

# Closing the Protection Gap: A Critical Appraisal of the Legal Framework Governing Humanitarian Relief Personnel in Non-International Armed Conflicts

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## Abstract

Humanitarian relief personnel operating in non-international armed conflicts face heightened risks due to the fragmented and limited scope of existing legal protections. This study critically examines the adequacy of the international legal framework governing the protection of these personnel, with a focus on identifying gaps and assessing the effectiveness of applicable norms. Anchored in legal positivist theory and supplemented by the protection gap framework, the study adopts a doctrinal legal research methodology, analyzing treaties, customary international humanitarian law, and domestic legislation. The findings reveal that protection for humanitarian relief personnel is largely indirect and fragmented, arising from the limited applicability of treaty law, inconsistencies in customary law, and weak domestic enforcement mechanisms. These gaps expose humanitarian personnel to significant risks and perpetuate impunity for violations committed against them. The study concludes that closing the protection gap requires clearer normative standards, stronger domestic incorporation of international obligations, and more effective accountability mechanisms. By applying a theory-driven lens, this research not only evaluates the current legal framework but also contributes to scholarly and policy debates on enhancing the protection of humanitarian actors in contemporary armed conflicts.

**Keywords:** non-international armed conflict, protection, legal framework, humanitarian relief personnel, legal framework

## 1. Introduction

The protection of humanitarian relief personnel in situations of armed conflict has emerged as one of the most pressing concerns of international humanitarian law (IHL). While the 1949 Geneva Conventions were drafted primarily against the backdrop of inter-state conflicts, the post-Cold War era has been characterized by the proliferation of non-international armed conflicts (NIACs), which now constitute the dominant form of warfare worldwide.<sup>1</sup> Humanitarian actors, ranging from the International Committee of the Red Cross (ICRC) to non-governmental organizations, frequently operate in such environments, where they face heightened risks of deliberate attacks, abductions, and restrictions on access.<sup>2</sup> The legal framework governing their protection in NIACs, however, remains considerably less developed than in international armed conflicts (IACs).

Under the 1949 Geneva Conventions, the protections afforded to humanitarian relief personnel are robustly

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<sup>1</sup> Sandesh Sivakumaran, (2012). *The Law of Non-International Armed Conflict*. Oxford: Oxford University Press, p. 5.

<sup>2</sup> Elizabeth G. Ferris, (2011). *The Politics of Protection: The Limits of Humanitarian Action*. Washington D.C: Brookings Institution Press, p. 89.

articulated in the context of IACs, particularly within the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), Articles 23 and 59,<sup>1</sup> and Additional Protocol I (1977), Articles 70–71.<sup>2</sup> By contrast, the provisions applicable to NIACs primarily encapsulated in Common Article 3 to the four Geneva Conventions of 1949 and in Additional Protocol II (1977), Articles 18(1)–(2) are markedly limited in both scope and precision. This asymmetry has raised critical concerns about the adequacy of the existing legal regime in ensuring the safety and operational effectiveness of humanitarian relief personnel in intrastate conflicts.<sup>3</sup>

Moreover, the practical challenges of securing state consent, coupled with the rise of non-state armed groups, exacerbate the vulnerability of such personnel. As Sassòli notes, “humanitarian organizations are often viewed with suspicion by governments and armed groups alike, blurring the line between neutral humanitarian assistance and perceived political interference.”<sup>4</sup> The jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY), particularly in *Prosecutor v. Tadić* (IT-94- 1, Decision of 2 October 1995),<sup>5</sup> confirmed the applicability of Common Article 3 to NIACs, yet the protection of humanitarian personnel remains precarious, with enforcement mechanisms often ineffective.

This article critiques the protection of humanitarian relief personnel in NIACs under the 1949 Geneva Conventions, situating the discussion within the broader framework of IHL’s evolution and its gaps in addressing contemporary conflict dynamics. It interrogates whether the minimalistic safeguards under Common Article 3 and Additional Protocol II provide sufficient legal clarity and practical protection, or whether a normative lacuna persists that undermines both humanitarian access and the principle of humanity itself. By engaging with treaty law, jurisprudence, and scholarly commentary, the analysis seeks to illuminate the enduring tension between state sovereignty and humanitarian imperatives in NIACs, and to assess the need for strengthening the legal protection of humanitarian personnel in such contexts.

## 2. Conceptual Clarifications

Conceptual clarifications in this study are essential to define key terms such as: protection gap, critical appraisal, legal framework, humanitarian personnel, and Non-International Armed conflicts. This helps to frame the research by reducing ambiguity and guiding the critical analysis of existing legal protections in non-international armed conflicts. Each of these concepts shall be examined seriatim.

### 2.1 Protection Gap

From an international humanitarian law perspective, a protection gap refers to the *discrepancy between the protection that individuals, such as humanitarian relief workers are entitled to under international norms and the protection they actually enjoy in practice*.<sup>6</sup> This gap emerges when existing legal rules are incomplete, insufficiently implemented, or impossible to enforce, particularly in non-international armed conflicts where state control is weak, and non-state armed groups are unpredictable. In this view, the “protection gap” highlights the space between normative protection and operational reality, revealing where humanitarian personnel remain vulnerable despite existing legal frameworks.

In humanitarian policy literature, a protection gap is defined as the *failure of national, regional, or international protection systems to provide the level of safety, rights guarantees, and practical security that affected persons require*.<sup>7</sup> It represents the distance between needs-based protection and the protection actually delivered—a gap caused by weak legal regimes, capacity limitations, political constraints, or operational barriers. When applied to humanitarian relief workers in non-international armed conflict, this definition underscores how inadequate laws, poor enforcement, or limited access leave aid personnel exposed to risks that the existing legal framework fails to prevent or remedy.

### 2.2 Critical Appraisal

A critical appraisal is the *systematic, structured, and objective evaluation of the strengths, weaknesses, credibility, and relevance of existing legal or scholarly materials*. It involves examining the reliability of

<sup>1</sup> Article 23 and 59 of the Fourth Geneva Conventions 1949.

<sup>2</sup> Article 70-71 of Additional Protocol I 1977.

<sup>3</sup> Rachel Murray, (2016). *Humanitarian Protection in Non-International Armed Conflicts*. Cambridge: Cambridge University Press, p. 42.

<sup>4</sup> Marco Sassoli, (2019). *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*. Cheltenham and Northampton: Edward Elgar Publishing, p. 375.

<sup>5</sup> *Prosecutor v. Tadić* (IT-94- 1, Decision of 2 October 1995).

<sup>6</sup> International Committee of the Red Cross (ICRC), (2018). *The roots of restraint in war*. ICRC.

