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**THE ROLE OF INTERNATIONAL LAW IN ENSURING COMPLIANCE
WITH THE GENEVA CONVENTIONS**

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ABSTRACT

The Geneva Conventions of 1949 constitute the cornerstone of international humanitarian law by establishing a comprehensive legal framework for the protection of persons affected by armed conflict. Their universal ratification reflects a collective commitment by States to uphold humanitarian principles irrespective of the legality or nature of hostilities. However, persistent violations in contemporary conflicts demonstrate that the existence of legal norms alone does not guarantee effective compliance. This article critically examines the role of international law in ensuring adherence to the Geneva Conventions by analysing the legal obligations imposed on States under Common Article 1, the significance of customary international humanitarian law, and the complementary roles of international and domestic enforcement mechanisms. It explores the contribution of the International Committee of the Red Cross, the United Nations, the International Court of Justice, the International Criminal Court, and ad hoc international criminal tribunals in promoting accountability for grave breaches and war crimes. The study further evaluates the principles of universal jurisdiction, command responsibility, and State responsibility as mechanisms to address violations and prevent impunity. Adopting a doctrinal research methodology, the article analyses treaty provisions, judicial decisions, and authoritative international legal instruments to assess the effectiveness of the existing compliance framework. It argues that although international law has progressively strengthened accountability through institutional development and judicial interpretation, enforcement remains constrained by political considerations, jurisdictional limitations, and the evolving nature of armed conflict involving non-State actors and

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emerging military technologies. The article concludes that effective compliance with the Geneva Conventions requires stronger domestic implementation, enhanced international cooperation, consistent accountability mechanisms, and sustained commitment to the fundamental principles of humanity and the rule of law.

Keywords: *Geneva Conventions; International Humanitarian Law; Compliance; War Crimes; State Responsibility.*

I. Introduction

Armed conflict has historically posed one of the greatest challenges to the international legal order. While war has long been regarded as an inherent feature of international relations, its humanitarian consequences have necessitated the development of legal norms intended to regulate the conduct of hostilities and protect individuals who are not, or are no longer, participating in armed conflict. The evolution of these norms culminated in the adoption of the four Geneva Conventions of 12 August 1949, which remain the principal treaty framework governing the protection of victims of armed conflicts. Universally ratified by all Member States of the international community, the Geneva Conventions embody the foundational principles of humanity, military necessity, distinction, proportionality, and the protection of persons hors de combat. Their near-universal acceptance has led many of their provisions to attain the status of customary international law, thereby binding both State and, in certain circumstances, non-State actors irrespective of treaty ratification. The Geneva Conventions emerged from the recognition that the legality of resorting to force (*jus ad bellum*) must be distinguished from the regulation of conduct during armed conflict (*jus in bello*). This distinction reflects one of the central premises of international humanitarian law: humanitarian protections apply irrespective of the legality of the conflict itself. Whether a state acts in lawful self-defence under Article 51 of the Charter of the United Nations or engages in unlawful aggression, the obligations imposed by the Geneva Conventions remain applicable. This separation between the legality of war and the law governing warfare has enabled humanitarian norms to function independently of political considerations, ensuring that the protection of human dignity does not depend upon determining which party bears responsibility for initiating hostilities. International law performs a dual function in relation to the Geneva Conventions. First, it establishes binding legal obligations requiring States to

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respect and ensure respect for humanitarian rules in all circumstances. Secondly, it provides institutional and judicial mechanisms through which violations may be investigated, prosecuted, and remedied. Unlike many areas of international law that rely primarily upon reciprocal obligations between States, international humanitarian law is characterised by obligations owed to the international community as a whole. Common Article 1 of the Geneva Conventions expressly requires High Contracting Parties "to respect and to ensure respect" for the Conventions in all circumstances. This obligation extends beyond passive compliance and has increasingly been interpreted as imposing positive duties upon States to prevent, discourage, and respond to violations committed by parties to armed conflicts.

The normative significance of the Geneva Conventions has expanded considerably since their adoption in 1949. Initially designed primarily for inter-State armed conflicts, the Conventions have evolved through subsequent treaty developments, customary international law, and judicial interpretation to address contemporary forms of warfare. The adoption of the Additional Protocols of 1977 responded to the increasing prevalence of wars of national liberation and non-international armed conflicts, while subsequent jurisprudence of international criminal tribunals has clarified that many fundamental humanitarian principles apply irrespective of the classification of the conflict. The jurisprudence of the International Criminal Tribunal for the Former Yugoslavia, particularly in *Prosecutor v. Tadić*, marked a significant development by recognising that serious violations committed during non-international armed conflicts may also entail individual criminal responsibility under international law. This judicial development substantially narrowed the historical distinction between international and non-international conflicts regarding the protection of victims and accountability for violations. Ensuring compliance with the Geneva Conventions presents one of the most significant challenges facing contemporary international law. Unlike domestic legal systems, the international legal order lacks a centralised legislature, executive authority, or compulsory enforcement mechanism capable of uniformly ensuring observance of humanitarian obligations. Compliance therefore depends upon a complex interaction between treaty obligations, domestic implementation, diplomatic pressure, international monitoring, criminal accountability, and political will. States remain the primary duty bearers under the Conventions, yet the increasing involvement of organised armed groups, multinational coalitions, private military contractors, and transnational terrorist organisations has

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complicated traditional models of treaty implementation. Modern armed conflicts frequently involve actors that are not formal parties to international treaties but whose conduct nevertheless falls within the scope of customary international humanitarian law.

