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लेटिवो 4.0
THE KURUKSHETRA OF DIPLOMACY

LEGATIO 4.0 / STUDY GUIDE SERIES

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BACKGROUND GUIDE • AGENDA

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UNITED NATIONS HUMAN RIGHTS COUNCIL

AGENDA / FOCUS

Deliberating upon the protection and promotion of human rights amidst escalating tensions and armed conflict in affected regions, with special emphasis on the Middle East.

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THE KURUKSHETRA OF DIPLOMACY

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LEGATIO 4.0

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amidst Escalating Tensions and Armed Conflict in affected regions with
special emphasis on the Middle East**

Letter from the Executive Board

Honorable Member State Representatives,

On behalf of the Executive Board (EB), it is our distinct privilege to welcome you to the United Nations Human Rights Council (UNHRC) simulation at LEGATIO 4.0. We look forward to a committee defined by rigorous analysis, principled diplomacy, and meaningful multilateral engagement. The agenda for this session is: ***Deliberating upon the protection and promotion of Human Rights amidst Escalating Tensions and Armed Conflict in affected regions with special emphasis on the Middle East.***

Representatives are strongly advised to engage with the study guide in its entirety. However, it should **not** be treated as an exhaustive source, where meaningful participation will depend on the ability to move beyond descriptive understanding and engage in critical, analytical, and policy-oriented discussion.

Rules of Procedure (RoP): This committee will function under the **UN4MUN** Rules of Procedure, where representatives unfamiliar with these rules are expected to acquaint themselves with the same prior to the conference. All representatives are required to maintain decorum, respect the authority of the Dais, and participate in proceedings with the seriousness expected of a Human Rights Council.

The Executive Board (EB) places particular *emphasis* on diplomacy that is both **substantive** and **solution-oriented**, where representatives are *encouraged* to engage in constructive dialogue, build consensus where possible, and propose recommendations that are politically viable, institutionally grounded, and aligned with the *principles* of the United Nations.

We look forward to an *engaging* and *intellectually rigorous* committee that reflects both the significance of the agendas and the responsibilities entrusted to the United Nations Human Rights Council.