<sup>7</sup> United Nations High Commissioner for Refugees (UNHCR), (2013). *The state of the world’s refugees 2012: In search of solidarity*. Oxford University Press.

evidence, the soundness of arguments, methodological rigor, and the validity of underlying assumptions.<sup>1</sup> Within legal scholarship, critical appraisal requires the researcher to move beyond mere description by interrogating how well a legal framework functions in practice, how coherent its rules are, and whether it adequately protects the individuals for whom it was designed.

Also, critical appraisal is the process of carefully and deliberately assessing research, laws, or policies to determine their quality, effectiveness, limitations, and applicability to a specific problem. This includes evaluating logical consistency, evidentiary support, normative adequacy, and practical outcomes.<sup>2</sup> When applied to legal frameworks-such as those governing humanitarian relief personnel in non-international armed conflicts-it requires identifying gaps, contradictions, implementation challenges, and areas where the law fails to meet protection needs.

### 2.3 Legal Framework

Within legal scholarship, the term legal framework denotes the structured body of laws, principles, institutions, and enforcement mechanisms that collectively regulate a particular subject matter. Hans Kelsen, in his theory of normative legal order, conceptualizes a legal framework as a *hierarchically organized system of legal norms*, where each rule derives its validity from a higher norm and ultimately from a foundational legal authority.<sup>3</sup> From this perspective, a legal framework is not merely an aggregation of rules but a coherent normative system designed to guide conduct, allocate responsibilities, and ensure accountability. Applied to the protection of humanitarian relief workers in non-international armed conflicts, this understanding directs attention to the coherence, hierarchy, and normative consistency of international humanitarian law, human rights law, and relevant domestic legislation.

Complementing this normative conception, Ian Brownlie defines a legal framework as the *ensemble of legal rules, principles, and institutional practices through which international obligations are created, interpreted, and enforced*.<sup>4</sup> This approach emphasizes functionality and effectiveness, focusing on how legal norms operate in practice rather than their formal existence alone. In the context of humanitarian protection, this understanding highlights the interaction between treaty law, customary international law, judicial and quasi-judicial bodies, and state practice. When critically appraised, the legal framework governing humanitarian relief personnel in non-international armed conflicts must therefore be assessed not only on its doctrinal completeness but also on its capacity to deliver real and enforceable protection in complex conflict environments.

### 2.4 Humanitarian Relief Personnel

A humanitarian relief worker is someone who is dedicated to providing assistance and support to people affected by disasters, crises, conflicts, or other emergencies. This professional works for various organizations, both governmental and non-governmental, to deliver aid and alleviate suffering in regions that have experienced significant upheaval or hardship.<sup>5</sup> Humanitarian relief workers are individuals who provide humanitarian aid to those affected by crises, with the aim of saving lives, alleviating suffering, and maintaining human dignity.<sup>6</sup> “A relief worker is person who provides humanitarian aid, such as food, shelter, and medical care, in response to a natural disaster, armed conflict, or other crisis.”<sup>7</sup> Relief personnel are persons assigned exclusively to render relief services or duties, whether such assignments are permanent or temporary. Such relief purposes include: the search for, collection, transportation, diagnosis, or treatment-including first aid treatment of the wounded, sick, and shipwrecked; the preservation of disease; the management and administration of medical units or means of transportation.<sup>8</sup>

### 2.5 Non-International Armed Conflict (NIAC)

A non-international armed conflict (NIAC) is any armed conflict that is not between two or more states. This

<sup>1</sup> Booth, W. C., Colomb, G. G., & Williams, J. M., (2008). *The craft of research* (3rd ed.). University of Chicago Press.

<sup>2</sup> Greenhalgh, T., (2014). *How to read a paper: The basics of evidence-based medicine* (5th ed.). BMJ Books.

<sup>3</sup> Kelsen, H. (Hans), (1967). *Pure theory of law* (2nd ed.). University of California Press.

<sup>4</sup> Brownlie, I. (Ian), (2008). *Principles of public international law* (7th ed.). Oxford University Press.

<sup>5</sup> Mandy k. Cohen, Humanitarian Aid Workers. Available Online at: <https://wwwnc.cdc.gov/humanitarianaidworkers>. (Accessed on June 17<sup>th</sup>, 2024).

<sup>6</sup> Slim Hugo, (2025). *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*. Britain: Hurst Publishers, p. 12.

<sup>7</sup> Bryan A. Garner, (2024). *Black's Law Dictionary*, 12<sup>th</sup> Edition, p. 1434.

<sup>8</sup> The 1949 Geneva Conventions and their Additional Protocols 1977.

means that at least one of the parties to the conflict will be a non-state organized armed group.<sup>1</sup> This requires looking at the level of organization of an armed group, for example, whether the organization has formed itself into a military-like structure with defined units and insignia and has an established command structure and an internal disciplinary system. There is a minimum threshold of intensity of violence for a NIAC to exist and for International Humanitarian Law to apply. The threshold or factors that are relevant to whether there is a sufficient level of intensity of violence include:

- The frequency of the clashes and the number of the fighters involved;
- The number of civilian or military casualties;
- The extent of displacement of people as a result of the conflict;
- The use of military weapons such as aircraft, artillery or armored vehicles;
- The deployment of the armed forces, as opposed to law enforcement; and
- Any discussion of the situation or actions taken by international bodies, such as the United Nations (UN) Security Council or the UN General Assembly.<sup>2</sup>

Determining whether a situation is an armed conflict and which type it is requires a legal test that is applied based on an assessment of the factual context (what is happening on the ground) and not what the parties claim to be the situation. Situations are often fluid, meaning that a situation that does not amount to an armed conflict (due to the level of organization or level of violence) can become an armed conflict over time.<sup>3</sup>

Internal disturbances and tensions (such as riots, isolated and sporadic acts of violence, or other acts of a similar nature) do not amount to a non-international armed conflict.<sup>4</sup> Non-international armed conflict, also referred to as internal armed conflicts represent the vast majority of armed conflicts in today's world.<sup>5</sup> Generally, non-international armed conflicts takes place within the boundaries of a State and comprise of armed conflicts between a State and armed groups or among armed groups that do not operate under the State's authority.<sup>6</sup> The primary and the most important difference between an international and non-international armed conflicts is due the actors who take part in them. Traditionally, international armed conflicts are fought between the States, which is not the case in non-international armed conflicts. The development of law regulating non-international armed conflicts grew in a slower pace compared to that of international armed conflict. States were reluctant for any kind of regulation due to a perception that it would constitute a violation of its sovereignty and interference in its domestic affairs.<sup>7</sup>

From a convention/treaty based perspective, Common Article 3 contains the minimum guarantees applicable in armed conflicts that do not have an international character. This article does not provide any specific definition of this type of armed conflict. Common Article 3 simply refers to "the case of armed conflict not of an international character<sup>8</sup> occurring in the territory of one of the High Contracting Parties" without giving any specific definition. To determine the existence of a non-international armed conflicts in the sense of Common article 3 to the Geneva Conventions, it is necessary to examine two elements of the conflicts: its intensity and organization of the parties to the conflict.

