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STATUS OF COMBATANTS AND CIVILIANS DURING ARMED CONFLICTS

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Abstract
The status or legal condition of combatants and civilians during armed conflict is a fundamental issue under International Humanitarian Law, as it relates to a person's legal rights, duties, liabilities and other legal conditions which are recognized and maintained by international humanitarian law. It entails, the capacity for the exercise and enjoyment of legal rights, right to basic medical facilities, right to enjoy prisoner of war status for those fighting, because even when individuals are not involved in the armed conflict they endure horrifying suffering, bombing, famine, hunger and genocide as civilians. There is also a need to distinguish between combatants and civilians during armed conflict to avoid unnecessary humanitarian catastrophe to the civilian population during the period of the conflict. This is necessary in order to protect the human rights of the people who are not participants in the conflict in accordance with international humanitarian law, and even as combatants the participants in the armed conflict still have rights under international humanitarian law. This paper discusses the status of combatants and civilians in armed conflict under international humanitarian law, with a focus on the provisions of the 1949 Geneva Conventions particularly the Third Geneva Convention, the 1977 Additional Protocols, and the Hague Regulations of 1899 and 1907. It explores key questions such as: Who qualifies as a combatant? Who is considered a civilian? What constitutes an armed conflict? What is the legal status of combatants and civilians during such conflicts? What guidelines exist, and what protections are available for civilians? These and related issues form the core subject matter of this paper.

Keywords: Armed conflict, civilians, combatants, international humanitarian law.

I. Introduction

The process of distinguishing between combatants and civilians has long represented an important aspect of armed conflict and has been recognized as an indispensable means by which humanitarian principles are infused into the rules governing the conduct of war, and this is important because of the prevalent armed conflicts going on in the world today. An example is the Israel and Hamas or Gaza armed conflict, the Israel and Hezbollah or Lebanon armed conflict, the Israel and Iran armed conflict, the Russian and Ukraine war and the hostilities or war in Sudan between the rebels and the government. The protection of participants during armed conflict under international humanitarian law remains characterized by a certain level of uncertainty, as it concerns the codified provisions for combatants and civilians. International humanitarian law is a body of laws aimed at regulating activities during the theatre of war [1] It also means the laws of war and customs of war or the law of armed conflict. It comprises of all those rules of international law which are designed to regulate the treatment of the individuals, civilians, military, the wounded or active in international armed conflict.[2] It is referred to as a branch of international law dealing with such matters as the use of weapons and other means of warfare, the treatment of war victims by the enemy and generally the direct impact of war on human life and liberty.[3] The Geneva Convention of 1949 also protected the rights of civilians and combatants during armed conflict. The article provides that members of the medical personnel and chaplains while retained by the detaining power with a view of assisting

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[1] CC Wigwe, *International Humanitarian Law,* (Read-wide Publishers, 2010) 1
[2] D. Fleck, The Handbook of International Humanitarian Law 11
[3] B A Garner (ed), *Black's Law Dictionary* (8th edn, Thomson West 2004) 74

prisoners of war, shall not be considered as prisoners of war. They shall however, receive as a minimum, the benefits and protection of the present convention, and shall also be granted all facilities necessary to provide for the medical care of prisoners and religious ministration to prisoners of war.[4] In 1977, the four Geneva Conventions and their two Additional Protocols of 1977 enunciated the first comprehensive set of rules protecting combatants and non-combatants in armed conflicts. We shall further discuss the various conventions and their impact on protection of civilians and combatants during armed conflict in the course of the paper.

2. Combatants and Civilians during Armed Conflict

It is pertinent to note that three treaties set out the definitions of who is a combatant. Article 3 of the 1899 Hague Regulation provides that the armed forces of belligerent parties may consist of combatants and non-combatants This definition of who a combatant is only categorizes who a combatant should be in an armed conflict by referring to them as armed forces of any of the belligerent parties, which can emanate from both sides of the armed conflict. The laws, rights and duties of war does not only apply to armies but also to militias and volunteer corps fulfilling the following conditions as to be commanded by a person responsible for his subordinates, to have a fixed and distinctive emblem recognizable at a distance, to carry arms openly and to conduct their operations in accordance with the laws and customs of war.

