved implementation.

1.1 OBJECTIVES OF STUDY

The research aims to protect woman's rights during armed conflicts by delving into international humanitarian law. This involves examining legal frameworks within IHL tailored to women's rights, scrutinising pertinent treaties and conventions like the Geneva Conventions, Additional Protocols, and CEDAW. Additionally, the study seeks to understand the multifaceted impacts of conflicts on women, encompassing issues such as sexual violence, displacement, healthcare access, education, and economic empowerment. Furthermore, it aims to explore intersectionality, investigating how gender intersects with age, ethnicity, religion, and socioeconomic status to shape women's experiences and vulnerabilities in conflict settings.

2. RESEARCH METHODOLOGY

When studying the legal aspects of women in armed conflict, the research methodology typically encompasses a blend of doctrinal and empirical approaches due to the complexity of the topic. However, this research primarily leans on the doctrinal method, excluding fieldwork. Its central focus is the normative analysis of humanitarian law in armed conflicts, involving a thorough examination of existing legal literature, international agreements, treaties, and case law concerning women in armed conflict. The researcher also assesses pertinent national and international laws and policies related to women in armed conflict, particularly legal frameworks like the Geneva Conventions,

UN Security Council Resolutions, and domestic legislation. The sources utilised include textbooks, Geneva Conventions, Protocols, as well as data from various national and international organisations.

3. MEANING OF ARMED CONFLICT

International Humanitarian Law, grounded in the principles of *jus ad bello*, is essentially the legal framework governing situations of armed conflict or war. However, akin to international law, its application necessitates the political endorsement of states to recognise a situation as an armed conflict. IHL encompasses regulations governing the conduct of parties involved in armed conflicts, emphasising the need to constrain violence and provide protection to both civilians and combatants. The activation of IHL hinges on the occurrence of an "armed conflict." This determination relies solely on the factual demonstration of hostilities between belligerents, even in the absence of a formal declaration of war. The Commentary of the Geneva Conventions of 1949 clarifies that any dispute leading to armed intervention constitutes an armed conflict under Article 2, regardless of a party's denial of a state of war. The International Criminal Tribunal for the former Yugoslavia (ICTY) proposed a broad definition of international armed conflict, stating that it arises whenever armed force is employed between states. This definition has since been adopted by various international bodies.

3.1 WOMEN IN ARMED CONFLICT

In times of armed conflict, women face numerous violations of international humanitarian law, including torture, summary executions, arbitrary detentions, forced displacements, hostage-taking, threats, and intimidation. They are also subjected to sexual abuses such as rape, coerced prostitution, sexual slavery, and forced sterilisations. Often, women make up the majority of refugees or vulnerable individuals, separated from their partners and forced into conflict situations, which alters their societal roles. They shoulder the responsibility of caring for children and the elderly, becoming the primary caregivers for maintaining family unity and identity, rendering them particularly susceptible. Consequently, the mortality rate among women in such circumstances rises significantly. Since 1990, approximately 90% of deaths related to armed conflicts have been civilian casualties, with 80% of these being women and children. The Lieber Code classifies rape as a serious war crime punishable by death or appropriate penalty.

Throughout numerous armed conflicts, women have been subjected to egregious human rights violations and breaches of international humanitarian law, often enduring sexual violence perpetrated by armed group leaders, occurring both sporadically and systematically. In many instances, these

heinous acts deliberately target women to degrade and destabilise entire communities. Women become victims of sexual aggression¹ as their assailants seek to undermine their mental and physical well-being. Frequently, they endure public assaults as a dehumanising tactic aimed at highlighting the failure of male protection within their community. Women, symbolising the future of their societies, are often singled out for persistent violence such as female genital mutilation². Modern warfare has profoundly affected the lives and dignity of women and girls, disrupting vital services like healthcare and education crucial for family and community survival. Unlike men, women and girls confront heightened adversity due to pervasive gender-based violence and discrimination during conflicts, exacerbating safety concerns and impeding aid efforts. Essential services like healthcare and education are frequently disrupted or inaccessible during conflicts, posing increased health risks, particularly for women and girls vulnerable to sexual violence. Survivors of such atrocities may face social stigma, complicating their reintegration into society.³

Addressing systemic gender-based violence necessitates urgent action and education on gender and human rights, as conflicts disrupt educational systems, leaving girls with limited access to schooling and healthcare. Women in conflict zones endure physical and psychological trauma, displacement, economic hardship, educational disruptions, and underrepresentation in peace processes. Despite these challenges, international initiatives are underway to mitigate consequences and promote gender equality in conflict-affected areas, recognising women's resilience and the imperative of support to rebuild their lives and contribute to enduring peace.