From a jurisprudential perspective, the Appeal Chamber of the International Criminal Tribunal for the Former Yugoslavia (hereinafter "ICTY"), the *Tadic* case referred to non-international armed conflict as a situation of "protracted armed violence between government authorities and organized armed groups or between such groups within the State".<sup>9</sup> Article 8(2)(f) of the Statute of the International Criminal Court also accepts this test and excludes, "situation of internal disturbances and tensions such as riots, isolated and sporadic acts of violence or

<sup>1</sup> Sarah Williams *et al*, (2021). *International Humanitarian Law: A Handbook for Commonwealth Parliamentarians*. London: Commonwealth Parliamentary Association Press, p. 13.

<sup>2</sup> *Ibid*.

<sup>3</sup> *Ibid*.

<sup>4</sup> Michael Schmitt *et al*, (2006). *The Manual on the Law of Non-International Armed Conflict with Commentary*. Oxford: International Institute of Humanitarian Law, p. 2.

<sup>5</sup> Sandesh Sivakumaran, (2011). Re-envisioning the International Law of Internal Armed Conflicts. *European Journal of International law*, 12, pp. 219-225, p. 219.

<sup>6</sup> Dieter Fleck, (2008). *The Handbook of International Humanitarian Law*. Oxford: Oxford University Press, p. 605.

<sup>7</sup> *Ibid*.

<sup>8</sup> *Ibid*.

<sup>9</sup> The Prosecutor v. Dusko Tadic, decision on the motion of interlocutory appeal on jurisdiction, IT-94-1-AR72.

other acts of similar nature” from the purview of non-international armed conflicts.

### 3. Methodology

This study adopts a doctrinal legal research methodology. Doctrinal research method is research into the law and legal concepts. Doctrinal legal research relies on a qualitative analysis of primary and secondary legal sources to examine the legal framework governing the protection of humanitarian relief personnel in non-international armed conflicts. Primary sources include case law, international treaties (such as the UN Charter, the Geneva Conventions 1949, Additional Protocols I and II 1977 and Common Article 3 to the Geneva Conventions 1949), customary international humanitarian law, and relevant judicial decisions, while secondary sources consists of scholarly articles, textbooks, newspapers, online sources, and reports by international organizations. Through critical interpretation, the study identifies normative gaps and assesses the adequacy of existing legal protections, with a view to proposing informed legal reforms. Relevant literatures were also consulted from libraries appropriate in enabling and fine-tuning the researcher’s study.

The doctrinal legal research methodology is adopted because the study is primarily concerned with the analysis and interpretation of existing legal norms governing the protection of humanitarian relief personnel in non-international armed conflicts. This methodology is best suited for examining treaties, customary international law, judicial decisions, and scholarly writings in order to identify gaps, inconsistencies, and inadequacies within the current legal framework. It enables critical normative evaluation and supports well-reasoned legal arguments and reform proposals, while ensuring doctrinal coherence, academic rigor, and alignment with the established methodological practice of scholars in international humanitarian law.

### 4. Theoretical Framework

This study is anchored in legal positivist theory, supplemented by the protection gap framework, to critically assess the adequacy of the legal regime governing the protection of humanitarian relief personnel in non-international armed conflicts.

Legal positivist theory is principally associated with John Austin, Hans Kelsen, and H. L. A. Hart. Austin conceptualized law as a command of the sovereign backed by sanctions.<sup>1</sup> Kelsen later advanced a normativist understanding of law as a hierarchical system of norms deriving validity from a foundational basic norm (*Grundnorm*).<sup>2</sup> Hart further refined legal positivism by distinguishing between primary and secondary rules and introducing the rule of recognition as the basis of legal validity.<sup>3</sup> Collectively, these scholars emphasize that the validity of law depends on its formal sources rather than its moral content.

Within the context of international humanitarian law, legal positivism provides an appropriate framework for examining the law *as it is* (*lex lata*). Accordingly, this study analyzes binding legal instruments such as the Geneva Conventions, Additional Protocol II, and rules of customary international humanitarian law as recognized sources of law. The positivist approach enables a systematic evaluation of whether existing legal norms expressly define the status of humanitarian relief personnel, establish clear protective obligations, and provide enforceable mechanisms applicable to non-international armed conflicts.

To complement this doctrinal analysis, the study adopts the protection gap framework, a concept widely employed in humanitarian and international humanitarian law scholarship. The framework has been developed and applied by scholars such as Hugo Slim<sup>4</sup> and Andrew Clapham,<sup>5</sup> and is reflected extensively in the work and policy discourse of the International Committee of the Red Cross (ICRC).<sup>6</sup>

The protection gap framework highlights situations where legal norms exist but are insufficiently articulated, narrowly applicable, or poorly enforced, resulting in a discrepancy between formal legal protection and the lived realities of affected persons.

In the context of non-international armed conflicts, this framework is particularly relevant, as humanitarian relief personnel are formally classified as civilians yet continue to face targeted attacks, insecurity, and widespread impunity. By integrating legal positivism with the protection gap framework, this study is able to identify both normative deficiencies and implementation failures within the existing legal regime. This combined theoretical

<sup>1</sup> Austin, J., (1995). *The province of jurisprudence determined*. Cambridge University Press (Original work published 1832).

<sup>2</sup> Kelsen, H., (1967). *Pure theory of law* (M. Knight, Trans.). University of California Press.

<sup>3</sup> Hart, H. L. A., (2012). *The concept of law* (3rd ed.). Oxford University Press.

<sup>4</sup> Slim, H., (2001). *Violence and humanitarianism: Moral paradox and the protection of civilians*. Oxford University Press.

<sup>5</sup> Clapham, A., (2006). *Human rights obligations of non-state actors*. Oxford University Press.

<sup>6</sup> International Committee of the Red Cross, (2015). *International humanitarian law and the challenges of contemporary armed conflicts*. ICRC.

approach provides a coherent foundation for assessing the effectiveness of current protections and for proposing reforms aimed at closing the protection gap affecting humanitarian relief personnel in non-international armed conflicts.

## 5. The Role of Humanitarian Relief Personnel in Armed Conflicts

Humanitarian relief personnel play a crucial role in armed conflicts by providing life-saving assistance such as food, shelter, medical care to affected populations, and a host of others. They act as neutral and impartial agents, ensuring protection and dignity for civilians caught in the crossfire. Their presence also helps to uphold international humanitarian law and bridge gaps between warring parties for the sake of humanity. Aforementioned roles of humanitarian relief personnel and more are chronologically going to be examined seriatim.