The inhabitants of a territory which has not been occupied on the approach of the enemy, can spontaneously take up arms to resist the invading troops without having time to organize themselves in accordance with article 1, and shall be regarded as belligerents if they carry arms openly and if they respect the laws and customs of war. Article 3 of the 1907 Hague Regulations is in congruency or agreement with the earlier stated article and it provides that the armed forces of the belligerent parties may consist of combatants and non-combatants. The armed forces were further defined in Article 43 Additional Protocol I as the armed forces of a party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that party for the conduct of its subordinates, even if that party is represented by a government or an authority not recognized by an adverse party and members of the armed forces of a party to a conflict are combatants, this mean that, they have the right to participate directly in hostilities.

The term combatant is uniquely applicable to situations of international armed conflict and combatants may be directly targeted during an armed conflict, and if they are captured they would be entitled to prisoner of war status. This invariably means that they cannot be punished for participating in hostilities, but they can be detained until the end of the armed conflict. Even when they are engaged in hostilities they are protected from unnecessary suffering and superfluous injury. The definition of combatant given by the convention and Additional Protocol I express the same idea that all persons who fight in the name of a party to a conflict and who belong to that party are combatants.[5] The defining features of a combatant status is the right to participate directly in the hostilities and combatants have a license to kill, or wound enemy combatants and destroy other enemy military objectives. Combatants are entitled to combat immunity which does not extend to acts that transgress the rules of international humanitarian law applicable in situations of armed conflict. The two categories of persons recognized in an armed conflict are civilians and combatants. Combatants have the right to take direct part in the hostilities of war. They have the unique status of being prisoners of war upon capture and are not to be treated as criminals.

Civilians on the other hand, also benefit from the protection associated with their status and the law of armed conflict generally provides that they are to be protected from the dangers of military operation arising from armed conflict and are not to be the object of an attack in any circumstance. A civilian as defined by the Additional Protocol II is any person who does not belong to one of the

[4] Article 33 of the Geneva Convention of 12 August 1949
[5] Third Geneva Convention and Additional Protocol I

categories of persons referred to in Article[6] 4 of the Third convention and Article 43 of this protocol.[7] The Article adopts a negative definition of civilians as persons who are not members of the armed forces, and in determining those who are armed forces it should be through their uniforms and open display of weapons amongst other criteria, the rest of the populace may be classified as civilians, and in a situation of doubt every person shall be considered a civilian.[8]

The armed conflict report[9] by project ploughshares defined armed conflict on the basis of three key characteristics and they are that, it is a political conflict that involves armed combat by armed forces of a state or the forces of one or more armed faction seeking a political end and at least a thousand persons have been killed directly from fighting during the course of the conflict and there is at least twenty-five combat deaths annually. An armed conflict is simply deemed to have ended if there has been a formal ceasefire agreement or dormancy of hostilities for two years during the armed conflict.[10] Any difference between two states that leads to the intervention of members of the armed forces is an armed conflict within the meaning of Article 2 of the United Nations Charter even if one of the parties denies the existence of a state of war. It makes no difference how long the conflict lasts or how much slaughter takes place.[11] They went further to state that to determine what constitutes armed conflict between two states, reliance is placed on the intensity of the clashes and where it is shown that fighting has exceeded the level of intensity generated by isolated incidents, such a situation should be treated as an armed conflict and the rules of international humanitarian law will be called into operation.

In non-international armed conflict, armed forces are subjected to direct attack and prisoners of war do not exist in non-international armed conflict. Combatants include both regular armed forces and irregular armed forces. In non-international armed conflict, organized armed groups constitute the armed forces of a non-state party to the conflict and consist only of individuals whose continuous function is to take a direct part in the hostilities, and a continuous combat function. Article 1 provides that armed conflicts are to include peoples fighting colonial domination, alien occupation and racist regimes in exercise of their right to self-determination. Recent developments suggest that Article 1 para 4 may be used to cover a situation where ethnic groups in a state or persons belonging to a particular territory seek to secede from the parent state.[12] The civilians on the other hand endure horrifying suffering in armed conflict and they are often the prime victims of the genocide, ethnic cleansing, forced displacement, and indiscriminate attacks, as well as starvation and sexual violence.[13] The Additional Protocol II provides for the definition of a civilian as any person who does not belong to one of the categories of persons referred to in Article 4(A) (1), (2), (3) of the Third Convention and in Article 43 of this protocol.[14]