Warm regards,

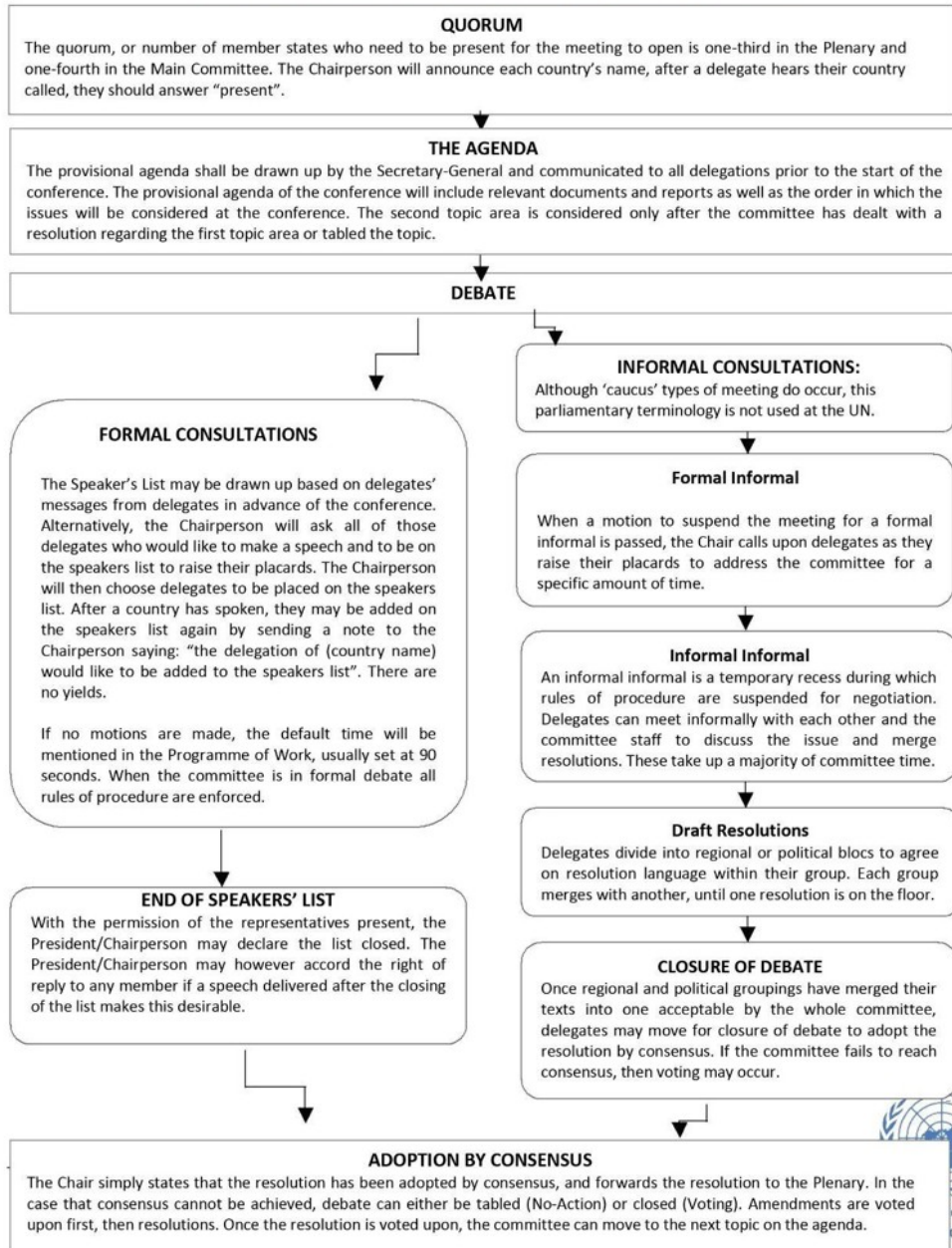
Srotoswini Ghatak, *Co-Chair*

Parthajyoti Roy, *Co-Chair*

Executive Board

United Nations Human Rights Council | LEGATIO 4.0

Flow of Debate: UN General Assembly Model



FLOW OF DEBATE UNDER UN4MUN RULES OF PROCEDURE

Introduction to the Committee

The Human Rights Council is an intergovernmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the United Nations Office at Geneva (UNOG).

The Office of the High Commissioner for Human Rights (UN Human Rights) is mandated by the UN General Assembly to promote and protect the enjoyment and full realization, by all people, of all human rights. The Charter of the United Nations, the Universal Declaration of Human Rights, and international human rights laws and treaties established those rights. UN Human Rights was created by the General Assembly in 1993 through its resolution 48/141, which also details its mandate.

UN Human Rights is mandated:

- Promote and protect all human rights for all
- Recommend that bodies of the UN system improve the promotion and protection of all human rights
- Promote and protect the right to development
- Provide technical assistance to States for human rights activities
- Coordinate UN human rights education and public information programmes
- Work actively to remove obstacles to the realization of human rights and to prevent the continuation of human rights violations
- Engage in dialogue with Governments in order to secure respect for all human rights
- Enhance international cooperation for the promotion and protection of all human rights
- Coordinate human rights promotion and protection activities throughout the United Nations system
- Rationalize, adapt, strengthen and streamline the UN human rights machinery

Membership and Structure

The Council consists of 47 members, elected yearly by the General Assembly for staggered three-year terms. Members are selected on the basis of equitable geographic rotation using the United Nations regional grouping system. Members are eligible for re-election for one additional term, after which they must relinquish their seat.

The seats are distributed along the following lines:

- 13 for the African Group
- 13 for the Asia-Pacific Group
- 6 for the Eastern European Group

- 8 for the Latin American and Caribbean Group
- 7 for the Western European and Others Group

History

The Human Rights Council was created by the General Assembly on 15 March 2006 by its resolution 60/251, replacing the Commission on Human Rights. The Council held its first session from 19 to 30 June 2006. A year later, the Council adopted resolution 5/1, its “institution-building package” to guide its work and set up its procedures and mechanisms. The 47 members of the Council are elected by the General Assembly.

Its mechanisms include the universal periodic review, which serves to assess the situations of human rights in all States Members of the United Nations. The Advisory Committee serves as the Council’s “think tank”, providing it with expertise and advice on thematic human rights issues. The complaint procedure allows individuals and organisations to bring human rights violations to the attention of the Council.