### a) Provision of Life-Saving Assistance

Humanitarian relief personnel play a crucial role in ensuring the survival of civilians by providing essential services such as food, clean water, shelter, and medical care. They ensure that vulnerable groups including children, pregnant women, the elderly, and the injured receive immediate support to sustain life amidst the destruction of armed conflicts. This role is guided by the fundamental principles of international humanitarian law, which obligate parties to a conflict to allow the delivery of essential supplies to affected populations.<sup>1</sup> Kwebe emphasizes that in regions affected by armed conflict, humanitarian workers are the main conduit through which basic needs are met, often under challenging and insecure conditions.<sup>2</sup>

### b) Protection and Advocacy for Civilians

Humanitarian personnel act as intermediaries between warring parties and civilian populations, advocating for the protection of civilians and ensuring that international humanitarian law is respected. They negotiate safe humanitarian corridors, monitor violations, and remind belligerents of their legal obligations.

Beyond delivering aid, humanitarian workers serve as moral and legal agents, representing the interests of civilians in complex conflict environments where parties may seek to manipulate or obstruct relief operations.<sup>3</sup> This protective role is essential for maintaining civilian safety and promoting compliance with the Geneva Conventions.<sup>4</sup>

### c) Medical and Health Support

Providing medical assistance is a core function of humanitarian relief personnel. They administer emergency healthcare, vaccination campaigns, treatment for injuries, and disease prevention programs in conflict zones. Scholars such as Terry highlight that medical relief not only saves lives but also prevents the breakdown of public health systems in conflict-affected areas.<sup>5</sup> This role often requires negotiating access with multiple armed groups while maintaining the neutrality and impartiality necessary for operational effectiveness.<sup>6</sup>

### d) Restoration of Essential Services and Community Resilience

In addition to immediate relief, humanitarian personnel contribute to the rebuilding of communities by restoring schools, hospitals, and infrastructure damaged during conflicts. They also provide psychosocial support, helping populations recover from trauma and fostering resilience in post-conflict settings. Slim emphasizes that this dimension of humanitarian work underscores the ethical responsibility of aid workers to address both material and psychological needs, ensuring a holistic approach to human welfare.<sup>7</sup> Augustine reinforces that in fragile conflict zones, the capacity of humanitarian workers to rebuild basic services directly impacts the long-term survival and well-being of communities.<sup>8</sup>

### e) Legal and Ethical Oversight

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<sup>1</sup> Article 23 of the Fourth Geneva Convention 1949.

<sup>2</sup> Augustine, Kwebe, (2024). Prospects and Challenges of the Protection of Humanitarian Relief Workers in the Underway Armed Conflicts in the Northwest and Southwest Regions of Cameroon. *International Journal of Research and Innovation in Social Science*, 8.

<sup>3</sup> *Ibid.*

<sup>4</sup> Ferris, Elizabeth G, (2011). *The Politics of Protection: The Limits of Humanitarian Action*. Washington D.C: Brookings Institute Press, p. 79.

<sup>5</sup> Terry, Fiona, (2002). *Condemned to Repeat? The Paradox of Humanitarian Action*. Ithaca: Cornell University Press, p. 45.

<sup>6</sup> *Ibid.*

<sup>7</sup> Slim, Hugo, (2019). *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*. Oxford: Oxford University Press, p. 112.

<sup>8</sup> *Ibid.*

Humanitarian relief personnel embody the ethical principles of humanity, neutrality, impartiality, and independence. They document human rights abuses and violations of IHL, serving as witnesses and advocates for accountability. According to Sassòli, humanitarian workers bridge the gap between legal norms and operational realities, ensuring that the protections granted under international law translate into practical assistance for civilians.<sup>1</sup> Humanitarian relief personnel ethical guardians are particularly important in regions where enforcement mechanisms are weak and civilians are at high risk of abuse.

## 6. The Legal Framework Protecting Humanitarian Relief Personnel in No-International Armed Conflicts

In non-international armed conflicts, humanitarian relief workers operate in some of the most perilous environments, where the line between civilian and combatant is often blurred. To safeguard their mission of alleviating human suffering, international humanitarian law establishes a legal framework that grants them protection, ensuring respect for their neutrality and safety. This framework is anchored in the Geneva Conventions and their Additional Protocols, which prohibit attacks against relief personnel and guarantee their access to populations in need.

### 6.1 The Geneva Conventions 1949

The Geneva Conventions of 1949, together with their Additional Protocols of 1977, constitute the bedrock of international humanitarian law (IHL). Their overarching objective is to mitigate the effects of armed conflict by safeguarding persons who are not, or are no longer, directly participating in hostilities. Within this protective regime, humanitarian relief personnel occupy a crucial position, since they function as intermediaries whose sole mandate is to alleviate human suffering. Their role is especially significant in non-international armed conflicts (NIACs), which today account for the majority of contemporary conflicts. Yet, paradoxically, the Geneva framework affords humanitarian relief workers more elaborate and comprehensive protections in international armed conflicts (IACs) than in NIACs. This asymmetry creates both normative and practical difficulties in ensuring the safety and operational independence of humanitarian personnel.

Geneva Convention IV (1949) was crafted to address the harsh realities of international armed conflicts, offering robust protection to civilians and humanitarian relief personnel caught in the crossfire of wars between states. It enshrines their right to humane treatment, shields their dignity, and guarantees the unimpeded delivery of essential relief such as food, medicine, and shelter. Key provisions include Article 23,<sup>2</sup> which ensures the free passage of relief consignments; Articles 27–34,<sup>3</sup> which protect civilians, including humanitarian personnel from violence, intimidation, or reprisals; and Articles 59–62, which obligate occupying powers to facilitate relief schemes.<sup>4</sup> The Convention also explicitly recognizes the role of impartial humanitarian organizations, such as the ICRC, guaranteeing that their staff can operate safely and independently. While the Convention does not formally extend to non-international armed conflicts, its core principles have transcended this limitation. In such conflicts, humanitarian relief workers are primarily protected under Common Article 3 of the Geneva Conventions, which ensures humane treatment and prohibits violence against those not participating in hostilities, and Additional Protocol II (1977), which allows impartial humanitarian organizations to carry out relief operations with the consent of the parties involved. Together, these instruments supplemented by customary international law provide a coherent legal framework that safeguards humanitarian personnel, preserves their neutrality, and facilitates the life-saving delivery of aid even in the most volatile internal conflicts.

### 6.2 Common Article 3 of the Geneva Conventions 1949

Common Article 3 to the four Geneva Conventions<sup>5</sup> is often described as a “mini-convention” applicable to NIACs. It lays down fundamental guarantees for “persons taking no active part in hostilities, including members of armed forces who have laid down their arms and those placed hors de combat.” Although the article does not explicitly reference humanitarian personnel, its protective ambit unquestionably extends to them, since relief workers are civilians who refrain from direct participation in hostilities.

Under Common Article 3, humanitarian relief personnel are shielded from:

- Violence to life and person, including murder, mutilation, cruel treatment, and torture;
- Outrages upon personal dignity, particularly humiliating and degrading treatment;
- The taking of hostages; and

<sup>1</sup> *Ibid.*

<sup>2</sup> Article 23 of Geneva Convention IV 1949.