3.2 HISTORICAL EVOLUTION OF LAW RELATING TO ARMED CONFLICT

The historical evolution of laws relating to armed conflict can be summarised in several key phases:

3.2.1 Early Traditions: Ancient societies established customary norms and informal regulations for warfare, which, while lacking formal legal structures, encompassed principles of moderation and guidelines for engagement. These

¹ Golie G Jansen, *Gender and War: The Effects of Armed Conflict on Women's Health and Mental Health*, 21 SSCI Q2.134, 135-138 (2006).

² Christine Chinkin, *Feminist interventions into International law*, 19 ADEL. L. REV. 13, 18 (1997).

³ Judith Gardam, *Women and the Law of Armed Conflict: Why the Silence?*, 46 INT'L & COMP. L.Q. 55, 77 (1997).

customs and codes, such as the "Laws of Ur-Nammu," and the code of hammurabi⁴ dictated conduct in armed conflicts within ancient civilisations.

3.2.2 Middle Ages: Throughout the Medieval era, although not legally binding, these codes advocated for a degree of compassion during warfare. The notion of chivalry arose, shaping rules of engagement across Europe. Chivalric principles prioritised the humane treatment of prisoners and the injured soldiers.⁵

3.2.3 Geneva Conventions: The mid-19th century witnessed a notable advancement with the inception of the inaugural Geneva Convention in 1864. This convention introduced safeguards for injured soldiers during warfare and set the stage for subsequent conventions. During this period, early humanitarian initiatives like the Red Cross emerged, striving to offer assistance and safeguarding to all casualties of armed conflicts, encompassing women. Nevertheless, dedicated protections for women remained relatively scarce.

3.2.4 Hague Conventions: The process of formalising international law regarding armed conflicts gained traction prior to World War I. The Hague Peace Conferences of 1899 and 1907 played pivotal roles in consolidating customary international practices aimed at mitigating the destructive impacts of war. These conferences made concerted efforts to encapsulate principles guiding hostilities and sought to standardise the laws and traditions of warfare. Addressed topics included the treatment of prisoners, limitations on weaponry, and regulations for occupying powers.⁶

3.2.5 Post-World War II: The aftermath of World War II brought a series of major developments in the laws of armed conflict. The 1949 Geneva Conventions⁷ expanded protections for wounded and shipwrecked individuals and prisoners of war.⁸ The 1949 Conventions also added a new category of civilians in need of protection during armed conflict.⁹ The aftermath of World War II saw the establishment of the Nuremberg and Tokyo Trials, which prosecuted individuals for war crimes and crimes against humanity. The United Nations was also founded in 1945 to promote international cooperation and prevent future conflicts¹⁰.

3.2.6 Additional Protocols: In 1977, two Additional Protocols to the Geneva Conventions were adopted, further elaborating on the protection of civilians and

⁴ Sheng Hongsheng, *The Evolution of Law of War*, 1 CHIN. J. INT. LAW 267, 269-270 (2006).

⁵ Amanda Alexander, *A short history of International Humanitarian Law*, 26 E.J.I.L. 109, 110-115 (2015).

⁶ The Hague Convention, 1899.

⁷ Geneva Conventions I, II, III and IV of 12th August, 1949.

⁸ Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva, 12 August 1949.

⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1).

¹⁰ The United Nations Charter 1945, art 1, 2.

combatants in international and non-international armed conflicts. These protocols introduced new humanitarian rules.¹¹

3.2.7 International Criminal Court (ICC): The establishment of the ICC in 2002 represented a significant advancement in the prosecution of individuals responsible for war crimes, crimes against humanity, and genocide.¹²

3.2.8 Customary International Law: Alongside treaty law, customary international law has played a crucial role in the development of laws governing armed conflict. Customary law consists of practices accepted as legally binding, even without formal treaties.¹³

4. LEGAL FRAMEWORK REGARDING WOMEN IN ARMED CONFLICT IN INDIA

In India, the legal framework related to armed conflict encompasses a combination of domestic laws, international agreements, and customary international law. Here are some key aspects of the law relating to armed conflict in India:

4.1 CONSTITUTION OF INDIA¹⁴

While the Indian Constitution does not specifically address armed conflict, it establishes fundamental rights and principles applicable during such situations. These encompass the rights to life, liberty, and equality as outlined in Articles 14 and 21. Article 51 of the Constitution of India, 1950, mandates the State to strive for the promotion of international peace and security, maintenance of just and honourable relations between nations, and cultivation of respect for international law and treaty obligations in interactions among organised peoples. Additionally, Article 253 empowers the Indian Parliament to enact laws to implement treaties, agreements, or decisions of international conferences, regardless of any constitutional provisions concerning the distribution of legislative authority between Parliament and State legislatures.

4.2 GENEVA CONVENTIONS AND ADDITIONAL PROTOCOLS:

India is a signatory to the four Geneva Conventions of 1949 along with their Additional Protocols I and II, which establish crucial humanitarian principles

¹¹ PROTOCOL ADDITIONAL to THE GENEVA CONVENTIONS OF 12 AUGUST 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF NON-INTERNATIONAL ARMED CONFLICTS (PROTOCOL II), OF 8 JUNE 1977.

¹² Rome Statute of the International Criminal Court, 2002.

¹³ Jean Marie Henckaerts, *International Humanitarian Law as Customary International Law*, 21 RSQ. 186, 187 (2002).

¹⁴ INDIA CONST. art. 14, 21.

governing armed conflicts, including the treatment of wounded and sick individuals, prisoners of war, and the safeguarding of civilians. Furthermore, India has ratified Additional Protocols I and II, providing additional protections. As a result, India enacted the Geneva Convention Act of 1960 to implement the conventions' provisions, particularly concerning the punishment of serious violations and the prevention and punishment of the misuse of symbols like the Red Cross. Chapter 2 of the Geneva Convention Act 1960 delineates penalties for grave breaches committed within or outside India's territory, ranging from death or life imprisonment to imprisonment for up to 14 years, depending on the gravity of the offence.

4.3 ARMED FORCES (SPECIAL POWERS) ACT (AFSPA)¹⁵

This controversial legislation grants special powers to the armed forces in designated "disturbed areas" to maintain public order. Criticised for its human rights implications, especially in conflict-affected regions like Jammu and Kashmir and parts of the Northeast, it disproportionately affects women. Sadly, women often bear the brunt of warfare globally, and India is no exception, with countless instances of women's suffering in conflict zones. The ongoing oppression of women in Kashmir and the northeastern states vividly underscores the grim reality of such conflicts. The provisions of the AFSPA are seen as infringing upon human rights, including those of women. Over time, AFSPA has come to be perceived as a draconian law, with reports of women being subjected to rape, abuse, and torture. However, little has been done to address the plight of these victims, leaving women in extremely vulnerable positions.

4.4 NATIONAL HUMAN RIGHTS COMMISSION (NHRC)¹⁶

The NHRC, an independent statutory body, serves as a watchdog for human rights in the country, encompassing rights such as life, liberty, equality, and dignity as guaranteed by the Indian Constitution or enshrined in international agreements enforceable by Indian courts. Established in accordance with the Paris Principles, adopted to promote and safeguard human rights, and endorsed by the UN General Assembly in December 1993, the NHRC has the authority to monitor and investigate human rights violations during armed conflicts, recommending actions against perpetrators. One of its functions, outlined in Section 12 (i) of the Protection of Human Rights Act, 1993, is to support the efforts of NGOs and institutions engaged in human rights work. Recently, the NHRC received Action Taken Reports from the Manipur government in response to its notices regarding various incidents of violence. The reports indicate several measures taken by the state, including bolstering law

¹⁵ The Armed Forces (Special Powers) Act, 1958, No. 28, Acts of Parliament, 1958 (India).