The enforcement architecture supporting the Geneva Conventions has consequently developed through multiple complementary mechanisms. At the international level, judicial institutions such as the International Court of Justice have clarified the legal obligations arising under humanitarian law in inter-State disputes, while international criminal tribunals and the International Criminal Court have strengthened the principle that individuals responsible for grave breaches and war crimes may incur personal criminal responsibility. The doctrine of command responsibility, universal jurisdiction, and the gradual expansion of international criminal jurisprudence have significantly reduced the scope for impunity. Simultaneously, the International Committee of the Red Cross has continued to perform its unique treaty-based humanitarian mandate by monitoring compliance, visiting prisoners of war and civilian detainees, facilitating humanitarian assistance, and engaging confidentially with parties to armed conflict to promote adherence to international humanitarian law. Notwithstanding these institutional developments, persistent violations of the Geneva Conventions continue to characterise contemporary armed conflicts. Reports arising from conflicts in the former Yugoslavia, Rwanda, Syria, Yemen, Ukraine, Sudan, and the occupied Palestinian territories have documented allegations concerning deliberate attacks against civilians, indiscriminate bombardment of populated areas, unlawful detention, torture, starvation of civilians as a method of warfare, attacks against humanitarian personnel, and destruction of protected civilian infrastructure. These developments illustrate that the principal challenge confronting international humanitarian law is not the absence of legal rules but rather the inconsistency of compliance and enforcement. Political considerations, limitations upon international jurisdiction, selective cooperation with international judicial institutions, and the absence of effective coercive mechanisms frequently impede accountability for serious humanitarian violations. Contemporary developments in military technology further complicate the implementation of the Geneva Conventions. The increasing use of autonomous weapons systems, cyber operations, artificial intelligence-assisted targeting, remotely piloted aircraft, and space-based military capabilities has generated significant debate concerning the continued adequacy of existing humanitarian

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norms. Although the fundamental principles of distinction, proportionality, military necessity, and precaution remain technologically neutral, their practical application within emerging domains of warfare continues to generate complex legal questions. The interpretation of existing treaty provisions in light of these technological developments represents one of the most significant contemporary challenges facing international humanitarian law.

The legal effectiveness of the Geneva Conventions therefore depends not merely upon their universal ratification but upon the willingness of States and other parties to armed conflict to internalise humanitarian obligations through domestic legislation, military doctrine, operational training, criminal accountability, and international cooperation. Compliance is increasingly understood as a multidimensional concept encompassing prevention, implementation, monitoring, investigation, prosecution, and reparation. Accordingly, the study of compliance requires examination not only of treaty obligations but also of the broader institutional framework through which international law seeks to transform humanitarian norms into effective legal practice. This article examines the role of international law in ensuring compliance with the Geneva Conventions through a doctrinal and analytical approach. It first explores the legal foundations of the Geneva Conventions and the normative significance of Common Article 1. It then analyses the institutional mechanisms responsible for implementation and enforcement, including the roles of States, the ICRC, the United Nations, the ICJ, the ICC, and international criminal tribunals. The article further evaluates the contribution of customary international law, universal jurisdiction, and domestic criminal legislation in strengthening accountability for grave breaches. Finally, it critically examines the practical challenges that continue to undermine effective compliance with international humanitarian law in contemporary armed conflicts and proposes measures to enhance its effectiveness in the evolving landscape of twenty-first-century warfare.

A. Scope of the Research

This study examines the role of international law in ensuring compliance with the Geneva Conventions of 1949 and their Additional Protocols. It analyses the legal obligations imposed upon States under international humanitarian law, with particular emphasis on Common Article 1, customary international humanitarian law, State responsibility, and mechanisms for

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enforcing compliance. The research further evaluates the roles of international institutions, including the International Committee of the Red Cross (ICRC), the United Nations (UN), the International Court of Justice (ICJ), and the International Criminal Court (ICC), in promoting adherence to humanitarian norms. It also explores contemporary challenges affecting compliance, such as non-State armed groups, technological advancements, cyber warfare, and accountability gaps, and proposes recommendations for strengthening the implementation of the Geneva Conventions. The study is confined to the legal framework governing compliance and does not undertake an extensive examination of military strategy, political aspects of armed conflicts, or detailed country-specific case studies except where necessary to illustrate legal principles.

B. Research Methodology

This study adopts a doctrinal research methodology, relying primarily on qualitative analysis of primary and secondary legal sources. Primary sources include the Geneva Conventions of 1949, the Additional Protocols of 1977 and 2005, the Charter of the United Nations, the Rome Statute of the International Criminal Court, the Vienna Convention on the Law of Treaties, and other relevant international legal instruments. Judicial decisions of the International Court of Justice (ICJ), the International Criminal Court (ICC), the International Criminal Tribunal for the Former Yugoslavia (ICTY), and other international tribunals have been analysed to examine the interpretation and application of international humanitarian law. Secondary sources include books, peer-reviewed journal articles, official commentaries of the International Committee of the Red Cross (ICRC), reports of international organisations, and scholarly writings on international humanitarian law. The research employs analytical and descriptive methods to evaluate the effectiveness of existing legal mechanisms in ensuring compliance with the Geneva Conventions and to identify contemporary challenges and possible reforms within the framework of international law.

II. Historical Evolution of the Geneva Conventions

A. Emergence of Modern International Humanitarian Law

The evolution of modern international humanitarian law (IHL) reflects the international community's effort to reconcile the realities of armed conflict with the principles of humanity