<sup>3</sup> Article 27-34 of Geneva Convention IV 1949.

<sup>4</sup> Article 59-62 of Geneva Convention IV 1949.

<sup>5</sup> Common Article 3 to the 1949 Geneva Conventions.

- The passing of sentences and executions without a fair trial by a regularly constituted court.<sup>1</sup>

This provision ensures that humanitarian personnel cannot lawfully be subjected to targeted killings, arbitrary detention, or degrading mistreatment by either state armed forces or organized armed groups.

Critically, while Common Article 3 constitutes a milestone in humanizing NIACs, its language is broad and abstract. It offers only implicit protection to humanitarian workers, with no provision tailored to their distinct vulnerabilities such as the risk of abduction, obstruction of access, or deliberate targeting. Consequently, while indispensable, Common Article 3 cannot be regarded as a comprehensive shield for humanitarian personnel.

### 6.3 *Additional Protocol II*

The adoption of Additional Protocol II (AP II) in 1977 represented an effort to supplement and expand upon the skeletal provisions of Common Article 3. AP II specifically addresses situations of protracted NIACs occurring on the territory of a High Contracting Party, involving state forces and organized armed groups.

Two provisions of AP II are of particular relevance:

- Article 13 – Protection of the Civilian Population: Civilians “shall not be the object of attack.” Since humanitarian personnel retain their civilian character, they are entitled to protection from direct or indiscriminate attacks, unless they engage in acts amounting to direct participation in hostilities. This provision thus reinforces their civilian immunity.<sup>2</sup>
- Article 18 – Relief Societies and Relief Actions: Paragraph (2) stipulates that “relief actions... shall be undertaken subject to the consent of the High Contracting Party concerned.” This clause recognizes the necessity of impartial humanitarian assistance but conditions its delivery on the political will of the state.<sup>3</sup>

Critically, while AP II represents progress by explicitly mentioning humanitarian relief actions, it remains deeply constrained. First, humanitarian personnel are not accorded a special legal status; their protection remains derivative of their civilian status. Second, the consent requirement under Article 18(2) effectively grants states a veto power, enabling them to obstruct or deny humanitarian operations under the guise of sovereignty or security concerns. This undermines the neutrality and independence of humanitarian action and often exposes relief personnel to accusations of illegitimacy or even collaboration with insurgent forces.<sup>4</sup>

### (i) **The Asymmetry with International Armed Conflicts**

A striking critique of the Geneva framework lies in the disparity between IACs and NIACs. In IACs, the Fourth Geneva Convention (GC IV) and Additional Protocol I (AP I) provide an extensive protective regime for humanitarian operations. For instance:

- GC IV, Articles 9, 23, and 59–62 regulate the conditions for humanitarian relief consignments, guaranteeing free passage of relief supplies and ensuring that personnel delivering them enjoy legal protection.<sup>5</sup>
- AP I, Articles 70 and 71 expressly provide for relief actions, stipulating that relief personnel “shall be respected and protected.” These articles oblige parties to facilitate the rapid and unimpeded passage of relief consignments and safeguard the security of personnel involved in such missions.<sup>6</sup>

In stark contrast, NIAC provisions remain skeletal. The absence of equivalent detailed rules in AP II leaves humanitarian relief workers in internal conflicts reliant primarily on general civilian protections and the discretion of states. This asymmetry is problematic, given that NIACs, rather than IACs, dominate the contemporary armed conflict landscape from Syria to the Democratic Republic of Congo, from Cameroon to Yemen.

### 6.4 *The Role of the International Committee of Red Cross*

Despite the limitations of the Geneva treaty framework, the International Committee of the Red Cross (ICRC) occupies a special position as the guardian of IHL. The Conventions entrust the ICRC with the mandate to offer its services in both IACs and NIACs. Even when explicit treaty provisions are absent, the ICRC invokes Customary International Humanitarian Law (CIHL) to reinforce protections.

<sup>1</sup> *Ibid.*

<sup>2</sup> Article 13 of Additional Protocol II 1977.

<sup>3</sup> Article 18 of Additional Protocol II 1977.

<sup>4</sup> *Ibid.*

<sup>5</sup> Article 9, 23, and 59–62 Of the Fourth Geneva Conventions of 1949.

<sup>6</sup> Article 70 and 71 of Additional Protocol I 1977.



According to the ICRC's 2005 Study on CIHL:

- Rule 31: Humanitarian relief personnel must be respected and protected.<sup>1</sup>
- Rule 32: Objects used for humanitarian relief operations must not be attacked, destroyed, or otherwise interfered with.<sup>2</sup>

These rules, applicable in both IACs and NIACs, help fill the normative gaps left by the Geneva Conventions. However, reliance on customary law introduces its own difficulties, particularly disputes over state practice and *opinio juris*, as well as reluctance by certain states to acknowledge customary norms as binding.

#### (i) Limitations and the Continuing Challenges of the Role of the International Committee of Red Cross

Despite its foundational importance, the Geneva framework suffers from three enduring limitations in safeguarding humanitarian personnel during NIACs:

- 1) Implicit and derivative protections: Relief workers are protected only insofar as they are civilians, with no recognition of their unique vulnerabilities.
- 2) The veto of consent: Article 18(2) of AP II<sup>3</sup> entrenches state discretion, which is frequently exercised to restrict humanitarian space for political or military reasons.
- 3) The enforcement deficit: Violations of humanitarian protections remain rampant in NIACs, yet accountability is rare. The Geneva Conventions provide norms but lack robust enforcement mechanisms, particularly against non- state armed groups.

In sum, the Geneva Conventions and their Additional Protocols provide a foundational but incomplete regime for the protection of humanitarian relief personnel in NIACs. Common Article 3 and AP II establish a minimum baseline of protection, but these provisions are general, derivative, and subject to state discretion. By contrast, IACs benefit from far more detailed rules under GC IV and AP I. This asymmetry is troubling, given that humanitarian relief personnel today predominantly operate in NIAC settings.

Therefore, while the Geneva framework lays down indispensable humanitarian norms, its protective reach for relief personnel in NIACs remains inadequate, fragmented, and heavily contingent on state consent. To ensure more effective protection, it is imperative that states and the international community reinforce these treaty obligations through customary law, domestic implementation, and international accountability mechanisms.