¹⁶ The Protection of Human Rights Act, 1993, No. 10, Acts of Parliament, 1993 (India).

enforcement and security, establishing relief camps and a peace committee, easing curfews, and gradually restoring internet and banking services, announcing ex-gratia for the families of the dead, compensation packages for the injured, rebuilding of damaged houses.¹⁷

4.5 UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

India adheres to United Nations Security Council (UNSC) resolutions regarding armed conflicts, which can shape its approach to international conflicts and peacekeeping missions. When UNSCR 1325 was adopted, urging parties to armed conflicts to safeguard women and girls from gender-based violence, India maintained that there was no armed conflict within its borders, hence asserting that the principles outlined in UNSCR 1325 pertaining to women in armed conflicts do not apply to India. Under its National Security Law, the Armed Forces Special Powers Act (1958), areas where the Indian government deems it necessary to deploy armed forces to assist civil authorities are designated as 'disturbed areas'. Indian representatives refrained from voting on the Geneva Conventions Additional Protocols II, arguing that internal armed conflict is a matter of 'law and order', and domestic laws should be applied to address these issues. This intricate relationship between the Indian state and peace and security matters within its borders has contributed to its reluctance in drafting a National Action Plan (NAP). However, the Women, Peace and Security agenda's four pillars are clearly relevant to areas where India's Armed Forces are operating.¹⁸

4.6 COUNTERTERRORISM LAWS

India has a comprehensive legal framework to address the menace of terrorism, which poses a significant threat to its national security and stability. The country has enacted several counter-terrorism laws to combat this threat effectively. Among these, the Unlawful Activities (Prevention) Act (UAPA) and the National Investigation Agency (NIA) Act are the primary statutes governing counter-terrorism efforts in India.

4.6.1 Unlawful Activities (Prevention) Act (UAPA)¹⁹, enacted in 1967 and subsequently amended, serves as the cornerstone of India's counter-terrorism

¹⁷ NHRC asks state govt about eight pending cases registered with the commission, THE MINT(May 13, 2024, 11:44 PM), <https://www.livemint.com/news/india/manipur-news-nhrc-asks-state-govt-about-eight-pending-cases-registered-with-the-commission-11697544696979.html>.

¹⁸ What can UNSCR 1325 do for India (May 13, 2024, 11:49 PM), <https://www.gendersecurityproject.com/post/what-can-unscr-1325-do-for-india>.

¹⁹ The Unlawful Activities (Prevention) Act, 1967, No. 37, Acts of Parliament, 1967(India).

legislation. The UAPA provides for the prevention of unlawful activities and the prevention of terrorist acts. It allows for the declaration of individuals and organisations as terrorists or terrorist organisations, thereby enabling the government to take stringent measures against them. Under the UAPA, the government can proscribe organisations, seize assets, and detain individuals suspected of involvement in terrorism-related activities. The Act also empowers law enforcement agencies to intercept communications, conduct searches, and make arrests to prevent terrorist activities. Furthermore, the UAPA allows for the designation of certain individuals as "terrorists," which imposes severe restrictions on their movement, finances, and activities. Designated terrorists face asset freezes, travel bans, and other punitive measures. However, concerns have been raised about the potential misuse of these provisions to target political dissent and minority groups.

4.6.2 National Investigation Agency (NIA) Act²⁰ enacted in 2008, established the National Investigation Agency (NIA), a specialised agency dedicated to investigating and prosecuting terrorism-related offences across India. The NIA has jurisdiction over cases involving terrorist acts, terrorist organisations, and individuals involved in terrorism. The NIA Act also provides for the establishment of special NIA courts to expedite the trial of terrorism cases. The NIA has played a crucial role in investigating several high-profile terrorism cases, including the 2008 Mumbai attacks and the 2019 Pulwama attack. Its specialised capabilities and mandate have strengthened India's capacity to counter terrorism effectively at the national level.

5. CURRENT ISSUES REVOLVING

In recent decades, societies have grappled with challenging times marked by ethnic conflicts and wars. Violence against women and girls is a deeply ingrained and persistent violation of human rights that impacts females of all ages across various societies, regardless of their class, race, ethnicity, religion, immigration status, or sexual orientation. However, violence against women and girls often remains prevalent and, in some cases, is overlooked or underestimated in terms of its economic impact.

5.1 IMPACT OF ARMED CONFLICT ON WOMEN

Armed conflict imposes a severe burden on women, worsening existing gender disparities and exposing them to a range of distinct hardships. Women often endure the brunt of physical and sexual violence, including rape, sexual slavery, and coerced prostitution, tactics employed as tools of war. Conflict-induced upheaval frequently results in displacement, with women and children constituting a significant portion of those forced to flee, making them

²⁰ The National Investigation Agency Act, 2008, No. 34, Acts of Parliament, 2008 (India).

vulnerable to exploitation and trafficking. Access to healthcare becomes precarious, leading to increased maternal mortality and inadequate medical attention, alongside a rise in mental health issues such as trauma and depression. Economic stability crumbles as conflict disrupts livelihoods, limiting women's access to employment and financial autonomy.