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and human dignity. Although warfare has been an enduring feature of international relations, the nineteenth century marked the beginning of a systematic legal response to mitigate its humanitarian consequences. Prior to this period, the conduct of hostilities was governed primarily by customary military practices, religious teachings, and philosophical writings rather than universally binding legal rules. Consequently, the protection afforded to wounded soldiers and civilians largely depended upon the discretion of military commanders and the prevailing customs of individual States. Early legal scholars recognised that war should not exist beyond the reach of law. Among them, Hugo Grotius, often regarded as the father of modern international law, argued in *De Jure Belli ac Pacis* (1625) that warfare remained subject to principles of justice and humanity. Grotius rejected the notion that armed conflict extinguished all legal obligations between belligerents, asserting instead that certain humanitarian restraints continued to apply during hostilities. Although his ideas profoundly influenced the development of the law of nations, they remained largely theoretical and did not establish binding legal obligations capable of ensuring uniform humanitarian protection. The decisive catalyst for the emergence of modern international humanitarian law was the Battle of Solferino on 24 June 1859 during the Second Italian War of Independence. The battle resulted in nearly 40,000 soldiers being killed, wounded, or missing within a single day. The absence of organised medical services and the inability of military authorities to care for the injured left thousands of wounded combatants abandoned without food, water, or medical treatment. The humanitarian crisis exposed the inadequacy of existing military practices and highlighted the urgent need for internationally recognised legal standards governing the treatment of victims of war. Among those who witnessed the aftermath of the battle was Henry Dunant, a Swiss businessman whose experiences fundamentally altered the course of international humanitarian law. Shocked by the suffering of wounded soldiers, Dunant organised local civilians to provide medical assistance regardless of the nationality of the injured. His observations were subsequently published in *A Memory of Solferino* (1862), in which he proposed two groundbreaking reforms. First, he advocated the establishment of permanent voluntary relief societies to assist wounded soldiers during armed conflicts. Secondly, he urged States to conclude an international treaty guaranteeing the neutrality and protection of medical personnel, hospitals, and the wounded. These proposals shifted

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humanitarian protection from charitable assistance to legally organised international cooperation².

Dunant's proposals received widespread support among European governments and humanitarian organisations. In 1863, the Geneva Society for Public Welfare established a committee that later evolved into the International Committee of the Red Cross (ICRC). The creation of the ICRC marked a turning point in the institutionalisation of humanitarian action, providing a permanent and neutral organisation dedicated to protecting victims of armed conflict. Unlike governmental bodies, the ICRC was designed to operate impartially, enabling it to provide humanitarian assistance irrespective of political or military considerations. Its establishment demonstrated that effective humanitarian protection required not only moral commitment but also institutional support and international legal recognition. Building upon Dunant's initiatives, the Swiss Government convened an international diplomatic conference in Geneva in 1864, resulting in the adoption of the first multilateral treaty dedicated exclusively to protecting victims of armed conflict³. This development marked the transition from voluntary humanitarian action to legally enforceable international obligations. For the first time, States collectively accepted that the treatment of wounded combatants was a matter of international legal concern rather than one falling solely within domestic military discretion. The emergence of modern international humanitarian law therefore represents the transformation of humanitarian ideals into binding legal norms. It established fundamental principles including humanity, neutrality, impartiality, and the protection of persons *hors de combat* that continue to underpin the Geneva Conventions and contemporary international humanitarian law. More importantly, it redefined the relationship between State sovereignty and humanitarian protection by recognising that even during armed conflict, the conduct of belligerents is subject to international legal regulation. These foundational developments laid the groundwork for the adoption of the First Geneva Convention in 1864 and the subsequent evolution of a comprehensive legal framework governing the protection of victims of armed conflict⁴.

² Jean-Marie Henckaerts & Louise Doswald-Beck, Customary International Humanitarian Law, Vol. I: Rules (Cambridge University Press, 2005).

³ Marco Sassòli, International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare (2nd ed., Edward Elgar Publishing, 2019).

⁴ Frits Kalshoven & Liesbeth Zegveld, Constraints on the Waging of War (4th ed., Cambridge University Press, 2011).

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B. The First Geneva Convention of 1864: The Foundation of Treaty-Based Humanitarian Protection

The adoption of the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field on 22 August 1864 marked the beginning of treaty-based international humanitarian law. Inspired by Henry Dunant's *A Memory of Solferino* and supported by the newly established International Committee of the Red Cross (ICRC), the Convention transformed humanitarian ideals into legally binding obligations. It represented the first multilateral treaty specifically aimed at protecting victims of armed conflict and established the legal foundation upon which the modern Geneva Convention system developed.

Objectives of the Convention

The principal objective of the Convention was to ensure the humane treatment of wounded and sick soldiers during land warfare, irrespective of their nationality. It required parties to collect, care for, and protect wounded combatants without discrimination. Another important objective was the legal recognition of medical neutrality by protecting military hospitals, ambulances, doctors, nurses, and chaplains engaged in humanitarian activities. The Convention also encouraged the establishment of voluntary relief societies, which later evolved into the National Red Cross and Red Crescent Societies.

Fundamental Principles

Although comprising only ten articles, the Convention introduced several enduring principles of international humanitarian law. It established the principle of humanity, requiring medical treatment based solely on need rather than nationality. It recognised the neutrality of medical personnel and establishments, ensuring that humanitarian services were protected from military attack while carrying out their duties. The Convention also adopted the Red Cross emblem on a white background as the internationally recognised protective symbol for medical personnel and humanitarian facilities.

Legal Significance

The 1864 Convention marked a fundamental shift in international law by recognising that the treatment of victims of armed conflict was no longer solely a matter of State discretion but a

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subject of international legal regulation. It demonstrated that humanitarian considerations could legitimately limit the conduct of warfare and established the distinction between the legality of war (*jus ad bellum*) and the law governing conduct during war (*jus in bello*). These principles continue to underpin contemporary international humanitarian law.

C. Expansion of Humanitarian Protection: The 1906 Revision and the Hague Convention of 1907

The First Geneva Convention of 1864 established the legal foundation for the protection of wounded soldiers during armed conflict. However, developments in military technology and the increasing scale of warfare soon exposed its limitations. Conflicts such as the Franco-Prussian War demonstrated that the existing legal framework lacked sufficient detail regarding the treatment of wounded combatants, the protection of medical personnel, and the responsibilities of belligerent States. These shortcomings prompted the revision of the Geneva Convention in 1906 and the adoption of the Hague Convention (X), both of which significantly strengthened international humanitarian law.