The Human Rights Council also works with its special procedures, a mechanism originally established by the Commission on Human Rights. The special procedures are independent experts appointed by the Council – mandated as special rapporteurs, independent experts, special representatives or members of working groups – to monitor, examine, advise and publicly report on thematic issues or situations of human rights in specific countries.

Introduction to the Agenda

“Deliberating upon the protection and promotion of Human Rights amidst Escalating Tensions and Armed Conflict in affected regions with special emphasis on the Middle East.”

Deliberating upon the protection and promotion of **human rights** amidst escalating tensions and **armed conflict** in affected regions, with special emphasis on the **Middle East**, this agenda calls upon the **Human Rights Council (HRC)** to reaffirm and operationalize the core principles of the **Charter of the United Nations**, **international human rights law (IHRL)** and **international humanitarian law (IHL)**. It recognizes that the current situation in several parts of the Middle East constitutes a serious threat to **international peace and security**, and poses grave challenges to the enjoyment of **fundamental rights and freedoms**, including the **right to life**, **human dignity**, **freedom from torture**, and **economic, social and cultural rights**. In this regard, the Council underscores the binding nature of the **Geneva Conventions**, their **Additional Protocols**, and relevant **customary international law**, as well as States’ obligations under core human rights instruments such as the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**.

The agenda emphasizes that all **States**, as well as **non-State armed groups**, must fully respect the principles of **distinction**, **proportionality** and **precaution in attack**, and must ensure the **protection of civilians** and civilian objects, including **medical facilities**, **schools**, **places of worship**, **critical infrastructure** and **humanitarian personnel**. It further recalls the prohibition of **collective punishment**, **forced displacement**, **arbitrary detention**, **enforced disappearance** and **discriminatory practices**, and stresses that any measures taken in the name of **national security**, **counter-terrorism** or **public order** must be consistent with **international obligations** and subject to effective **judicial and parliamentary oversight**. The Council draws attention to the particular impact of escalating hostilities on **women and children**, **refugees and internally displaced persons**, **persons with disabilities**, and other persons in vulnerable situations, whose access to **essential services**, **humanitarian assistance**, and **accountability mechanisms** is often severely restricted.

In line with its mandate under **General Assembly resolution 60/251**, the **Human Rights Council** is invited to strengthen its **preventive**, **monitoring** and **accountability** roles with respect to the Middle East and other affected regions. This includes the possible establishment, renewal or reinforcement of **Special Procedures**, such as **Special Rapporteurs** and **Independent Experts**, as well as **Commissions of Inquiry**, **fact-finding missions** and other **investigative mechanisms** tasked with documenting **violations of IHL and IHRL**, identifying **patterns of abuse**, and recommending appropriate **remedial and accountability measures**. The agenda calls for enhanced cooperation with **United Nations field presences**, **OHCHR**, **humanitarian coordination structures**, and relevant **treaty bodies**, to ensure that information from the ground is systematically integrated into **HRC deliberations**, **interactive dialogues** and **Universal Periodic Review (UPR)** processes.

Furthermore, the Council is encouraged to promote **safe and unhindered humanitarian access**, facilitate the work of **human rights defenders**, and support **victim-centred approaches** that prioritize **truth, justice, reparations** and **guarantees of non-recurrence**. The agenda urges **Member States, observer States** and other **stakeholders** to engage constructively, in a spirit of **multilateralism** and **solidarity**, to develop **concrete recommendations** and **draft resolutions** that reinforce the indivisible links between **peace, security, development** and **human rights**. It stresses that the Council must act consistently, without **selectivity** or **double standards**, and must address violations committed by **all parties** to the conflict. Ultimately, this agenda reaffirms that a **durable and just peace** in the Middle East and other affected regions can only be achieved through full respect for **international law**, genuine **inclusive dialogue**, and the effective **protection and promotion of human rights for all**.

What are human rights?

Human rights are rights we have simply because we exist as human beings - they are not granted by any state. These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. They range from the most fundamental - the right to life - to those that make life worth living, such as the rights to food, education, work, health, and liberty.

The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948, was the first legal document to set out the fundamental human rights to be universally protected. The UDHR, which turns 75 on 10 December 2023, continues to be the foundation of all international human rights law. Its 30 articles provide the principles and building blocks of current and future human rights conventions, treaties and other legal instruments.