5.2 ASSESSING THE EFFICACY OF CURRENT LEGAL FRAMEWORK RELATING TO ARMED CONFLICT

Research on violence against women in conflict is a rich area of study. Initially addressed by International Humanitarian Law (IHL), it later came under scrutiny within the framework of individual criminal responsibility by ad hoc criminal tribunals, and subsequently drew the attention of human rights lawyers regarding women's rights implications in warfare. Examining the protection of women in armed conflict requires an exploration of relevant legal instruments that establish the foundation for safeguarding women during conflicts and how these protections are institutionalised.

5.3 EVALUATING THE EFFECTIVENESS OF INDIA'S LEGAL STRUCTURE CONCERNING ARMED CONFLICT-

5.3.1 India's laws concerning armed conflict are considered inadequate because it has not ratified Additional Protocols (APs) I and II. Despite participating in various weapons treaties, India's approach during negotiations and subsequent actions may appear inconsistent if it views provisions on warfare means and methods as obstacles to ratifying the APs. India's argument that internal conflicts should be resolved domestically except for national liberation movements faces challenges on two fronts. Firstly, confining non-international armed conflicts (NIAC) solely to national liberation movements is both factually incorrect and conceptually narrow, as NIAC can stem from various causes such as ethnic tensions, civil wars, ideological movements (e.g., Maoist movements), and disputes over natural resources. Secondly, the application of International Humanitarian Law (IHL) is primarily determined by the severity of the conflict and its humanitarian impact²¹.

5.3.2 India's lack of formal adherence to the 1951 Refugee Convention and its 1967 Protocol creates a gap in national refugee protection. Instead, the UNHCR office in New Delhi handles refugee status determination for asylum-seekers from non-neighbouring nations and Myanmar, resulting in different levels of protection and assistance among refugee groups. While Tibetans and Sri Lankan refugees receive government support, others, such as those from Afghanistan and Myanmar, rely on UNHCR. Living in urban areas, refugees

²¹ Quraishi “*Violence against women during Armed Conflict*” 39 CSLR 24, 24-36 (2013).

often face poverty, violence, and exploitation without legal employment rights, resorting to informal jobs. Women and children are particularly vulnerable to gender-based violence due to shared living spaces caused by high accommodation costs.

5.4 HOW INTERNATIONAL HUMANITARIAN LAW RESPONDS TO RIGHTS OF WOMEN IN ARMED CONFLICT

5.4.1 The General Assembly, after reviewing the Economic and Social Council's recommendation in resolution 1861 (LVI) of May 16, 1974, expresses profound concern for the suffering of women and children during emergencies and armed conflicts. It acknowledges the widespread hardships faced by women and children, particularly in regions under suppression, aggression, colonialism, racism, alien domination, and foreign subjugation. The Assembly recalls previous resolutions and international humanitarian laws aimed at protecting women and children in times of peace and war. It emphasises the importance of safeguarding women and children in civilian populations and declares this Declaration on their protection, urging all Member States to adhere strictly to its principles. The Declaration prohibits attacks and bombings on civilians, condemns the use of chemical and bacteriological weapons, and calls for full compliance with international humanitarian laws. It mandates efforts to spare women and children from the horrors of war, criminalises repression and inhumane treatment, and ensures the protection of their rights in accordance with international laws and declarations.

5.4.2 Treatment of women combatants and prisoners of war

General protection : To the extent that women are entitled to treatment as favourable as that given to men, they have the right to equal protection. In times of international armed conflict, it's prohibited to declare no quarter, threaten the enemy with such action, or conduct hostilities to ensure no survivors. Also, those who are incapacitated, surrendered, or surrendered intent, as well as those who parachuted from a distressed aircraft, should not be attacked. The Third Convention mandates humane treatment of prisoners of war, prohibiting physical mutilation and unjustified medical experiments. Prisoners shouldn't be needlessly exposed to danger while awaiting evacuation. Those participating in hostilities but not classified as prisoners of war should generally be treated according to the Fourth Convention, except for spies or saboteurs who still must be treated humanely under fundamental guarantees.