### 7. A Critique of the Legal Framework

The protection of humanitarian relief personnel in non-international armed conflicts (NIACs) has become an increasingly urgent concern in contemporary international law and practice. Unlike international armed conflicts, where treaty law offers a more elaborate framework, the legal regime governing NIACs remains fragmented, heavily reliant on Common Article 3 of the Geneva Conventions, Additional Protocol II, and customary international humanitarian law (IHL). While these instruments impose obligations to respect and protect humanitarian actors, they are often conditioned on the consent of states or non-state armed groups, creating significant gaps in practical protection. At the same time, the rise in targeted attacks, restrictions on humanitarian access, and the chilling effects of counterterrorism and sanctions measures highlight the limits of existing norms. The International Criminal Court (ICC) has criminalized attacks on humanitarian personnel as war crimes, and the United Nations Security Council has increasingly addressed this issue through resolutions such as 2730 (2024) and 2664 (2022). Yet, persistent challenges ranging from consent-based access restrictions to definitional ambiguities regarding the loss of civilian protection continue to undermine effective safeguards. This critique therefore evaluates the adequacy of the existing legal framework, focusing on the interplay between treaty law, customary norms, Security Council action, and evolving state practice, while identifying structural weaknesses that leave humanitarian relief personnel exposed in NIAC environments.

#### 7.1 Core IHL Protection Exists but Its Scope Is Narrow and Nonsent-Dependent

In NIACs, baseline protection of humanitarian relief personnel is grounded in Common Article 3 and, where applicable, Additional Protocol II (AP II). AP II recognizes relief actions for civilians "subject to the consent of the High Contracting Party concerned"<sup>4</sup> which states regularly leverage to delay/deny access. There is no freestanding right to humanitarian access; parties must allow relief when conditions are met, but the consent

<sup>1</sup> Jean-Marie Henckaerts *et al.*, (2005). *Customary International Humanitarian Law*. Cambridge: Cambridge University Press, p. 106 (Rule 31, humanitarian personnel), p. 116 (Rule 32, relief objects).

<sup>2</sup> *Ibid.*

<sup>3</sup> Article 18(2) of Additional Protocol II 1977.

<sup>4</sup> Article 18(2) of Additional Protocol II 1977.

trigger remains a structural vulnerability frequently exploited in practice.<sup>1</sup> Customary IHL fills some gaps (duty to allow and facilitate rapid and unimpeded passage of impartial humanitarian relief; respect and protection of humanitarian personnel; freedom of movement subject to imperative military necessity), but practice is uneven and contestable in NIAC settings.

### *7.2 Criminal Law Backstops Are Real but Patchy*

Intentionally directing attacks against personnel or objects involved in a humanitarian assistance mission constitutes a war crime in NIACs under the Rome Statute (art. 8(2)(e)(iii)),<sup>2</sup> provided such personnel are entitled to civilian protection a caveat that invites argument over status and conduct. The 2019 amendment adding starvation of civilians as a war crime in Non-International Armed Conflicts,<sup>3</sup> strengthens accountability for siege-and-blockade tactics that also endanger relief workers, but jurisdictional limits (state non-parties, complementarity, and access to evidence) keep accountability sporadic.<sup>4</sup>

### *7.3 “Loss of Protection” Is a Recurring Flashpoint*

Humanitarian (and medical) personnel are civilians; protection is lost only if and for such time as they “directly participate in hostilities” or, for medical services, commit acts harmful to the enemy outside their function. The ICRC’s Interpretive Guidance is widely cited but contested in parts; the lack of treaty-level specificity fuels factual disputes that belligerents sometimes weaponize to justify attacks or constraints.

### *7.4 Political Organs Have Sharpened the Message, but not the Law*

United Nations Security Council Resolution 2730 (24 May 2024)<sup>5</sup> forcefully condemns attacks on humanitarian and UN personnel, urges respect for IHL, and calls for concrete measures (training, investigations, accountability). It usefully aggregates expectations and political pressure but doesn’t alter the underlying treaty architecture or the consent lever in AP II.<sup>6</sup> Implementation guidance and follow-up reporting remains the hinge.

### *7.5 Sanctions & Counterterrorism (CT) Regimes Remain the Biggest Operational Legal Drag*

Cross-cutting humanitarian exemptions were adopted at the UN level in UNSC 2664 (2022)<sup>7</sup> and cascaded into EU/UK frameworks and U.S. general licenses/guidance. This is a major step, but carve-outs are not uniform across all regimes; domestic CT laws, material-support offenses, bank de-risking, and licensing uncertainty continue to chill operations and personnel movement in NIAC theatres. The net effect: even when IHL permits access, compliance fears and transactional frictions impede it, elevating risk for aid workers.<sup>8</sup>

### *7.6 UN/Associated Personnel Enjoy an Extra Convention; Most NGO Staff Do Not*

The 1994 UN Safety Convention (and 2005 Protocol) criminalize attacks on UN and associated personnel and require domestic penal measures but these instruments don’t cover the vast majority of NGO humanitarians unless specifically “associated.” This dual-track protection landscape leaves many frontline staff dependent solely on general IHL/ICL rules and national criminal law.

### *7.7 Accountability & Data Trends Are Sobering*

Empirically, attacks on aid workers in NIAC contexts remain high or rising; while not a legal source, the Aid Worker Security Reports are often used by courts, commissions, and policy bodies to contextualize risk and the need for enforcement a reality that underscores the distance between normative frameworks and on-the-ground protection.

The NIAC protection regime for humanitarian personnel is present but precarious: robust on paper for baseline respect/protection and criminalization of attacks, yet weakened by consent gating, contestable “loss of protection,” and the frictions of sanctions/CT compliance. United Nations Security Council 2730 and 2664 recalibrate expectations and reduce some compliance drag, but they do not by themselves cure the structural vulnerabilities in Non International Armed Conflicts treaty law.

## **8. Challenges of the Protection of Humanitarian Relief Personnel Under Non-International Armed**

<sup>1</sup> *Ibid.*

<sup>2</sup> Article 8(2)(e)(iii) of the Rome Statute 1998.

<sup>3</sup> Article (art. 8(2)(e)(xix) of the Rome Statute 1998.

<sup>4</sup> *Ibid.*

<sup>5</sup> S/RES/2730(2024) adopted by the UN Security Council on 24 May 2024, titled: “Protection of Civilians in Armed Conflicts.”

<sup>6</sup> *Ibid.*

<sup>7</sup> United Nations Security Council, Resolution 2664 (2022), S/RES/2664 (December 9, 2022).

<sup>8</sup> *Ibid.*

## Conflicts

Humanitarian relief personnel play a crucial role in alleviating human suffering during armed conflicts. While international humanitarian law (IHL) provides protections for these personnel, non-international armed conflicts (NIACs) present unique challenges that complicate the enforcement and realization of these protections.

### *8.1 Limited Legal Framework*

In NIACs, the legal framework is less comprehensive than in international conflicts. Common Article 3 of the Geneva Conventions and Additional Protocol II provide only minimum standards for protection. Many armed non-state actors (NSAs) do not recognize or abide by these rules, which limits the effectiveness of legal protections and creates ambiguity in their application.

