journals.unizik.edu.ng/index-php/jcpl ISSN: 2736-0342
NNAMDI AZIKIWE UNIVERSITY, AWKA
JOURNAL OF COMMERCIAL AND PROPERTY LAW

States' Use of Force in Protecting National Territorial Integrity: Scope and Limits of Common Article 3 and Additional Protocols

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Abstract

The isolation suffered by non-international armed conflicts is not unconnected with the reluctance of states to adopt a comprehensive legal framework for such conflicts, though this is often considered as matters falling within the purview of their domestic jurisdiction. Such states being fiercely protective of their sovereignty and wary of external interference(s) have often opposed the idea of subjecting their national affairs to international scrutiny and regulation. Moreover states ultimately consider the activities of rebel factions as illegal, being done in contravention of their national legislations. International humanitarian law provides for various sets of rules that regulate the conduct of hostilities, and overtime, developed and codified in numerous international and national instruments including treaties, conventions, declarations and national legislations. Through the foregoing, it attempts to alleviate the adverse effect of armed conflicts through institutionalizing and enforcing measures that ensure the continued protection of the weak and vulnerable during armed conflict. This article analysis the relevance of Common Article 3 and Additional Protocol II in contemporary non international armed conflicts by exploring the applicable and protective scopes of these legislations, and explore the extent of protection available, while highlighting their points of divergence.

Key Words: We will be considering the meaning of some key terms which are germane to the work. The essence of this, is to put in perspective the theme of the work for better appreciation of its significance.

1.1 Introduction

Armed conflict as a global phenomenon has been prevalent from time immemorial. It's attending devastation on lives and infrastructure has however necessitated a codification of various sets of rules and norms to regulate the conduct of hostilities in recognition and affirmation of the fact that due regard for humane values and principles of good conscience must not be lost even under the pretext of war.

Prior to 1949, formal treaties of international humanitarian law applied only to armed conflicts of an international character. The 1864, 1906 and 1929 Geneva Conventions focused on the protection of medical personnel and the wounded from attack, and care for the wounded from both sides of any international armed conflict.[1] The 1868 St. Petersburg Declaration prohibited the use

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[1]Convention for the Amelioration of the Condition of Wounded in Armies on the Field, opened for signature 22 August 1864, 129 Consol TS (entered into force 22 June 1865) ('1864 Geneva Convention'); Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field, opened for signature 6 July 1906, [1907] ATS 9, (entered into force 29 July 1907) ('1906 Geneva Convention'); Convention for the Amelioration of

of weapons which caused unnecessary suffering in times of war between civilized nations.[2] The Hague Regulations applied to wars between the high contracting states with detailed provisions regulating the treatment of prisoners of war, the conduct of war on land and the occupation of territory of hostile states.[3] The foregoing is aptly captured and reflected in the four Geneva Conventions of 1949[4] and their two Additional Protocols of 1977[5] which today represent the dominant pieces of international legal instruments regarding armed conflicts.

Unfortunately, however, the foregoing restrictive trend meant that conflicts not of an international character even though were prevalent and often times occur with near or equal adverse impact as do their international counterpart, received much less attention and hence remained relatively under developed especially in pre 1949 international humanitarian law jurisprudence.

However, conflicts of non-international character were not completely forgotten even in pre-1949 international humanitarian law and jurisprudence, owing mostly to customary international law, principles of reciprocity, ICRC efforts at bilateral agreements and minimal treaty law. Notwithstanding that most internal armed conflicts largely remained outside the purview of customary international law.[6] Recognition of belligerency provided no certainty as to if and when international humanitarian law might apply to a conflict. For this reason therefore, the International Committee of the Red Cross began early in the last century working to formalize its role in internal conflicts.

1.2 Background

Following the Second World War, the ICRC argued that the new 1949 Geneva Conventions should apply to both non-international and international armed conflict.[7] The ICRC's proposal was opposed by states which feared intrusion on state sovereignty through a reduction in their capacity to quell riots and uprisings within their own borders.[8] However still, the need for international

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the Condition of the Wounded and Sick in Armies in the Field, opened for signature 27 July 1929, [1931] ATS 6, (entered into force 19 June 1931) ('1929 Geneva Convention').

[2] Declaration Renouncing the Use, in Time of War, of Explosive Projectiles under 400 Grams Weight, opened for signature 29 November 1868, [1901] ATS 125 (entered into force 11 December 1868) ('St Petersburg Declaration').