Special protection : In addition to the equal treatment enjoyed by women alongside men, they also receive special protection based on the aforementioned principles. In times of international armed conflict, Protocol I outlines that "pregnant women and mothers with dependent infants who are arrested,

detained, or interned due to the armed conflict, shall have their cases prioritised to the highest degree" (Article 76, paragraph 2). This aligns with the earlier discussed principle regarding the safeguarding of women as part of the civilian population. The creators of the Protocol aimed to ensure the swift release of pregnant women and mothers of young children.

5.5 ICRC ACTION IN FAVOUR OF WOMAN VICTIMS OF ARMED CONFLICTS

The principle of equal treatment is complemented by the principle of giving women due consideration based on their gender, encompassing aspects like physiological differences, honour, modesty, pregnancy, and childbirth. International humanitarian law acknowledges specific provisions for women, sometimes explicitly mentioning separate accommodations and facilities. However, the absence of explicit mention doesn't negate the applicability of differentiated treatment, as it's often implied. For instance, while labor rights for female prisoners of war are highlighted, they are not explicitly mentioned for female internees. Similarly, while searching procedures for female prisoners of war are specified, they are not explicitly mentioned for female internees. These differences arise from practical considerations such as immediate security needs during capture and the optional nature of labor for civilian internees.

5.5.1 ICRC ACTIVITY AFTER WORLD WAR II

Since the adoption of the Fourth Geneva Convention in 1949, which pertains to the safeguarding of civilian individuals during wartime, the ICRC has been empowered to advocate for them, alongside prisoners of war. With the proliferation of conflicts in recent years, the ICRC's efforts in protecting and aiding civilian populations have escalated. Noteworthy among these endeavours are certain repatriations that illuminate the special protections afforded to women affected by armed conflicts. In November 1974, during the Cyprus conflict, the ICRC facilitated the transfer of particularly vulnerable individuals, including the wounded, sick, elderly, pregnant women, and their children, between the northern and southern regions. In Uganda in 1980, the ICRC urged authorities to investigate the condition of civilian detainees and release specific groups, such as minors, the elderly, the infirm, and women. These requests were honoured by the authorities. Regarding relief efforts, women were prioritised in assistance actions conducted by the ICRC for civilian populations. For instance, in Bangladesh in 1972, impoverished Pakistani civilians, predominantly women and children, received essential items such as clothing, blankets, soap, cooking utensils, and powdered milk. The ICRC has frequently intervened on behalf of incarcerated women, advocating for differentiated treatment such as separate accommodations and oversight by female personnel. Notable instances include regular visits by ICRC delegates to women arrested in Lebanon until their

release in November 1983, and the transfer of four young Iranian women, captured in October 1980, to a prisoner-of-war camp at the request of the ICRC, culminating in their release in January 1984. In both conflict and internal disorder situations, ICRC delegates persist in visiting places of detention to ensure humanitarian standards are upheld.

6. CONCLUSION AND SUGGESTIONS

Various entities, such as the Canadian Government, the UN Division for the Advancement of Women, and the UNHCR, are engaged in these efforts. Merely integrating women into post-conflict resolution or peace building initiatives, often referred to as "add women and mix," has proven ineffective in bringing about meaningful change in existing structures. Anne Gallagher proposes a new approach called "transformative mainstreaming," aimed at achieving fundamental change in mainstreaming gender perspectives in the human rights field. The assumption that women are inherently more peaceful and cooperative than men, which underlies many initiatives, perpetuates limiting stereotypes and fails to acknowledge women's diverse potentials. A more justifiable reason for including women in these activities is the principle of justice, as they are directly affected by the decisions made. Focusing attention on women's roles beyond traditional stereotypes, such as mothers and sexual objects, is beneficial. Comprehensive guidelines for the treatment of women in armed conflict could be developed under the auspices of the ICRC. Additionally, there is a need for a forum to discuss improving the protection of women in armed conflict, as current efforts by various governmental and non-governmental bodies are disjointed and require coordination. IHL is an ancient, conservative, and relatively inflexible area of International law. The number of challenges posed to its relevance and effectiveness in the last half century has been bewildering. It now must meet the demands of women to truly reflect their life experiences. The ICRC is finally recognising the need to address the specific needs of women in armed conflict. However, a serious commitment to real change is needed. As the traditional guardian of IHL, the ICRC must take concrete steps to make the law relevant to the lives of the majority of the world's population.

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