1. The Geneva Convention of 1906

The revised Geneva Convention of 1906 expanded the original treaty from ten to thirty-three articles, providing greater clarity and detail regarding the protection of wounded and sick soldiers. It required parties to an armed conflict to search for, collect, and care for wounded combatants without discrimination. The Convention also strengthened the legal protection afforded to military hospitals, ambulances, medical personnel, and authorised humanitarian organisations, recognising their essential role in alleviating the suffering caused by war. An important contribution of the 1906 Convention was the clarification of State obligations. It required belligerents to organise medical services, facilitate the exchange of information concerning casualties, and ensure respect for humanitarian personnel. These developments reflected the gradual shift from broad humanitarian principles towards detailed legal obligations capable of guiding military operations.

2. The Hague Convention (X) of 1907

While the Geneva Convention primarily regulated land warfare, the Hague Convention (X) extended similar humanitarian protections to naval warfare. It required parties to rescue and

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care for wounded, sick, and shipwrecked members of armed forces at sea without discrimination. Hospital ships and medical personnel engaged exclusively in humanitarian functions were granted legal protection against attack or capture. The Hague Convention also demonstrated the complementary relationship between the Geneva Law, which focuses on the protection of victims of armed conflict, and the Hague Law, which regulates the means and methods of warfare. Together, these legal traditions contributed to the development of a comprehensive framework governing both humanitarian protection and the conduct of hostilities. The legal developments of 1906 and 1907 marked an important stage in the evolution of international humanitarian law. They expanded the categories of protected persons, clarified State responsibilities, and adapted humanitarian principles to changing forms of warfare. More importantly, they strengthened the legal foundation upon which the later Geneva Conventions of 1929 and 1949 were built, demonstrating that humanitarian law must evolve continuously to address the changing realities of armed conflict.

D. The Geneva Convention of 1929: Strengthening the Protection of Prisoners of War

The humanitarian reforms introduced through the Geneva Convention of 1906 and the Hague Convention of 1907 significantly enhanced the protection of wounded and sick combatants. However, the experiences of the First World War exposed serious deficiencies in the legal protection afforded to prisoners of war (POWs). Millions of captured soldiers were subjected to inadequate living conditions, forced labour, insufficient medical care, and restricted communication with their families. Although the Hague Convention (IV) contained limited provisions relating to prisoners of war, these proved insufficient to regulate prolonged detention. Consequently, States adopted the Geneva Convention Relative to the Treatment of Prisoners of War on 27 July 1929, marking a significant advancement in international humanitarian law.

1. Protection of Prisoners of War

The 1929 Convention established a comprehensive legal framework governing the treatment of prisoners of war. It required detaining powers to treat prisoners humanely and prohibited violence, intimidation, insults, and degrading treatment. The Convention regulated essential aspects of captivity, including accommodation, food, clothing, hygiene, medical care, correspondence with families, religious practice, and labour. It also introduced safeguards

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concerning disciplinary measures and judicial proceedings, recognising that prisoners of war retain their human dignity despite being deprived of liberty. A notable feature of the Convention was the formal recognition of the humanitarian role of the International Committee of the Red Cross. The Convention authorised the ICRC to visit prisoner-of-war camps, monitor detention conditions, facilitate communication between prisoners and their families, and distribute humanitarian relief. This strengthened international supervision and promoted greater transparency in the treatment of prisoners⁵.

2. Limitations and Legal Significance

Despite its progressive character, the 1929 Convention remained limited in scope. It focused exclusively on prisoners of war and did not provide comprehensive protection for civilians, who increasingly became the primary victims of modern warfare. Moreover, the Convention lacked effective international enforcement mechanisms and depended largely on the willingness of States to comply with their treaty obligations. The widespread violations committed during the Second World War demonstrated the inadequacy of the existing framework and highlighted the need for stronger legal protections and accountability. Nevertheless, the 1929 Convention represented a significant milestone in the evolution of international humanitarian law. It expanded humanitarian protection beyond the battlefield, strengthened the supervisory role of the ICRC, and established detailed legal standards governing the treatment of prisoners of war. These developments directly influenced the adoption of the Third Geneva Convention of 1949, which further strengthened the legal protection of prisoners and remains the principal treaty governing their treatment today.

E. The Adoption of the Four Geneva Conventions of 1949

The adoption of the four Geneva Conventions on 12 August 1949 represents the most significant milestone in the development of international humanitarian law (IHL). Although the earlier Geneva Conventions had strengthened the protection of wounded soldiers and prisoners of war, the atrocities committed during the Second World War exposed serious deficiencies in the existing legal framework. Widespread attacks against civilians, genocide,

⁵ Jean Pictet, "The Development and Principles of International Humanitarian Law," International Review of the Red Cross (various editions).

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forced deportations, torture, hostage-taking, mass internment, and indiscriminate destruction demonstrated that humanitarian law required comprehensive revision. Consequently, the international community adopted four separate but complementary conventions to provide universal legal protection to victims of armed conflict. Unlike the earlier humanitarian treaties, which focused on specific categories of persons, the 1949 Geneva Conventions established a comprehensive legal regime covering wounded and sick members of the armed forces, shipwrecked personnel, prisoners of war, and civilians. Their universal ratification by all recognised States reflects the international community's collective commitment to protecting human dignity during armed conflict.

1.The First and Second Geneva Conventions

The First Geneva Convention revised and expanded earlier protections for wounded and sick members of armed forces on land. It requires parties to an armed conflict to search for, collect, and care for wounded combatants without adverse distinction based on nationality, race, or religion. The Convention also protects medical personnel, hospitals, ambulances, and medical transports, recognising that humanitarian services must remain immune from military attack. The Second Geneva Convention extends similar protections to wounded, sick, and shipwrecked members of armed forces at sea. It requires belligerents to rescue survivors following naval engagements and protects hospital ships, coastal rescue vessels, and medical personnel engaged exclusively in humanitarian functions. Together, the First and Second Conventions reaffirm the principle that persons who are *hors de combat* are entitled to respect and protection irrespective of the theatre of military operations.