[3] Hague Convention (IV) Respecting the Laws and Customs of War on Land, Annex to the Convention, Regulations Respecting the Laws and Customs of War on Land, opened for signature 18 October 1907, (1910) UKTS 9, art 23(a) (entered into force 26 January 1910) ('Hague Regulations').

[4] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, opened for signature 12 August 1949, 75 UNTS 31, art 3 (entered into force 21 October 1950) ('Geneva Convention I'); Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, opened for signature 12 August 1949, 75 UNTS 85, Art 3 (entered into force 21 October 1950) ('Geneva Convention II'); Geneva Convention Relative to the Treatment of Prisoners of War, opened for signature 12 August 1949, 75 UNTS 135, art 3 (entered into force 21 October 1950) ('Geneva Convention III'); Geneva Convention Relative to the Protection of Civilian Persons in Time of War, opened for signature 12 August 1949, 75 UNTS 287, art 3 (entered into force 21 October 1950) ('Geneva Convention IV'). The four conventions are collectively referred to as the '1949 Geneva Conventions'.

[5] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, opened for signature 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978) ('Additional Protocol I'); and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978) ('Additional Protocol II').

[6] Draper (n5) 254.

[7] ICRC, Commentaries on the Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949, [42]–[48] , Draper(n5), 262–263.

[8] ICRC, Ibid, Draper (n5), 263–264. The foregoing clamor and opposition by States resulted in the vague and incomprehensive provisions of the Common Article 3, common to all the four Geneva Conventions of 1949.

regulation of non-international armed conflict was undeniable even by conservative states given the increased prevalence of such conflicts which often came with equally devastating consequences. As a compromise therefore, the Common Article 3 of the 1949 Geneva Conventions was adopted as a 'microcosm' or self-contained 'mini-convention' of minimum humanitarian principles to be observed 'in the case of non-international armed conflict occurring in the territory of one of the high contracting parties.[9] Common Article 3 protects 'persons taking no active part in hostilities, including members of the armed forces who have laid down their arms or are placed *hors de combat* by sickness, wounds, detention, or any other cause. In particular, it prohibits violence to life and person, the taking of hostages, outrages upon personal dignity, and the denial of judicial guarantees.[10]

The innovation and inclusion of Common Article 3 in all four Geneva Conventions was laudable and came very timely. Thus, for the first time in the jurisprudence of international humanitarian law, respite from an international instrument came to persons suffering from the adverse consequences of non-international armed conflict prevalent in repressive regimes and civil war torn countries.

As significant as it was however, the innovation of Common Article 3 was still a far cry from a complete and comprehensive international legal framework for non-international armed conflicts. For one, Common Article 3 appears to have been constructed ambiguously with a view to achieve a delicate compromise acceptable to majority of states which favor a restrictive application of international humanitarian law to non-international armed conflict. The ambiguity surrounding the article especially as to what connotes an armed conflict to which Common Article 3 applies has been used by states to further limit its applicability by giving it a restrictive interpretation to exclude belligerent activities occurring within their territory from the applicability of the article. Moreover, Common Article 3 was not expansive nor detailed enough in terms of the protection it offered to its intended beneficiaries.

It was in view of the foregoing limitations that the ICRC renewed its efforts at pushing for a more elaborate instrument to supplement the existing Common Article 3 which culminated into the adoption of the 1977 Additional Protocol II to the Geneva Conventions, which was developed as a supplementary addition to the Common Article 3.[11] Additional Protocol II therefore adopted a broader spectrum of protection than Common Article 3 in that, like Additional Protocol I, it extends protection to the wounded and sick civilians as well as medical and religious personnel. It also includes five provisions dealing with the protection of civilians, civilian objects, cultural objects and relief actions which are manifestly absent in Common Article 3.

Curiously however, even though aimed as a supplementary addition to Common Article 3, Additional protocol II was constructed in an even more restrictive manner than the later especially in terms of its applicability. Whereas under the Common Article 3, the term 'armed conflict' was not defined, hence leaving room for a subjective interpretation in either liberal or conservative terms depending on the interest of the interpreting state, Additional Protocol II on the other hand defined the term 'armed conflict' but restrictively adopting a definitively higher threshold in stating that it would apply only to armed conflicts between government and insurgent forces under

[9] Geneva Convention (no 2)

[10] Draper, (n5), 264–265. See also Richard Schneider, 'ASIL Insight: Geneva Conventions, Protocol II: The Confrontation of Sovereignty and International Law' *The American Society of International Law Newsletter* (US), November 1995.