The UDHR, together with the 2 covenants - the International Covenant for Civil and Political Rights, and the International Covenant for Economic, Social and Cultural Rights - make up the International Bill of Rights.

War crimes – serious violations of international humanitarian law that include wilful killings, direct attacks on civilians, torture, use of prohibited weapons, the murder or ill-treatment of prisoners of war or others who have been captured, surrendered or injured and crimes of sexual violence.

Crimes against humanity – crimes committed as part of a widespread or systematic attack by or on behalf of a state or an organization against a civilian population during peace or wartime. There

are 11 crimes against humanity including murder, extermination, enslavement, deportation or forcible transfer of a population, torture, rape and other serious forms of sexual violence, enforced disappearance and apartheid. Crimes against humanity may be committed in armed conflict or in peacetime.

Genocide – certain acts committed with the intent to destroy, completely or partially, a national, ethnic, racial or religious group. Genocide may be committed in armed conflict or in peacetime.

Date	Monitoring Body		
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	21 Dec 1965	CERD
ICCPR	International Covenant on Civil and Political Rights	16 Dec 1966	CCPR
ICESCR	International Covenant on Economic, Social and Cultural Rights	16 Dec 1966	CESCR
OP-CEDAW	Optional Protocol to the Convention on the Elimination of Discrimination against Women	10 Dec 1999	CEDAW
OP-CRC-AC	Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	25 May 2000	CRC
OP-CRC-SC	Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	25 May 2000	CRC
OP-CRC-IC	Optional Protocol to the Convention on the Rights of the Child on a communications procedure	19 Dec 2011	CRC
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	18 Dec 2002	SPT
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities	12 Dec 2006	CRPD

Who is most at risk in conflict?

Some civilian groups face increased risk of harm during wars. These include women, older people, people with disabilities, and children.

In 2021, more than 19,000 children were either recruited as child soldiers; killed or maimed; subjected to sexual violence; or abducted in armed conflicts. The greatest number of these UN-verified violations took place in Afghanistan, Democratic Republic of Congo, Israel and the

Occupied Palestinian Territories, Myanmar, Somalia, Syria, and Yemen. Former child soldiers and others perceived to affiliated with armed groups are often unlawfully detained and subjected to torture, as Amnesty has reported on in Northeast Nigeria, or given little to no support to access education or to respond to their physical and mental health needs, as the organization documented in northern Iraq.

In many conflicts, fighting forces continue to use sexual violence against women and girls to deliberately inflict lasting physical and psychological damage. Ethiopian troops and militia, Eritrean soldiers, as well as fighters from the Tigray People's Liberation Front, have subjected women and girls to rape, gang rape, sexual slavery, sexual mutilation and other forms of torture.

Older people in Northeast Nigeria have suffered in unique ways from the conflict between the military and Boko Haram that has raged for almost a decade.

War's impact on people with disabilities: millions of Yemenis with disabilities struggled to access even the most basic humanitarian aid. Many were left behind as their families fled fighting, often because wheelchairs, crutches and other devices made it too difficult to escape. And, as in many conflict settings, access to psychosocial support was very hard to come by.