2.The Third and Fourth Geneva Conventions

The Third Geneva Convention replaced the 1929 Prisoners of War Convention and established a comprehensive legal framework governing the treatment of prisoners of war. It regulates every aspect of captivity, including accommodation, food, medical care, labour, judicial guarantees, communication with families, and repatriation. The Convention prohibits torture, coercion, inhuman treatment, and collective punishment, while recognising that prisoners of war retain their legal status and human dignity throughout detention. The Fourth Geneva Convention constitutes one of the most significant developments in international humanitarian law because it provides comprehensive protection for civilians during armed

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conflict and military occupation. It prohibits murder, torture, collective punishment, unlawful deportation, hostage-taking, and reprisals against protected persons. The Convention also regulates humanitarian relief, occupation administration, family reunification, healthcare, and the treatment of civilian internees. By recognising civilians as independent beneficiaries of international legal protection, the Fourth Geneva Convention fundamentally transformed humanitarian law.

3. Legal Significance of the 1949 Geneva Conventions

The legal significance of the 1949 Geneva Conventions extends beyond the expansion of humanitarian protection. They introduced Common Article 1, which obliges States not only to respect but also to ensure respect for the Conventions in all circumstances, thereby establishing compliance as a positive legal obligation. The Conventions also introduced the grave breaches regime, requiring States to criminalise and prosecute serious violations such as wilful killing, torture, and inhuman treatment. Furthermore, the Conventions strengthened the humanitarian role of the International Committee of the Red Cross (ICRC) by recognising its supervisory functions, including visits to prisoners of war and humanitarian assistance during armed conflicts. Their universal ratification and the customary status of many of their provisions have made the Geneva Conventions the cornerstone of contemporary international humanitarian law. The adoption of the 1949 Geneva Conventions therefore marked the transition from fragmented humanitarian treaties to a comprehensive legal framework regulating the protection of all categories of victims during armed conflict. They continue to provide the principal legal foundation for ensuring compliance with international humanitarian law and remain indispensable to the maintenance of humanity in times of war⁶.

F. Common Article 3: A Landmark Development in International Humanitarian Law

One of the most significant innovations introduced by the Geneva Conventions of 1949 was Common Article 3, often described as the "*Convention in Miniature*." Unlike the earlier Geneva Conventions, which primarily applied to international armed conflicts between States, Common Article 3 extended minimum humanitarian protections to non-international armed conflicts, including civil wars and conflicts involving organised armed groups. This marked a significant expansion in the scope of international humanitarian law, recognising

⁶ Emily Crawford & Alison Pert, *International Humanitarian Law* (3rd ed., Cambridge University Press, 2020).
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that victims of internal conflicts also deserve legal protection. Common Article 3 requires that persons taking no active part in hostilities, including civilians, wounded combatants, detainees, and those who have laid down their arms, be treated humanely without adverse distinction. It prohibits violence to life and person, torture, cruel treatment, hostage-taking, outrages upon personal dignity, and the passing of sentences without a regularly constituted court offering essential judicial guarantees. These provisions establish minimum humanitarian standards applicable regardless of the nature of the conflict or the identity of the parties involved. The importance of Common Article 3 has been reinforced through international judicial decisions, particularly by the International Criminal Tribunal for the Former Yugoslavia in *Prosecutor v. Tadić*, which recognised that many of its principles have attained the status of customary international law. Today, Common Article 3 serves as the minimum humanitarian standard governing non-international armed conflicts and forms the legal basis for the protection of victims in most contemporary armed conflicts. Its inclusion in the Geneva Conventions significantly strengthened the universality and effectiveness of international humanitarian law by ensuring that fundamental humanitarian guarantees apply irrespective of the classification of the conflict⁷.

G. Additional Protocols to the Geneva Conventions

The four Geneva Conventions of 1949 established a comprehensive legal framework for the protection of victims of armed conflict. However, the changing nature of warfare, particularly the rise of non-international armed conflicts and the increasing impact of hostilities on civilian populations, necessitated further legal development. Consequently, the international community adopted Additional Protocols I and II in 1977, followed by Additional Protocol III in 2005, to strengthen and supplement the existing humanitarian framework. Additional Protocol I (1977) applies to international armed conflicts and reinforces the protection of civilians by codifying the principles of distinction, proportionality, and precaution. It requires parties to distinguish between civilians and combatants and prohibits attacks likely to cause excessive civilian harm in relation to the anticipated military advantage. The Protocol also strengthens the protection of medical personnel, humanitarian relief operations, cultural property, and the natural environment.

⁷ Sandesh Sivakumaran, "Re-envisioning the International Law of Internal Armed Conflict," 22 European Journal of International Law 219 (2011).

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Additional Protocol II (1977) supplements Common Article 3 by providing more detailed rules governing non-international armed conflicts. It prohibits violence against civilians, torture, hostage-taking, acts of terrorism, and forced displacement while ensuring judicial guarantees for persons detained during internal conflicts. Given the increasing prevalence of civil wars, the Protocol significantly expanded humanitarian protection beyond interstate conflicts.

Additional Protocol III (2005) introduced the Red Crystal as an additional protective emblem alongside the Red Cross and Red Crescent. The Protocol sought to provide a universally acceptable and neutral emblem for humanitarian organisations operating in armed conflicts.

The Geneva Conventions establish the principal legal framework governing the protection of victims during armed conflict. Their effectiveness depends not only upon the substantive humanitarian protections they provide but also upon the legal mechanisms that ensure their implementation and enforcement. Compliance with the Geneva Conventions is founded upon treaty obligations, customary international humanitarian law, domestic implementation, and individual criminal accountability. Together, these mechanisms impose binding legal duties upon States and, in certain circumstances, non-State actors, thereby reinforcing respect for humanitarian norms and reducing impunity for serious violations.