[11] Additional Protocol II (n3)

responsible command which must be in control of territory and possess the ability to implement the protocol.[12]

1.3 Scope of Applicability

The proliferation and evolution of Non International Armed Conflicts continues to create a strain on available laws including Common Article 3 and Additional Protocol II which are steadily proving to be inefficient and ultimately ineffective as a result of their restrictive scope of application and inadequate coverage.

Consequently, while these conflicts have continued to escalate at alarming rates and with increasingly devastating consequences, the law(s) regulating them continue to remain undeveloped; in fact they represent the most prevalent forms of armed conflict in modern times and contemporary history.[13] Moreover the conduct of non-international armed conflicts has in modern times continued to witness evolution by featuring new factors in terms of strategy, nature and ideology which both Common Article 3 and Additional Protocol II are ill equipped to effectively handle. Thus, the trend has continued to evolve faster than the law.

In application, these requirements operate to exclude the activities of organizations which do not meet the foregoing criteria even where their activities reach a high degree of intensity. Additionally, Additional Protocol II does 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.

The last half of the 20th century witnessed a tremendous surge in the proliferation of non-international armed conflicts across the globe which trend spilled into the 21st century and continues to persist till date.[14] This is not unconnected with a number of factors notable among which is the post 1950 wave of decolonization of African and Asian colonies especially as done by France, Britain, Belgium and Portugal. Decolonization produced a number of newly independent states with weak political and economic structures which factor made them vulnerable, susceptible and rife for dissident and subversive activities that sometimes escalated to the point of civil wars.[15] In Africa for instance, most newly independent states witnessed some form of armed civil conflict or the other at different times with different intensities owing mostly to the fragility of the political arrangement reached as a delicate compromise to assuage the numerous ethnic groups and interests which is characteristic of African countries. African countries that were affected by the wave of post colonial civil wars include Nigeria, Algeria, Sudan, Liberia, Sierra Leone, Tunisia, Democratic Republic of Congo, Somalia, Rwanda, Burundi, Uganda, Kenya, Guinea Bissau, Mali, Central African Republic, Chad, Angola etc., some of which continue to fester till date. Africa's post colonial civil wars were often characterized by ruthless repression, unrestricted application of force and unsavory tactics by government forces to which dissident groups have also responded with equal brutality and violence. This tenor which is typical of civil wars in Africa has led to adverse humanitarian consequence resulting in the deaths of millions of persons most of whom were not active participants in the conflict. In the Nigerian civil

[12]Additional Protocol II (n 13), Art 1(1).
[13]Jelena Pejic, 'The Protective Scope of Common Article 3: More Than Meets the Eye'. International Review of the Red Cross (2011)(93)(881)1
[14]Jelena Ibid
[15] Daron Acemoglu, Andrea Vindigni and Davide Ticchi, 'The Persistence of Civil Wars', Journal of the European Economic Association (2010) 8(2–3): 664–676

war of 1967, it is estimated that no fewer than two million people died as a result thereof, most of whom were women and children.[16]

According to some reports, since 1998, there have been armed conflicts involving child soldiers in at least 36 countries, over two million children [the world over] have been killed in conflict situations in the past decade,[17] having been recruited and co-opted into committing horrific crimes. With the tactics of including widespread recruitment, abductions and sexual violence, attacks on schools and the increase in the use of children in so-called suicide attacks, Boko Haram has inflicted unspeakable horror upon the children of Nigeria's North-East and neighbouring countries[18]. In Nigeria alone, it is estimated that between January 2013 and December 2016, at least 3,900 children were killed and about 7,300 more maimed. The United Nations verified the recruitment and use of 1,650 children. However, estimates indicate that thousands more could have been recruited and used by Boko Haram since 2009.[19]

In Liberia, the first civil war broke out in 1989 and lasted for 8 years only taking the intervention of the ECOWAS and the UN to quell in 1997 in a peace accord that did not last long. At the end of the conflict an estimated 250,000 people were killed.[20] In 1997 the second Liberian civil war broke out and lasted until 2003 this time claiming an estimated 300,000 lives.[21] Both conflicts featured an extensive use of child soldiers by both sides of the conflict.