ARMED CONFLICT

- **Armed conflict.** 'An armed conflict is said to exist when there is an armed confrontation between the armed forces of States (international armed conflict), or between governmental authorities and organised armed groups or between such groups within a State (non-international armed conflict). Other situations of violence, such as internal disturbances and tensions are not considered to be armed conflicts.' (International Committee of the Red Cross – ICRC)
- **Armistice.** A military agreement that puts an end to ongoing hostilities. There are two types of armistice: general (which halts all military operations) and local (which stops operations in a specific area). If the armistice's duration is not specified, belligerent parties may resume operations at any time, subject to prior notice and in compliance with the terms of the armistice. The state of war continues, with all of its legal ramifications, even after an armistice ends.
- **Ceasefire.** A suspension of fighting decided by the conflict parties, usually as part of a political process. It often encompasses the whole geographic region affected by the conflict and is intended to be long-term. Usually, the goal is to facilitate communication between the parties, with the ultimate goal of reaching a long-term political agreement.
- **Cessation of hostilities (or 'truce').** The suspension of active hostilities, designed to give conflict parties permission to pause fighting for a variety of reasons, such as to engage in political discourse and work towards a long-term truce. The ICRC uses the term 'truce' interchangeably with 'suspension of hostilities'.
- **Civilian.** 'Any person who is not a combatant. When civilians take a direct part in fighting, they lose their protection from attack. (When there is any doubt about a person's status, he or she shall be considered to be a civilian)' – ICRC.
- **Combatant.** In international humanitarian law, the term 'combatant' in international armed conflicts refers to members of the armed forces of a party to the conflict (except medical and religious personnel) who are entitled to take a direct part in hostilities. Combatants are obliged to distinguish themselves from civilians and to abide by international humanitarian law. If combatants fall into the hands of their adversaries, they are considered to be 'prisoners of war' – ICRC.
 - **Non-combatant.** 'A civilian, or a combatant who is *hors de combat*'. *Hors de combat*, a term whose literal meaning is 'out of the fight', describes 'combatants who have been captured or wounded or who are sick or shipwrecked, or who have laid down their arms or surrendered, and thus are no longer in a position to fight' – ICRC.
- **Customary international humanitarian law.** General practice accepted as international law; this practice is evident, for instance, in official statements made by states, national laws, and case law.
- **Days of tranquillity.** A mechanism used mostly by UNICEF, frequently in collaboration with the World Health Organization (WHO), to provide children with access to healthcare during times of conflict, such as by carrying out nationwide immunisation campaigns or other solely humanitarian endeavours. All relevant parties must consent to days of tranquillity, to allow access to medical and other personnel, and must refrain from interfering with their work during those days.
- **De-confliction arrangements.** The sharing of logistical data to arrange the timing and locations of relief operations between parties involved in the conflict and humanitarian actors. These agreements guarantee that military operations do not put beneficiaries in danger, obstruct the delivery of relief supplies or the execution of humanitarian operations, or jeopardise the lives of humanitarian actors.

TREATY BODIES AND SPECIAL PROCEDURES

Independent United Nations human rights experts, working in treaty bodies or as the holders of country or thematic special procedure mandates of the Human Rights Council, regularly refer to obligations of international human rights and humanitarian law in armed conflict. Their reports and recommendations help to identify and sometimes prevent violations in armed conflict. Their findings and outputs have been referred to in decisions of the International Court of Justice. For example, in its judgment on the Armed Activities on the Territory of the Congo, the Court considered the report of the Special Rapporteur on the Democratic Republic of the Congo in its

findings of violations of international human rights and humanitarian law. In its advisory opinion on the Legal Consequences of the Construction of a Wall the Court reiterated the Human Rights Committee's interpretation that the International Covenant on Civil and Political Rights is binding on the occupying Power vis-à-vis the population of the occupied territory. There are also instances where domestic courts have referred to the outputs of treaty bodies, including general comments and concluding observations.

CHARTER, ARTICLES, PROTOCOLS, FRAMEWORKS

- **Charter of the United Nations (1945)**
Establishes the purposes and principles of the United Nations, including the promotion and encouragement of respect for **human rights and fundamental freedoms** (Articles 1, 55, 56).
- **Universal Declaration of Human Rights (UDHR, 1948)**
Foundational text affirming the universality and indivisibility of human rights, including **Article 18** on freedom of thought, conscience and religion, and **Article 19** on freedom of opinion and expression.
- **International Covenant on Civil and Political Rights (ICCPR, 1966)**
Legally binding treaty protecting, inter alia, the **right to life (Article 6)**, prohibition of **torture and cruel, inhuman or degrading treatment (Article 7)**, **freedom of religion (Article 18)**, and **freedom of expression (Article 19)**.
- **Second Optional Protocol to the ICCPR (1989)**
Aims at the **abolition of the death penalty**. **Article 1** requires States Parties to refrain from executions and to take all necessary measures to abolish capital punishment.
- **International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)**
Protects rights to **work, health, education**, and an **adequate standard of living**, all of which are heavily affected by conflict and structural discrimination.
- **Convention on the Rights of the Child (CRC, 1989)**
Recognizes the special protection owed to **children**, including protection from violence, exploitation, and recruitment, and guarantees rights to **education, health, and development**.

Regional Human-Rights Frameworks

- **Arab Charter on Human Rights (revised 2004, in force 2008)**
Regional human-rights treaty applicable to many Middle Eastern States, covering civil, political, economic, social, and cultural rights, and affirming principles of **equality, non-discrimination, and human dignity**.