A. Treaty Obligations under International Law

The Geneva Conventions derive their binding force from the principle of *pacta sunt servanda*, codified under Article 26 of the Vienna Convention on the Law of Treaties, which requires every treaty in force to be performed in good faith. Accordingly, all States Parties are legally obliged to implement the provisions of the Geneva Conventions and cannot avoid their international obligations by relying on domestic legislation or political considerations. Article 27 of the Vienna Convention further reinforces this principle by prohibiting States from invoking internal law as justification for failing to perform treaty obligations. Unlike many international agreements based on reciprocity, the Geneva Conventions establish humanitarian obligations that apply irrespective of the conduct of opposing parties. Even where one belligerent violates the Conventions, the opposing State remains legally bound to comply with its humanitarian obligations. The International Court of Justice affirmed this principle in *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v.*

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*United States*⁸), holding that the fundamental principles of international humanitarian law constitute "elementary considerations of humanity" and continue to bind States independently of treaty obligations. This judgment reinforced the universal and humanitarian character of the Geneva Conventions.

B. Common Article 1: Duty to Respect and Ensure Respect

Common Article 1, common to all four Geneva Conventions, constitutes the cornerstone of the compliance framework. It obliges High Contracting Parties "to respect and to ensure respect" for the Conventions in all circumstances. This provision imposes both a negative obligation to refrain from violating humanitarian law and a positive obligation to take appropriate measures to prevent, suppress, and respond to violations. The obligation to respect requires States to ensure that their armed forces and public authorities conduct military operations in accordance with the Geneva Conventions. The obligation to ensure respect extends further by requiring States to promote compliance by other parties where they possess the capacity to influence their conduct. According to the 2016 ICRC Commentary, this obligation encompasses legislative measures, military training, dissemination of international humanitarian law, investigation of violations, and cooperation with accountability mechanisms.

C. Customary International Humanitarian Law

Compliance with the Geneva Conventions is further strengthened through customary international humanitarian law, which arises from consistent State practice accompanied by *opinio juris*. Many fundamental humanitarian principles, including humane treatment, protection of civilians, prohibition of torture, and the distinction between civilians and combatants, have attained customary status and therefore bind all parties to armed conflicts, irrespective of treaty ratification. The customary character of these rules has been recognised in international jurisprudence. In *Nicaragua v. United States*, the ICJ held that the fundamental principles reflected in the Geneva Conventions also exist independently as customary international law. Likewise, the International Criminal Tribunal for the Former

⁸Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), Merits, Judgment, 1986 I.C.J. Rep. 14 (June 27).

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Yugoslavia, in *Prosecutor v. Tadić*⁹, confirmed that many humanitarian rules governing international armed conflicts equally apply to non-international armed conflicts through customary international law. These decisions significantly expanded the scope of humanitarian protection and reinforced the universality of the Geneva Convention framework.

D. Domestic Implementation and State Responsibility

The primary responsibility for implementing the Geneva Conventions rests with States. Ratification alone is insufficient; States must adopt legislative, administrative, and judicial measures to give effect to treaty obligations. These include criminalising grave breaches, protecting humanitarian emblems, incorporating international humanitarian law into military manuals, training armed forces, and empowering domestic courts to prosecute serious violations. Failure to fulfil these obligations may give rise to international responsibility. In *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*¹⁰, the ICJ held that States may incur responsibility not only for directly committing internationally wrongful acts but also for failing to prevent serious violations where a legal duty exists. Although the judgment concerned the Genocide Convention, its reasoning reinforces the broader principle that States must exercise due diligence in implementing their obligations under international humanitarian law.

E. Grave Breaches and Individual Criminal Responsibility

The Geneva Conventions classify certain serious violations as grave breaches, including wilful killing, torture, inhuman treatment, unlawful deportation, and extensive destruction of protected property. States are required to enact legislation providing effective criminal sanctions and to prosecute or extradite persons alleged to have committed such offences. The principle of individual criminal responsibility has been strengthened through international criminal jurisprudence. In *Prosecutor v. Delalić et al. (Čelebići Case)*¹¹, the ICTY clarified

⁹ *Prosecutor v. Tadić*, Case No. IT-94-1-A, Judgment, Appeals Chamber, International Criminal Tribunal for the Former Yugoslavia (ICTY), 15 July 1999.

¹⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, 2007 I.C.J. Rep. 43 (Feb. 26).

¹¹ *Prosecutor v. Delalić et al. (Čelebići Case)*, Case No. IT-96-21-T, Judgment, Trial Chamber, International Criminal Tribunal for the Former Yugoslavia (ICTY), 16 Nov. 1998

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the doctrine of command responsibility by holding military commanders criminally liable where they knew, or had reason to know, that subordinates were committing war crimes and failed to prevent or punish them. Furthermore, the Rome Statute recognises grave breaches of the Geneva Conventions as war crimes within the jurisdiction of the International Criminal Court, thereby reinforcing accountability and combating impunity for serious violations.

III. International Mechanisms for Ensuring Compliance with the Geneva Conventions

The effectiveness of the Geneva Conventions depends not only on their legal provisions but also on the institutions responsible for promoting, monitoring, and enforcing compliance. Unlike domestic legal systems, international humanitarian law lacks a centralised enforcement authority. Instead, compliance is ensured through a combination of humanitarian organisations, international judicial bodies, the United Nations, and national legal systems. These mechanisms collectively promote respect for the Geneva Conventions, facilitate accountability for violations, and contribute to the progressive development of international humanitarian law.