In Sudan, the first civil war lasted for 17 years between the periods of 1955 and 1972 claiming an estimated 500,000 lives among which only 100,000 were considered active combatants.[22] The second Sudanese civil war broke out soon after in 1983, this time around lasting for 22 years, recording one of the longest civil wars in history and resulted in the secession and independence of South Sudan. The second Sudanese war resulted in the death of an estimated 2,000,000 people mostly civilians due to starvation, drought, famine and disease.[23] In the Democratic Republic of Congo, there were 2.5 million war deaths between 1998 and 2001, yet only 350,000 of those people were killed in actual battle.[24] In Angola between the period of 1975 and 2002, there were an estimated 1.5 million war deaths. In Rwanda, an estimated 800,000 were killed in 'one-sided violence' in the 1994 genocide within a period of 100 days.[25]

Somalia has also been a country decimated and fractured by civil war since 1991. Since then, it has continued to remain a hot zone for armed conflicts till date leaving hundreds of thousands dead

[16]Wikipedia, 'Nigerian Civil War'. <https://www.newworldencyclopedia.org/Nigerian_Civil_War> Accessed 26th May, 2019

[17]Children in Conflict*: Child soldiers*, http://www.child-soldier.org/ accessed 10th April 2018

[18]Boys and girls in North - East Nigeria continue to be brutalized as a result of Boko Haram's insurgency in the region and the ensuing conflict. This is the conclusion of the first 'Report of the Secretary – General on Children and Armed conflict in Nigeria (S/2017/304). https://reliefweb.int/report/nigeria/nigeria-first-report-children-and-armed-conflict-details-violations-suffered-children accessed 5th May 2018

[19]Nigeria: First Report of Children and Armed Conflict Details Violations Suffered by children as a result of Boko Haram's insurgency and ensuing conflict. https://reliefweb.int/report/nigeria/nigeria-first-report-children-and-armed-conflict-details-violations-suffred-children accessed 20th July 2018

[20]'Liberia Country Profile' <https://www.bbc.com>Accessed 26th May, 2019.

[21]'Liberia Country Profile' <https://www.bbc.com>Accessed 26th May, 2019.

[22] Sudan Civil War - GlobalSecurity.org <https://www.globalsecurity.org>Accessed 26th May, 2019.

[23] Impact of War and Famine on South Sudan's Health Situation'<https://mediablackberry.com> Accessed26th May, 2019.

[24] Bethany Ann Lacina and Nils Petter Gleditsch, 'Monitoring Trends in Global Combat: a New Dataset of Battle Deaths', *European Journal of Population*, 21 (2/3) (2005), pp. 145–66.

[25] Gerard Prunier, *The Rwanda Crisis: History of a Genocide*, (Columbia University Press) 1997.

and a disintegrated country with no effective central government for most of that time. Since 1991, an estimated 350,000 to 1,000,000 Somalias had died because of the conflict.[26]

The foregoing examples (which are in no way exhaustive), paint a vivid picture of the prevalence and devastation of non-international armed conflicts in contemporary era. It is worthy to note that the far reaching impact of such conflicts ranges beyond the loss of lives but also includes devastation of civilian infrastructure and livelihood leading to further humanitarian crisis including starvation of the surviving population and also a refugee crisis.

The foregoing therefore calls to question the adequacy or otherwise of the available legal framework of non-international armed conflicts, chief among which are the Common Article 3 to the Geneva Conventions and the Additional Protocol II thereof which presently seem overwhelmed and have so far proved to be of little value in light of the changing circumstances of non-international armed conflicts. This is so especially in light of the limited obligations the two instruments impose on participants of armed conflicts, the vagueness of Common Article 3 and the high threshold of application of the Additional Protocol II. It is also noteworthy that the more recent of these two pieces of legislations being the Additional Protocol II was adopted in 1977 (now forty years past) and has since not been revised. This therefore creates a problem of stagnation; though time has passed and the trend has changed, the law has not. Consequently the laws struggle to keep up with the changing tide of non-international armed conflicts today. Suffice it to state that a good law must be dynamic to stay abreast with the constantly evolving trend of affairs; thus the absence of this feature of dynamism will naturally have an adverse implication on the functionality of the law as an instrument of control.