The main focus of International Humanitarian Law is to protect civilians and civilians are protected against direct attacks, as long as they are not directly participating in the hostilities, and also against the effect of conflict whether they are not 'protected persons.' Special protections are also afforded to women and children. Protected persons only applies to international armed conflict and refers to specific protections afforded to people who have fallen into the hands of or are under the control of the adversary. These protections cover both civilians and combatants that is the wounded and sick, prisoners of war, and civilians in occupied territory or in territory of the enemy. Armed conflict was described by the ICRC commentary on the Geneva Convention as any difference arising between

[6] Article 4(A), (1), (2), (3) and (6)
[7] Article 50 (1) Additional Protocol 1
[8] Ibid.
[9] Project ploughshares <http://www.ploughshares.ca.libraries/ACRText/ACR/DefinitionArmedConflict.html>
[10] Department of peace research at Sweden's Uppsala University <http://pcr.uu.se/research/UCDP/index.html>
[11] Picket, URC Commentary, Geneva Convention, Vol IV, 20
[12] CC Wigwe, *International Humanitarian Law* (Read-wide Publishers, 2010) 34 and (Article 1 (4) AP1)
[13] Article 51(3) of API provides that civilians shall enjoy the protection afforded by this section, unless and for such a time as they take a direct part in hostilities.
[14] Article 50 para I, Additional Protocol I

two states and leading to the intervention of members of the armed forces within the meaning of Article 2 of the United Nations Charter, even if one of the parties denies the existence of a state of war. It makes no difference how long the conflicts lasts or how much slaughter takes place.[15]

The provisions of Article I para 4 of Additional Protocol I, provides that armed conflicts are to include people fighting against colonial domination, alien occupation and racist regimes in the exercise of their rights of self-determination.[16] The armed forces of a party to a conflict consists of all organized armed forces, groups and units which are under a command responsible to that party for the conduct of its subordinates, even if that party is represented by a government or an authority not recognized by an adverse party. Such armed forces shall be subjected to an internal disciplinary system which shall enforce compliance with the rules of international law applicable in armed conflicts.[17] Members of the the armed forces of a party to a conflict other than medical personnel and chaplain covered by Article 33 of the Third Geneva Convention are combatants and have the right to participate in hostilities.[18] Article 43 of the Additional Protocol I deals with armed forces and provides that the armed forces of a party to a conflict consist of all organized armed forces, groups or units which are under a command responsible to that party for the conduct of its subordinates, even if that party is represented by the government or authority not recognized by an adverse party.[19]

3. Principles for the Protection of Civilians

A principle is described as a moral rule or a strong belief that influences the taking of an action,[20] and in law principle is entailed in a set of rules, law or doctrine.[21] In International Humanitarian Law however, there are various principles which are contained in international conventions and some are clearly implied while others derive from customary law[22] These principles include non-discrimination, distinction, humane treatment, protection for women and children, journalists etc. The researchers shall discuss these briefly in no particular order.

3.1 Humane Treatment

The principle of humane treatment requires the civilians to be treated humanely at all times.[23] Article 3 of the Geneva Convention prohibits violence to life and person including cruel treatment and torture, taking hostages, humiliating and degrading treatment, and execution without regular trial against non-combatants including the wounded, sick, and the shipwrecked. The civilians in an armed conflict scenario or situation are entitled to respect for their physical and mental integrity, honor, family rights, religious convictions and practices, and manners and customs.[24] The principle of humane treatment has been affirmed by the international committee of the Red Cross (ICRC) as a norm of customary international law applicable in both international and non-international armed conflicts.