- **Arab Human Rights Committee (since 2009)**
Treaty-body mechanism established under the Arab Charter to **receive and review State reports**, issue **concluding observations**, and encourage implementation. Note: it does **not** provide an individual complaints mechanism.
- **Cairo Declaration of Human Rights in Islam (CDHRI, 1990)**
Adopted by members of the **Organisation of Islamic Cooperation (OIC)**. Frames rights within **Shari'a**; contains provisions that differ from UDHR standards, for example on **freedom of religion** and **conversion**.

International Humanitarian Law (IHL) and Protection in Armed Conflict

- **Geneva Conventions of 1949**
Four treaties forming the backbone of modern IHL. Particularly relevant:
 - **Fourth Geneva Convention** relative to the protection of civilian persons in time of war (1949).
Protects civilians in conflict and occupation, prohibits **collective punishment**, **forcible transfers**, and attacks on civilians and civilian objects.
- **Additional Protocol I (1977) to the Geneva Conventions**
Relates to **international armed conflicts**; codifies principles of **distinction**, **proportionality**, and **precautions in attack**, and protection of **medical units**, **humanitarian relief** and **cultural property**.
- **Additional Protocol II (1977) to the Geneva Conventions**
Addresses **non-international armed conflicts**, including many internal or mixed conflicts in the region, and reinforces protections for civilians and persons hors de combat.
- **Customary International Humanitarian Law**
Includes widely accepted rules applicable to all parties to armed conflict, such as the **prohibition of direct attacks on civilians**, the **ban on torture**, and basic guarantees for persons deprived of liberty.

Thematic and Procedural UN Human-Rights Frameworks

- **Human Rights Council (HRC)** – established by General Assembly resolution **60/251**
Main UN body responsible for **promoting universal respect for the protection of all human rights** and addressing situations of violations, including through **special sessions**, **resolutions**, and **special procedures**.
- **Special Procedures of the HRC**
Independent experts, **Special Rapporteurs**, **Independent Experts** and **Working Groups** mandated to monitor and report on thematic issues (e.g. **extrajudicial executions**, **torture**, **freedom of religion**, **freedom of expression**, **violence against women**) and country situations.

- **Treaty** **Bodies**
Committees overseeing implementation of core human-rights treaties, including:
 - **Human Rights Committee (ICCPR)**
 - **Committee on Economic, Social and Cultural Rights (ICESCR)**
 - **Committee on the Rights of the Child (CRC)**
 These bodies issue **general comments**, examine **State reports**, and, where applicable, consider **individual communications**.
- **Universal Periodic Review (UPR)**
Peer-review mechanism under the HRC, reviewing the **human-rights record of all States**, including those in the Middle East, and generating **recommendations** on issues such as **capital punishment, freedom of religion, women's rights, children's rights, freedom of expression, and conditions of detention**.
- **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment**
(UDHR Article 5; ICCPR Article 7; CRC Articles 37–39; regional instruments).
- **Freedom of thought, conscience and religion**
(UDHR Article 18; ICCPR Article 18; tensions with CDHRI provisions on conversion and religious compulsion).
- **Right to life and safeguards around the death penalty**
(ICCPR Article 6; Second Optional Protocol to the ICCPR; customary norms limiting capital punishment and banning cruel methods of execution).
- **Non-discrimination and equality before the law**
(UDHR Articles 2 and 7; ICCPR Articles 2 and 26; ICESCR Article 2; Arab Charter provisions on equality).
- **Rights of women and gender equality**
(CEDAW if you wish to add; plus relevant provisions in ICCPR, ICESCR, CRC and Arab Charter).
- **Rights of the child in situations of conflict and detention**
(CRC; Optional Protocols to the CRC; related General Comments).

What is International Humanitarian Law?

International humanitarian law (IHL) is a set of rules that seeks, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not, or are no longer, directly or actively participating in hostilities, and imposes limits on the means and methods of warfare. IHL is also known as “the law of war” or “the law of armed conflict”. IHL is part of public international law, which is made up primarily of treaties, customary international law and general principles of law (see Article 38 of the Statute of the International Court of Justice). A distinction must be made between IHL, which regulates the conduct of parties engaged in an armed conflict (*jus in bello*),

and public international law, as set out in the Charter of the United Nations, which regulates whether a state may lawfully resort to armed force against another state (jus ad bellum). The Charter prohibits such use of force with two exceptions: cases of self-defence against an armed attack, and when the use of armed force is authorized by the United Nations Security Council. IHL does not stipulate whether the commencement of an armed conflict was legitimate or not, but rather seeks to regulate the behaviour of parties once it has started.