1.4 The Binding Force of Additional Protocol II To The Geneva Convention on States And Non State Actors

The duty of states to comply with the provisions of international treaties is an established principle of international law which stems from the principle of *pactasuntservanda*.[27] In line with the foregoing, it becomes trite that the duty of a state to comply with the provisions of Additional Protocol II is absolute insofar as that state is a signatory to the protocol. Howevere, given that the position of Additional Protocol II under customary international law is still highly contentious,[28] its bindingness on non state actors is hinged on whether the territorial State is a party to the Protocol.

According to the international law of treaties,[29] for Additional Protocol II to be binding on non-State actors, the High Contracting Party must have intended for the Protocol to bind the armed opposition groups, and the armed opposition groups must accept the rights and obligations thereby conferred on them.[30] In establishing intention to bind such groups, Cassese identifies threepoints; first, according article 1(1) of Additional Protocol II, the provisions of the Protocol develop and

[26] 'Somali Civil War' <https://globalsecurity.org> Accessed 26th May, 2019.
[27] Ibid
[28] When APII was drafted, there was a great deal of debate in the Diplomatic Conferences whether regulation should be extended to such conflicts. The intention of States not to be bound further than the treaties they expressly agree to in this area can be seen in the preamble para. 4 which is remarkably similar to the Martens Clause, but differs in that it makes no reference to 'the principles of international law derived from established custom'. Moir (2002), (n. 94), p. 133.
[29] Federal Republic of German v. Denmark, Federal Republic of Germany v. Netherlands, 1969, ICJ,, 3 ICJ Rep. (1969) [hereinafter North Sea Continental Shelf Case 1969]. See C. Greenwood, 2006 (n 110).
[30] A. Cassese, 'The Status of Rebels under the 1977 Geneva Protocol on Non-International Armed Conflicts', *Int'l. Comp. L. Quarterly*, Vol. 30, pp. 416-39 (1981), pp. 424-26

supplement Common Article 3. It has been clearly established that as Common Article 3 binds parties to internal armed conflicts, so must Additional Protocol II.[31] Second, Additional Protocol II establishes strict conditions in which it is to apply. Third, if the Protocol is to be operational, it is not enough that the dissident armed groups have the capacity to apply its provisions; they must do so in practice. Article 6(5) imposes duties on the 'authorities in power' once the conflict has come to an end, referring both to the government and insurgents. To do otherwise would presume the government was always victorious. Reference to the dissident armed groups at the end of the conflict would stand in contrast in the Protocol if they were not addressed during the progress of the conflict.

Lastly, in ascertaining the willingness of the dissident armed groups to comply with the Protocol, it is unclear if the requirement under article 1(1) of Additional Protocol II that the dissident armed groups can apply its provisions means they are in fact obligated to do so.[32] As such, the willingness of the dissident armed groups to comply with the Protocol must be determined in the individual conflict. A declaration of consent to be bound by the armed opposition group has also been taken into account in this regard.[33] However, the weight of such a declaration is regarded as being of less importance in comparison to whether the State has ratified the relevant treaty and actual practice of the armed opposition group.

It should also be taken into consideration that politically, it would be extremely difficult for a State to justify providing a lower level of protection to civilians and non-combatants than the Protocol requires, especially where the provisions are reflective of human rights obligations. In its comprehensive study of customary humanitarian law, the ICRC[34] has stated that a large number of the provisions of APII are reflected in custom, including: prohibition of attacks on civilians; the obligation to respect and protect medical and religious personnel, medical units and transports; the obligation to protect medical duties; the prohibition of starvation; the prohibition on attacks to objects indispensable to the survival of the civilian population; the obligation to respect the fundamental guarantees of civilians and persons hors de combat; the obligation to search for and respect and protect wounded, sick and shipwrecked; the obligation to search for and protect the dead; the obligation to protect persons deprived of their liberty; the prohibition of forced movement of civilians; and the specific protections afforded to women and children.[35]

This is suggestive of the fact that the implied consent of the armed opposition group through practice is relevant for the norm in question to become a binding customary international law. Once this is established, the practice subsequently becomes automatically binding on armed groups with or without their consent as a custom of international law of armed conflict.