3.2 Non-discrimination

The principle of non-discrimination is a core principle in international humanitarian law as several distinctions based on race, nationality, religious beliefs and political opinion is prohibited in the

[15] Picket Commentary Vol. IV 20.
[16] CC Wigwe, *International Humanitarian Law*, (Read-wide Publishers, 2010) 34
[17] Articles 43(1)
[18] Article 43(2)
[19] Article 43(1)
[20] AS Hornby, *Oxford Advanced Learner's Dictionary of Current English*, (8th ed, Oxford University Press, 2010) 1164
[21] Garner (n 3) 1231
[22] 'An Examination of Basic Principles and Guidelines for the Protection of Civilians under IHL' (2016) 1(1) *NDU Law Journal*, 13
[23] Article 27 of the Geneva Convention IV.
[24] K. Frits and Z Liesbeth, 'Constraints on the Waging of War- An Introduction to Humanitarian Law', 134

treatment of prisoners of war.[25]A prisoner of war from the present convention, are persons belonging to the following categories, who have fallen into the power of the enemy. They include members of the armed forces of a party to the conflict as well as members of militia or volunteer corps forming part of such armed forces. Members of other militia and members of other volunteer corps including those of other organized resistance movements, belonging to a party to the armed conflict and operating in or outside their own territory, even if the territory is occupied, provided that such militia or volunteer corps, including such organized resistance movements, fulfill the following conditions as being commanded by a person responsible for its subordinates, having a distinctive sign recognizable at a distance, carrying arms openly. And conducting their operations in accordance with the laws and customs of war.

Inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws of war. Combatants who fall into enemy line are prisoners of war from the moment they are captured.[26] The opening sentence of Article 13 of Geneva Convention III provides that Prisoners of War must at all times be humanely treated and they may not be arbitrarily killed. These Prisoners of War are permitted to communicate with their relations as to their capture, state of health, transfer to a new camp etc.[27] All protected persons shall be treated with the same distinction based on race, religion, sex or political opinion.[28]

3.3 Women and Children

Women and children are granted preferential treatment, respect and protection. Women must also be protected against rape and from any form of indecent assault. Children under the age of eighteen must not be permitted to take part in the hostilities.[29] International humanitarian law mandates special protection to women, providing female prisoners of war with separate dormitories from the men to protect them against sexual violence.[30]

3.4 Distinction

The principle of distinction protects civilians from the effects of military operations and it requires parties to an armed conflict to distinguish at all times between civilian population and combatants and between civilian objects and military objectives as well as direct their operations to military objectives alone.[31] The principle of distinction has also been found by the ICRC[32] to be reflected in state practice and is an established norm of customary international law in both international and non-international armed conflicts. Article 13, 14, 15 and 16 of the Additional Protocol II extended protection to objects indispensable to the survival of the civilian population such as food stuffs, agricultural areas, crops, livestock, drinking water, installations, works of art and places of worship.

3.5 Necessity and Proportionality

These are established principles in International humanitarian law in which a belligerent may apply only the amount and kind of force necessary to defeat the enemy. And attacks on military objects must not cause loss of civilian lives, which will be considered excessive in relation to the direct military advantage anticipated. For example, it is forbidden for the combatant to employ weapons, projectiles and materials and method of warfare of a nature to cause superfluous injury or

[25] Article 12 Geneva Convention.
[26] Article 12 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.
[27] Article 70 Geneva Convention III
[28] Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949.
[29] Articles 76-78, Additional Protocol I
[30] Article 14, 16, 24 and 27 of Geneva Convention III and IV
[31] Article 48, Additional Protocol I
[32] International Committee of the Red Cross (ICRC).

unnecessary suffering or employ methods of means of warfare which are intended, or may be expected to cause wide spread, long-term and severe damage to the natural environment.[33]

3.6 Journalist

Journalists by virtue of Article 79 of the Additional Protocol I who are engaged in dangerous professional missions in the area of armed conflict are also considered as civilians within the meaning of Article 50 of the Geneva Convention.[34] The journalists carry the identity of the states for which they are nationals. And such journalists must not take actions affecting their status as civilians.

4. Protection of Combatants during Armed Conflict

The defining feature of a combatant status is the right to participate directly in hostilities[35] and combatants have a license to kill, or wound enemy combatants and destroy other enemy military objectives. Combatants may even cause incidental civilian casualties and collateral damages under certain circumstances[36] and due to their status, combatants are entitled to combat immunity.[37] However, combat immunity is limited and does not extend to acts that transgress the rules of international humanitarian law applicable in situations of armed conflict. When combatants are captured, they are entitled to prisoner of war status and thus benefit from the protection of the Third Geneva Convention and Additional Protocol I. Also, violations of international humanitarian law applicable in armed conflict themselves do not deprive combatants of their rights to be prisoners of war, except in certain limited cases. Even if this happens, these persons are given protection equivalent in all respect to those accorded prisoners of war.[38] Part III of the Third Geneva Convention is dedicated to the general protection of prisoners of war who are in the hands of the detaining power.