### *8.2 Inaccessibility and Security Risks*

Humanitarian personnel often operate in frontline or contested areas, making them vulnerable to attacks. Armed groups may intentionally target humanitarian workers to gain leverage, intimidate populations, or control aid distribution. The lack of state authority in many NIACs leaves personnel without typical protective mechanisms, and threats such as landmines, IEDs, and ambushes pose constant physical risks.

### *8.3 Humanitarian Access and Negotiation Difficulties*

Securing access to affected populations is particularly challenging. Armed groups may block or restrict humanitarian access as a tactic of control. Negotiating safe passage and cooperation with multiple armed actors can be complex and risky. Neutrality and impartiality, fundamental humanitarian principles, may be misunderstood, increasing the risk to personnel.

### *8.4 Lack of Training and Resources*

Humanitarian workers often operate without sufficient preparation for high-risk NIAC environments. Limited training on conflict sensitivity, security protocols, and IHL reduces personnel preparedness. Insufficient resources for protection, such as armored vehicles, secure communication systems, and evacuation plans, increase vulnerability. Lack of mental health support exposes personnel to psychological stress and trauma.

### *8.5 Weak Accountability Mechanisms*

Ensuring accountability for attacks on humanitarian personnel is difficult in NIACs. Perpetrators are often non-state actors, making prosecution under national or international law challenging. Evidence collection and documentation are impeded by insecurity and lack of access, and impunity for attacks can encourage repeated violations, further endangering personnel.

### *8.6 Political and Operational Constraints*

Humanitarian operations are influenced by political dynamics that can compromise protection. Organizations may face pressure from governments or armed groups, which politicizes aid delivery. Coordination with military actors can be perceived as partiality, undermining neutrality. Resource limitations and operational constraints can force personnel into high-risk areas without adequate support.

Protecting humanitarian relief personnel in non-international armed conflicts is a complex challenge shaped by legal, security, operational, and political factors. Strengthening protection requires: enhancing compliance with IHL by all parties, including non-state actors; providing adequate training, security measures, and psychological support; developing robust accountability mechanisms to deter attacks; and promoting neutral and impartial humanitarian action to ensure safe access to vulnerable populations.

## 9. Findings

This study examined the adequacy of the legal framework governing the protection of humanitarian relief personnel in non-international armed conflicts (NIACs). The findings are presented in line with the study's research objectives.

Firstly, the research found out that international humanitarian law (IHL) provides only a fragmented protection for humanitarian relief personnel in NIACs. While Common Article 3 of the Geneva Conventions and Additional Protocol II establish minimum standards of humane treatment, they do not expressly define or comprehensively regulate the legal status of humanitarian relief workers. Protection is therefore largely indirect, derived from general civilian protections rather than from a specialized legal regime.

Secondly, the study revealed that treaty law applicable to NIACs is limited in scope. Unlike international armed conflicts, NIACs are governed by fewer binding instruments, resulting in significant normative gaps. Additional Protocol II applies only under restrictive conditions, excluding many contemporary internal conflicts and thereby leaving humanitarian personnel without treaty-based protection in numerous situations.

Thirdly, the findings indicate that customary international humanitarian law partially fills this protection gap,

particularly through rules affirming the civilian status of humanitarian personnel and prohibiting attacks against them. However, the research identified inconsistencies in state practice and enforcement, which weakens the effectiveness of these customary norms in practice.

Finally, the study found out that domestic implementation and enforcement mechanisms remain inadequate, especially in conflict-affected states. National legislation often fails to criminalize attacks against humanitarian relief personnel explicitly, and where such laws exist, weak judicial systems and ongoing insecurity hinder accountability.

## 10. Conclusion

This study sets out to critically examine the adequacy of the legal framework governing the protection of humanitarian relief personnel in non-international armed conflicts. It sought to determine whether existing international legal norms provide sufficient and effective protection for humanitarian actors operating in such conflict settings.

The findings of the study reveal that the current legal regime is characterized by fragmentation and insufficiency. Protection for humanitarian relief personnel under international humanitarian law is largely indirect, relying on their classification as civilians under Common Article 3 of the Geneva Conventions and Additional Protocol II. The limited applicability of treaty law in NIACs, coupled with inconsistencies in customary international humanitarian law and weak domestic enforcement, has resulted in a persistent protection gap.

These findings carry significant legal and practical implications. The absence of clear and comprehensive norms exposes humanitarian personnel to heightened risks and undermines the effectiveness of humanitarian operations in internal armed conflicts. Moreover, the lack of robust accountability mechanisms perpetuates impunity for violations committed against humanitarian actors, weakening respect for international humanitarian law more broadly.

This study contributes to existing scholarship by systematically identifying and articulating the nature of the protection gap affecting humanitarian relief personnel in NIACs. It clarifies the limitations of the current legal framework and underscores the need for a more coherent and enforceable protective regime tailored to the realities of contemporary armed conflicts.

In light of these conclusions, the study recommends the clarification and strengthening of applicable international norms, improved incorporation of protective obligations into domestic legal systems, enhance monitoring and reporting, develop specialized training for armed forces and relief personnel, the strengthening of the legal framework for the protection of humanitarian personnel on NIACs and the enhancement of enforcement and accountability mechanisms. Further research is also necessary to explore practical implementation strategies and the role of international and regional institutions in reinforcing protection for humanitarian personnel.

In conclusion, without deliberate legal reform and effective enforcement, the protection of humanitarian relief personnel in non-international armed conflicts will remain inadequate, thereby jeopardizing both humanitarian action and the fundamental objectives of international humanitarian law.

## 11. Recommendations

Humanitarian relief personnel operate in some of the most challenging environments in the world, delivering critical aid to civilians affected by conflict, natural disasters, and displacement. In non-international armed conflicts (NIACs), where fighting occurs between state forces and non-state armed groups or between non-state groups themselves, the legal framework protecting humanitarian actors is fragmented and inconsistently enforced.

Although instruments such as the 1949 Geneva Conventions, Additional Protocol II, and relevant UN resolutions set out protections, gaps remain, particularly in terms of enforcement, accountability, and compliance by non-state actors. The persistent threats to humanitarian personnel—ranging from targeted attacks to obstructions in delivering aid—highlight the urgent need to address these protection gaps. This paper proposes five key recommendations to enhance the legal and operational framework for protecting humanitarian actors, drawing on contemporary examples and scholarly sources.

### *11.1 Strengthen Domestic Incorporation of International Norms*

International humanitarian law establishes the protection of humanitarian personnel as a cornerstone of conflict law, but its effectiveness largely depends on its domestic incorporation. The Geneva Conventions, Additional Protocol II, and customary international law obligate states to respect and ensure respect for humanitarian actors in all armed conflicts. However, the abstract nature of international law and the absence of universal enforcement mechanisms leave significant protection gaps.

Domestic legislation ensures that attacks against humanitarian personnel are prosecutable in national courts, bridging the divide between international obligations and local enforcement.