Customary law as a source of IHL

Alongside treaties, customary law remains an important source of IHL. It can fill gaps if treaty IHL is not applicable (e.g. owing to a lack of ratification or if the criteria for the applicability of treaties are not fulfilled), or where treaty law is less developed, as is the case for non-international armed conflicts.

Customary IHL is formed by “a general practice accepted as law”. In principle, customary IHL binds all states and, in non-international armed conflicts, non-state parties to the conflict.

When does IHL apply?

IHL governs armed conflict. Apart from a few obligations that require implementation in peacetime (e.g. adoption of implementing legislation, dissemination of IHL), it does not apply outside armed conflict. IHL applies once the conditions for an armed conflict or occupation are factually met on the ground. It applies equally to all sides, regardless of who started the fighting and regardless of motives.

IHL distinguishes between international and non-international armed conflict.

International armed conflicts are those in which one or more states resort to the use of armed force against one or more other states. Situations of occupation are also covered by the law of international armed conflict, even if they meet with no armed resistance.

International armed conflicts are governed by the four Geneva Conventions; AP I, if applicable; other applicable treaties, such as those which regulate the use of weapons; and customary IHL.

Under Additional Protocol I, conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination (colloquially known as “wars of national liberation”) are also addressed as international armed conflicts.

Non-international armed conflicts involve either governmental armed forces fighting one or more non-state armed groups, or such groups fighting each other.

Not every armed confrontation involving non-state armed groups amounts to a non-international armed conflict. To be governed by IHL, it must reach a certain level of intensity and the non-state parties involved must show a certain level of organization. AP II specifically explains in this respect that it “shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature”.

Non-international armed conflicts are governed by Article 3 common to the four Geneva Conventions; AP II, if applicable; other applicable treaties, such as those which regulate the use of weapons; and customary IHL.

The distinction between international and non-international armed conflict is not always immediately obvious. Situations can arise where both types of armed conflict are present. A case-by-case approach, which considers the state or non-state character of the opposing parties, is therefore required to determine which normative framework is applicable in each conflictual relationship.

HOW IS IHL IMPLEMENTED?

The implementation of IHL is primarily the responsibility of states. They must respect and ensure respect for these rules in all circumstances (Article 1 common to the four Geneva Conventions). States must adopt legislation and regulations aimed at ensuring full compliance with IHL. They must, for example, enact laws to provide effective penal sanctions for the most serious violations of the Geneva Conventions – the so-called “grave breaches” – violations that amount to war crimes. States must also adopt laws protecting the red cross, red crescent, red crystal and other symbols.

IHL treaties must be disseminated, for example, through the use of educational programmes for the armed forces and the general public. Other domestic implementation measures must also be taken, such as: the recruitment and training of qualified and specialized personnel and the production of identity cards and other documents for protected persons.

IHL treaties also provide for certain mechanisms designed to support compliance. In particular, these include: the protecting powers system; the possibility to resort to an enquiry procedure; and the International Humanitarian Fact-Finding Commission, a mechanism specifically envisaged in Article 90 of AP I. States party to AP I also undertake to cooperate with the United Nations to deal with serious violations of AP I and the Geneva Conventions. Some weapons treaties, including the Anti-Personnel Mine Ban Convention (APMBC), the Arms Trade Treaty (ATT) and the Convention on Cluster Munitions (CCM), provide for reporting mechanisms aimed at monitoring states parties’ compliance with the obligations deriving from these treaties.

In addition, the 1998 Statute of the International Criminal Court (ICC) established the Court's jurisdiction to prosecute the most serious crimes of international concern, including war crimes (Article 8). By virtue of the principle of complementarity, its jurisdiction is intended to come into play only when a state is genuinely unable or unwilling to prosecute alleged war criminals over which that state has jurisdiction.