1.5 Challenges/Gaps in the Application of Common Article 3

Recent developments in the trend of contemporary non international armed conflicts have exposed numerous gaps which exist in the law of armed conflicts. For instance, non-international armed

[31] Ibid

[32] Moir 2002, (n. 94), p. 97

[33] ICRC, Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts (ICRC, Geneva, 2008) pps. 19-21.

[34] J. Henckaerts and L. Doswald-Beck, Customary International Humanitarian Law, 2 volumes, Volume I. Rules, Volume II. Practice (2 Parts) (Cambridge University Press, 2005)

[35] Ibid. (Rules 1, 25-30, 53-54, 87-105, 109-113,117-119, 121, 125, 128 and 134-137). See also Report of the Secretary-General, Promotion and Protection of Human Rights: Fundamental Standards of Humanity, 3 March 2006, UN Doc. E/CN.4/2006/87, para. 11

conflicts have continued to proliferate at an alarming rate and with increasingly devastating consequences while the law regulating them continues to remain undeveloped. Additionally, the conduct of non-international armed conflicts has in modern times continued to witness evolution by featuring new factors in terms of strategy, nature, means, method and ideology which both Common Article 3 and Additional Protocol II are ill equipped to effectively handle. The trend has thus continued to evolve faster than the law. The proliferation and evolution of Non International Armed Conflicts therefore, continue to create a strain on available laws including Common Article 3 and Additional Protocol II which are steadily proving to be inefficient and ultimately ineffective as a result of their restrictive scope of application and inadequate coverage.

Recommendation

- ✓ There is need for the passage of a new and comprehensive Geneva Convention or a further protocol additional thereto which will embody and effectively address the vacuums of the present legal regime including: the regulations of modern means and methods of warfare such as remote warfare (Drones and Cybernetics); the regulation of the practice of detention and internment in non-international armed conflict.
- ✓ Non state actors should be afforded the opportunity to participate in deliberations concerning the passage of new treatise of non-international armed conflicts which participation will hopefully enhance compliance with the provisions of the laws. Generally, De Facto Regimes including Armed Non State Actors are not accorded full International Legal Personality. However, the difficulty with this practice is that the rights of personality are fragmenting, and the international community must develop a coherent understanding of how to identify and draw consequences from personality.
- ✓ Applying this functionalist theory, international actors including Armed Non State Actors should be assessed for participation in international law making based on their functional existence; the features of which function include territorial control, legislation, organization etc. Once a Non State Armed Group is able to satisfy this element of function, it acquires some form of quasi legal personality under international law which same enables it to participate and contribute meaningfully in the international law making process.
- ✓ A new Geneva Convention or Protocol additional to the present convention should embody adequate and clear enforcement mechanisms to address incidences of violations of the laws of non-international armed conflict including the creation of a special court there underwith enforcement jurisdiction.
- ✓ The applicable scope of Additional protocol II should be lowered considerably to match that of Common article 3 in order for the two to effectively supplement each other by applying concurrently in the event of a non-international armed conflict.

1.6 Conclusion

This paper espouses the subject of non-international armed conflicts as a phenomenon on the rise especially in contemporary times. The last half of the 20th century witnessed a tremendous surge in the proliferation of non-international armed conflicts across the globe which has spilled into the 21st century and continues to persist at a continuously increasing rate till date. This factor of prevalence has rearranged the board for armed conflicts, pitching non international armed conflicts at a place deserving of more if not higher priority than its international counterpart. The available legal framework for the regulation of non-international armed conflict has unfortunately remained underdeveloped owing mostly to the priority hitherto given to international armed conflict and the

reluctance of states to subject matters which they consider their domestic affairs to international regulation. Hence only the Common Article 3 and Additional Protocol II remain the dominant pieces of international instruments regulating non international armed conflicts which status they have attained owing to the wide acceptance by states.

These pieces of legislations are however far from being perfect and their relevance and adequacy is continuously put to the test and tenuously strained by contemporary factors most notable among which is the prevalence and evolution of non-international armed conflicts in modern times which has continued to persist at great humanitarian cost, claiming the lives of millions of people, causing displacements and devastating infrastructure at the cost of many billions of dollars.

Order is the only thing that stands between war and chaos; this has always been the goal of international humanitarian law; to instill order and sanity in armed conflict through the instrumentality of a robust legal framework for the amelioration of the adverse effect of armed conflict.