Contemporary Examples:

- In Yemen, Houthi rebels raided UN offices in Sanaa in 2025, detaining 11 personnel and disrupting essential operations of the World Food Program and WHO. This incident underlined the inability of international law alone to prevent violations and the necessity of robust domestic frameworks that can criminalize such attacks and empower law enforcement agencies. Scholarly analyses argue that without domestic legal instruments, international protections remain aspirational (Roberts, A., *The Law of Armed Conflict: International Humanitarian Law in War*, 2020).
- In Afghanistan, attacks on aid workers in regions controlled by Taliban forces have demonstrated that, even under international norms, protection is ineffective without domestic enforcement measures (Ferris, E., *The Politics of Protection: Humanitarian Law in Fragile States*, 2021).

Therefore, states should enact comprehensive legislation criminalizing attacks, harassment, or obstruction of humanitarian actors. Legal frameworks should establish specialized prosecutorial units to address violations, potentially with international support for capacity-building. More so, domestic incorporation should also include mechanisms for rapid investigation and protection measures during active conflict.

### 11.2 Clarify the Legal Status and Obligations of Armed Non-State Actors

Non-state armed groups (NSAGs) present one of the greatest challenges in ensuring the protection of humanitarian personnel in NIACs. Unlike state actors, NSAGs may not feel bound by international treaties, making enforcement of IHL difficult. Yet, their compliance is critical, as much of the violence in contemporary NIACs involves NSAGs controlling significant territories. The international community has increasingly advocated for “codes of conduct” or binding agreements with NSAGs to ensure the observance of humanitarian norms.

Contemporary Examples:

- In South Sudan, humanitarian personnel have been subject to frequent attacks by various militias. The lack of formal legal obligations for these groups resulted in delayed responses and prevented aid from reaching vulnerable populations. The ICRC has emphasized negotiation with these groups to respect the neutrality of humanitarian operations.<sup>1</sup> (ICRC Case Study, 2023).
- In Nigeria’s Northeast, humanitarian workers operating in Boko Haram-controlled areas have been targeted despite international norms, highlighting the urgent need to codify obligations for NSAGs.<sup>2</sup>

To successfully clarify the legal status and obligations of armed non-state actors, there is need to develop and enforce codes of conduct for NSAGs through negotiations mediated by neutral international organizations; include specific obligations regarding the safety, freedom of movement, and respect for neutrality of humanitarian personnel; monitor and incentivize compliance, including linking access to aid funding or political recognition to adherence to humanitarian norms.

### 11.3 Enhance Monitoring and Reporting

Monitoring and reporting mechanisms are essential for the enforcement and effectiveness of humanitarian protections. Independent reporting not only documents violations but also informs legal, operational, and policy responses. It provides transparency, enables accountability, and can serve as evidence in prosecutions under both domestic and international law.

For example, the ICRC has repeatedly reported attacks on hospitals and health workers in conflicts such as Syria and Yemen, highlighting systemic patterns of abuse.<sup>3</sup> And also the WHO and UN Office for the Coordination of Humanitarian Affairs (OCHA) have produced reports detailing the dangers to medical personnel in regions like Gaza, emphasizing the necessity of systematic monitoring and rapid reporting mechanisms.

To enhance monitoring and reporting, it is imperative to establish independent monitoring bodies empowered to document violations, investigate incidents, and issue actionable reports. Also, there is a need to utilize data analytics, satellite imagery, and real-time reporting tools to predict risks and respond proactively; and collaborate

<sup>1</sup> International Committee of the Red Cross. (2023). South Sudan Attacks on Humanitarian Personnel: Case Study. International Committee of the Red Cross, available online at: <https://casebook.icrc.org/case-study/south-sudan-attacks-humanitarian-personnel>, accessed on 02/09/2025

<sup>2</sup> Humanitarian Practice Network, (2022). *Humanitarian Access in Non-State Controlled Areas*. Overseas Development Institute (ODI).

<sup>3</sup> *Ibid.*

with local NGOs and civil society to ensure reporting is culturally informed and operationally feasible.

#### *11.4 Develop Specialized Training for Armed Forces and Relief Personnel*

Both humanitarian actors and armed forces require specialized training to navigate the complex environments of NIACs. Understanding the legal obligations, ethical constraints, and operational challenges ensures that humanitarian personnel can deliver aid safely and that armed actors respect humanitarian principles. Should also implement joint training programs for humanitarian and military actors emphasizing IHL compliance and operational coordination, provide scenario-based exercises tailored to NIAC environments, including urban, rural, and cross-border conflict zones, and incorporate cultural awareness and negotiation skills for interacting with Non-State Armed Groups (NSAGs).

For example, in Haiti, ongoing gang violence and instability have resulted in frequent attacks on aid workers. Specialized training on situational awareness, IHL compliance, and negotiation with local actors has proven effective in other contexts, such as South Sudan (ICRC, 2023). In Democratic Republic of Congo (DRC), security forces participating in UN peacekeeping missions have received joint training with humanitarian organizations to enhance cooperation and reduce risks to personnel.

#### *11.5 Strengthen the Legal Framework for the Protection of Humanitarian Personnel in Non-International Armed Conflicts*

Strengthening legal frameworks is a crucial measure to protect humanitarian relief personnel in non-international armed conflicts (NIACs). Humanitarian workers often operate in volatile environments where the lines between combatants and civilians are blurred, making them vulnerable to attacks. The establishment of a clear and enforceable legal framework at both international levels is essential to ensure their safety and operational effectiveness.

The need for ratification and domestication of common article 3 and additional Protocol II 1977. International humanitarian law (IHL), especially Common Article 3 of the Geneva Conventions 1949 and Additional Protocol II 1977, provides the core legal basis for protecting humanitarian personnel in Non-International Armed Conflicts (NIACs).

While these instruments lay out minimum protections, their effectiveness depends heavily on state ratification and domestication. Scholars have highlighted that many states either fail to fully incorporate these provisions into domestic law or struggle to enforce them in practice, leaving humanitarian personnel at risk. Therefore, robust legal incorporation into national statutes is necessary to translate international obligations into actionable protections on the ground.

Beyond ratification, states must enact domestic laws that criminalize attacks on humanitarian workers and establish clear accountability mechanisms. Having explicit statutory protections deters violations and provides legal recourse for perpetrators. Such laws should clarify penalties, establish prosecutorial authority, and integrate enforcement mechanisms with existing judicial systems. This legal clarity not only safeguards humanitarian personnel but also reinforces the normative power of international humanitarian law.

Legal recognition of the specific status and roles of humanitarian personnel is another key measure. Clear legal definitions help distinguish humanitarian actors from combatants, emphasizing their neutrality and impartiality. When the roles of humanitarian workers are well-defined and widely communicated to all parties in a conflict, the likelihood of targeted attacks decreases.

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