The United Nations Security Council has also established two international tribunals to prosecute crimes committed during the armed conflicts in the former Yugoslavia and in Rwanda, including serious violations of IHL. Mixed courts, comprising both domestic and international elements, have also been put in place to address alleged crimes committed during certain armed conflicts, e.g. the conflicts in Cambodia, Lebanon, Sierra Leone and Timor-Leste.

What is International Human Rights Law?

Human rights law is a set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain rights that must be respected and protected by their States. The body of international human rights standards also contains numerous non-treaty-based principles and guidelines ('soft law').

The main treaties of human rights law are given below:

a) Universal instruments

- Convention on the Prevention and Punishment of the Crime of Genocide (1948)
- Convention on the Elimination of All Forms of Racial Discrimination (1965)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- Convention on the Rights of the Child (1989)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1999)
- International Convention for the Protection of All Persons from Enforced Disappearance (2006)
- Convention on the Rights of Persons with Disabilities (2006)

b) Regional instruments

- European Convention on Human Rights (1950)

- American Convention on Human Rights (1969)
- African Charter on Human and Peoples' Rights (1981).

These treaties are supervised by human rights bodies, such as the Human Rights Committee for the International Covenant on Civil and Political Rights and the European Court for Human Rights for the European Convention on Human Rights.

INTERPLAY OF IHL AND HUMAN RIGHTS LAW

The interplay of IHL and human rights law remains the subject of much legal attention, particularly because of its consequences for the conduct of military operations. In its very first statement on the application of human rights in situations of armed conflict, the 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, the International Court of Justice observed that the protection provided by the International Covenant on Civil and Political Rights did not cease in times of war and that, in principle, the right not to be arbitrarily deprived of one's life applied also in hostilities. The Court added that what constituted arbitrary deprivation of life had to be determined by the applicable *lex specialis*, namely, the law applicable in armed conflict, which is designed to regulate the conduct of hostilities.

This statement has generally been interpreted as settling the issue of the interplay of IHL and human rights law and as implying that human rights law, deemed to apply at all times, constitutes the *lex generalis*, while IHL, whose application is triggered by the occurrence of armed conflict, constitutes the *lex specialis*. In other words, when human rights law and IHL are in conflict, the latter is deemed to prevail, since it was conceived specifically to deal with armed conflict.

While the meaning and even the utility of the doctrine of *lex specialis* have been called into question, there is a general acceptance of its indispensability for determining the interplay of IHL and human rights law. Although, generally speaking, these two branches of international law are complementary, the notion of complementarity cannot resolve the intricate legal issues of interplay that sometimes arise. In some instance, IHL and human rights rules might produce conflicting results when applied to the same facts because they reflect the different circumstances for which they were primarily developed.

Recent

The geographic spread, speed of escalation, and open disregard for international norms by all parties in the Middle East conflict are a critical stress test for the international legal order created to protect civilians during armed conflict. Since the United States and Israel began their assault on Iran on February 28, 2026, and as Iran responded and Israel escalated attacks in Lebanon, all parties to the conflict have been responsible for serious violations of the laws of war, including

Developments:

possible war crimes. Officials' inflammatory public statements have included open threats to kill civilians and destroy critical civilian infrastructure, suggestions that abuses by one side justify abuses by the other, and dismissal of international law and rules of engagement.

There is an urgent need to respect international human rights and humanitarian law, strongly condemn violations, insist on accountability, and ensure that they are not complicit in serious violations by the warring parties.

Common Article 1 of the 1949 Geneva Conventions provides that states “undertake to respect and to ensure respect” for the conventions “in all circumstances.” This obligation binds the parties to the conflict in the Middle East to respect the conventions and ensure their respect by their armed forces at all times, regardless of the conduct of other parties.

The International Committee of the Red Cross' authoritative commentary on the Geneva Conventions states that to “ensure respect” requires all states parties to the conventions “take proactive steps” to stop violations of the conventions and to “bring an erring Party to a conflict back to an attitude of respect for the Conventions, in particular by using their influence on that Party.” It includes the obligation “to prevent violations when there is a foreseeable risk that they will be committed.” Customary international humanitarian law also provides that states must exert their influence, to the degree possible, to stop violations of international humanitarian law.

The current Middle East conflict is occurring in the context of ongoing war crimes, crimes against humanity and acts of genocide in Gaza—committed by Israel with significant support from the United States since October 7, 2023—and Iran's crimes against humanity against its own population.