A. Role of the International Committee of the Red Cross (ICRC)

The International Committee of the Red Cross is the principal humanitarian institution responsible for promoting compliance with the Geneva Conventions. Established in 1863, the ICRC is recognised under the Geneva Conventions as an independent and neutral organisation entrusted with protecting victims of armed conflict and ensuring respect for international humanitarian law. Its mandate includes visiting prisoners of war and civilian detainees, facilitating humanitarian relief, restoring family links, disseminating international humanitarian law, and engaging in confidential dialogue with parties to armed conflicts. A distinctive feature of the ICRC's work is its policy of confidentiality. Instead of publicly condemning violations, the organisation generally communicates privately with States and armed groups to encourage voluntary compliance. This approach enables the ICRC to maintain neutrality and secure humanitarian access in conflict zones. The importance of confidentiality was recognised by the International Criminal Tribunal for the Former Yugoslavia in *Prosecutor v. Simić et al.*, where the Tribunal acknowledged that the effectiveness of the ICRC depends upon maintaining confidential relations with parties to armed conflict. Although the ICRC lacks enforcement powers, its humanitarian diplomacy

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and operational presence make it indispensable to the implementation of the Geneva Conventions.

B. Role of the United Nations

The United Nations plays an important role in promoting compliance with the Geneva Conventions through its principal organs and specialised agencies. The United Nations Security Council may adopt binding resolutions under Chapter VII of the UN Charter in response to serious violations of international humanitarian law, including the imposition of sanctions, establishment of peacekeeping missions, or referral of situations to the International Criminal Court. The United Nations General Assembly and the United Nations Human Rights Council also contribute by adopting resolutions, establishing fact-finding missions, and documenting violations committed during armed conflicts. These mechanisms strengthen accountability by collecting evidence, raising international awareness, and encouraging States to fulfil their humanitarian obligations. Although the United Nations relies heavily on State cooperation, it remains a central institution for promoting compliance with international humanitarian law.

C. Role of the International Court of Justice (ICJ)

The International Court of Justice contributes to compliance by interpreting and clarifying the legal obligations arising under the Geneva Conventions and customary international humanitarian law. Although the Court adjudicates disputes only between States, its judgments and advisory opinions significantly influence the interpretation and development of humanitarian law. In *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)*, the ICJ held that the fundamental principles of international humanitarian law constitute customary international law and bind States independently of treaty obligations. Similarly, in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court reaffirmed that all States have an obligation to ensure respect for the Geneva Conventions in accordance with Common Article 1. These decisions have strengthened the normative authority of the Geneva Conventions and reinforced the principle that humanitarian obligations are of international concern.

D. Role of the International Criminal Court (ICC)

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The International Criminal Court plays a vital role in ensuring compliance through the prosecution of individuals responsible for war crimes, crimes against humanity, and genocide. Established under the Rome Statute, the ICC exercises jurisdiction over grave breaches of the Geneva Conventions where national authorities are unwilling or unable to genuinely prosecute offenders. The Court operates on the principle of complementarity, meaning that primary responsibility for prosecution remains with national legal systems. The ICC has reinforced the principle that serious violations of international humanitarian law attract individual criminal responsibility irrespective of official position. Its jurisprudence has contributed to the interpretation of war crimes, protection of civilians, recruitment of child soldiers, and command responsibility. Although its jurisdiction is subject to treaty limitations and political challenges, the ICC has strengthened the international accountability framework and reduced the scope for impunity.

E. Universal Jurisdiction and National Courts

National courts also play a crucial role in enforcing the Geneva Conventions through the principle of universal jurisdiction. The Conventions require States to search for persons alleged to have committed grave breaches and either prosecute them before domestic courts or extradite them to another competent jurisdiction. This obligation reflects the principle of *aut dedere aut judicare* ("extradite or prosecute"), ensuring that perpetrators of serious humanitarian violations cannot evade accountability by crossing national borders. The exercise of universal jurisdiction reinforces international cooperation in combating impunity and complements the work of international criminal tribunals. Several States have incorporated grave breaches of the Geneva Conventions into domestic criminal legislation, enabling national courts to prosecute war crimes regardless of where they were committed or the nationality of the accused. Such domestic enforcement strengthens the overall compliance framework by translating international obligations into effective national legal action.

IV. Contemporary Challenges Affecting Compliance with the Geneva Conventions

The changing character of armed conflict has introduced several contemporary challenges that continue to affect compliance with the Geneva Conventions. Globalisation, technological innovation, climate-related conflicts, increasing privatisation of military functions, and geopolitical rivalries have transformed the operational environment in which international

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humanitarian law is applied. These developments require continuous adaptation of legal norms and stronger cooperation among States to ensure that humanitarian protections remain effective.

A. Private Military and Security Companies

The increasing use of Private Military and Security Companies (PMSCs) has complicated the enforcement of international humanitarian law. States frequently engage private contractors to perform military support functions, including security operations, intelligence gathering, and logistical assistance. Although personnel employed by PMSCs remain bound by applicable rules of international humanitarian law, determining legal responsibility for violations is often difficult due to the complex contractual relationships between governments, corporations, and individual contractors. The Montreux Document guides on the legal obligations of States concerning PMSCs but is not legally binding. Consequently, inconsistent national regulation and weak oversight continue to create accountability gaps, particularly where contractors operate across multiple jurisdictions.

B. Prolonged Armed Conflicts

Many contemporary conflicts continue for extended periods without a clear conclusion, resulting in protracted humanitarian crises. Long-term conflicts place considerable strain on humanitarian organisations, weaken national institutions, and increase civilian vulnerability. Prolonged displacement, destruction of infrastructure, food insecurity, and disruption of healthcare systems often make it increasingly difficult to implement humanitarian protections effectively. In such situations, repeated violations may become normalised, reducing respect for international humanitarian law among parties to the conflict.

C. Protection of Refugees and Internally Displaced Persons

Armed conflicts frequently result in large-scale displacement of civilian populations. While the Geneva Conventions protect civilians during armed conflict, refugees and internally displaced persons often face additional risks, including inadequate shelter, food shortages, limited healthcare, and exploitation. Humanitarian agencies may encounter legal and logistical barriers when delivering assistance across borders or in territories controlled by non-State armed groups. Ensuring effective coordination between international humanitarian

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law, international refugee law, and international human rights law remains a continuing challenge.

D. Environmental Damage During Armed Conflict

Modern warfare increasingly causes long-term environmental destruction, including contamination of water resources, destruction of forests, pollution, and damage to agricultural land. Such environmental harm not only affects military objectives but also threatens civilian health, food security, and post-conflict reconstruction. Although Additional Protocol I prohibits methods of warfare expected to cause widespread, long-term, and severe environmental damage, practical enforcement remains limited. Growing recognition of environmental protection within international humanitarian law has prompted renewed discussion regarding stronger legal standards for environmental accountability during armed conflicts.

E. Inconsistent State Practice

Despite universal acceptance of the Geneva Conventions, States differ considerably in their interpretation and implementation of humanitarian obligations. Divergent military doctrines, domestic legislation, and political priorities often result in inconsistent application of international humanitarian law. Such differences create legal uncertainty and weaken the uniformity necessary for effective compliance. Strengthening harmonisation through military training, judicial cooperation, and adherence to international best practices is therefore essential for improving respect for the Geneva Conventions.

These contemporary challenges demonstrate that ensuring compliance with the Geneva Conventions requires more than the existence of legal rules. Effective implementation depends upon continuous adaptation of international humanitarian law to evolving patterns of warfare, stronger domestic institutions, enhanced international cooperation, and sustained commitment by States and humanitarian organisations to uphold the fundamental principles of humanity.

V. Recommendations for Strengthening Compliance with the Geneva Conventions

The effectiveness of the Geneva Conventions depends not only on their universal acceptance but also on their consistent implementation by States and other parties to armed conflict.

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Although international humanitarian law provides a robust legal framework, persistent violations demonstrate the need for stronger legal, institutional, and operational measures to enhance compliance.

- 1) States should strengthen domestic implementation by incorporating the Geneva Conventions and their Additional Protocols into national legislation. Comprehensive laws should criminalise grave breaches, establish effective investigative mechanisms, and empower national courts to prosecute war crimes. Regular review of domestic legislation should also be undertaken to ensure conformity with evolving developments in international humanitarian law.
- 2) Education and military training should be prioritised. Armed forces, law enforcement agencies, peacekeeping personnel, and public officials should receive continuous training on the principles of distinction, proportionality, military necessity, and humanity. Universities and legal institutions should incorporate international humanitarian law into academic curricula to develop greater awareness among future legal practitioners and policymakers.
- 3) International accountability mechanisms should be reinforced. States should cooperate fully with the International Criminal Court and other international tribunals by facilitating investigations, sharing evidence, and executing arrest warrants. National courts should also exercise universal jurisdiction, where appropriate, to prosecute individuals responsible for grave breaches of the Geneva Conventions and prevent impunity.
- 4) Greater support should also be provided to humanitarian organisations, particularly the International Committee of the Red Cross, by ensuring safe and unhindered humanitarian access to conflict-affected populations. Attacks against medical personnel, humanitarian workers, and relief operations should be investigated promptly and prosecuted in accordance with international law. Furthermore, international humanitarian law should continue to adapt to emerging challenges, including cyber warfare, autonomous weapons, artificial intelligence, and private military and security companies. States should cooperate through multilateral dialogue to clarify the application of existing legal principles to new forms of warfare while preserving the humanitarian objectives of the Geneva Conventions.
- 5) Finally, stronger international cooperation is essential. States, international organisations, and regional institutions should enhance information sharing, technical assistance, and

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capacity-building programmes to improve implementation and monitoring of humanitarian obligations. Regular international review conferences and legal dialogues can facilitate the exchange of best practices and promote consistent interpretation of the Geneva Conventions.

VI. Conclusion

The Geneva Conventions represent the cornerstone of international humanitarian law and embody the international community's commitment to protecting human dignity during armed conflict. From their historical evolution to the adoption of the Additional Protocols, the Conventions have progressively expanded legal protection for wounded and sick combatants, prisoners of war, civilians, and other persons affected by hostilities. Their universal ratification reflects broad international acceptance that humanitarian principles must be respected irrespective of the nature or legality of an armed conflict. This study has demonstrated that international law plays a crucial role in ensuring compliance with the Geneva Conventions through treaty obligations, customary international law, State responsibility, international judicial institutions, and humanitarian organisations. Common Article 1 establishes the duty of States not only to respect but also to ensure respect for the Conventions in all circumstances, while the principles of universal jurisdiction and individual criminal responsibility reinforce accountability for grave breaches. The contributions of the International Committee of the Red Cross, the United Nations, the International Court of Justice, and the International Criminal Court have further strengthened the implementation and enforcement of international humanitarian law. However, persistent violations in contemporary conflicts reveal that the existence of legal rules alone is insufficient to ensure effective compliance. Political considerations, inconsistent enforcement, non-State armed groups, technological developments, cyber warfare, and humanitarian access restrictions continue to undermine the practical application of the Geneva Conventions. Judicial decisions such as *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)* and *Prosecutor v. Tadić* have clarified and strengthened humanitarian obligations, yet meaningful implementation ultimately depends upon the political will of States and effective domestic enforcement. Ensuring compliance therefore requires a comprehensive and coordinated approach involving governments, international organisations, humanitarian

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agencies, national courts, and civil society. Stronger domestic legislation, regular military training, effective prosecution of war crimes, enhanced international cooperation, and continued adaptation of international humanitarian law to emerging forms of warfare are essential to addressing contemporary challenges. At the same time, humanitarian institutions must be supported in carrying out their neutral and independent mandates to protect victims of armed conflict. In conclusion, the Geneva Conventions remain indispensable to the regulation of armed conflict and the protection of humanity. While the evolving nature of warfare continues to test their effectiveness, their fundamental principles remain universally relevant. Sustained commitment to implementation, accountability, and international cooperation is essential to ensuring that the Geneva Conventions continue to serve as an effective legal framework for safeguarding human dignity and maintaining the rule of law during armed conflict.

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