In contrast to combatants, civilians may not take direct part in hostilities, except in relatively rare situations, where inhabitants of a non-occupied territory on the approach of the enemy spontaneously take up arms to resist the invading forces. Once they are captured, such inhabitants become prisoners of war. Civilians are entitled to the protection provided in the Fourth Geneva Convention and Additional Protocol I. For the purpose of the protection accorded combatants as prisoners of war under the Third Geneva Convention, regard shall be had only on the paragraphs of Article 4 dealing with combatants as recognized under international armed conflicts.

Protecting powers are representatives of states that are not in any way involved in the armed conflict and their mandate is to closely observe and protect the interest of the parties to the conflict and their nationals. In this regard, they benefit from certain particular rights and duties,[39] they include the right to supervise the distribution of relief materials, the right to ensure that judicial guarantees are respected, in case of a trial, especially in cases that has to do with death penalty, the right to evaluate their living conditions in cases of internment or occupied areas, the right to pay a visit to persons generally protected by the Geneva Conventions and their Additional Protocols, persons who are protected have the right to refer their cases to protecting powers, the duty to ensure that humanitarian activities are of a civilian and unbiased nature and to prevent this relief from being hijacked for military purposes and the right to supervise the concrete execution of protective measures for protected persons mostly in cases of internment, detention and occupied territory.

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[33] Article 35, Additional Protocol I

[34] Additional Protocol I to the Geneva Convention of the 12th of August 1949 and relating to the protection of victims of international armed conflict.

[35] Article 43 (2) Additional Protocol 1

[36] R Vark, *The Status and Protection of Unlawful Combatants* (No. 7) 192

[37] Combatant immunity is a common law doctrine that operates to exclude civil liability for negligence and deliberate damage to property or person committed by the armed forces during certain combat operations.

[38] Article 44 (2), (5) of Additional Protocol I

[39] Geneva Convention IV Article 30 and 143

5. Combatants and Civilians in International and Non International Armed Conflict

Combatants and civilians in international armed conflict enjoy immunity from prosecution for lawful acts of war.[40] They also enjoy immunity from direct targeting in International Armed Conflict,[41] and regime protection in the event of detention. Whereas on non-international armed conflict they enjoy enjoy immunity from prosecution for lawful acts of war during the period of the armed conflict and immunity from direct targeting in Non- international armed conflict. It is necessary to state that there are two major categories of armed conflict in international humanitarian law, which are International armed conflicts (IACs) and non-international armed conflicts (NIACs) as stated above. The combatant has the right to participate in the hostilities and during this period of participation, the combatants are subject of being targeted as legitimate military objectives, targeting members of the opposing armed forces is an integral part of waging war. Combatants also receive immunity for the unintended collateral deaths of civilians,[42] as long as these deaths are not excessive in relation to the concrete and direct military advantage anticipated.[43] This principle of combatant immunity is reflected in customary international law and judicial decisions, and is codified in Article 43 of Additional Protocol I.

Additional Protocol I makes it clear that armed forces consist of all organized armed forces, groups and units which are under a command responsibility,[44] and it also provides that members of the armed forces are combatants and have the right to participate directly in hostilities.[45] As combatants, members of armed forces are importantly entitled to combatant immunity and are not subject to criminal prosecution for acts they undertake as combatants except issues of allegations of war crimes during the period of the armed conflict. Captured combatant in international armed conflict become a prisoners of war and they have the immunity from being punished for the taking of arms, which is the main purpose of distinguishing in international armed conflicts. Prisoners of war must at all times be treated humanely.[46] Adversary therewith or to conduct hostilities on this basis. Ones the enemy soldier laid down his arms, no one has any right to take his life and measures of reprisal against prisoners of war are prohibited,[47] as well as collective disciplinary measures affecting food.[48] Prisoners of war must also be protected against the dangers of battle by being evacuated to the rear as soon as circumstances allow, and until then must not be unnecessarily exposed to danger.[49]

On the other hand, the civilian is anyone who is not a combatant and in accordance with Additional Protocol I, is any person who does not belong to the categories included under the armed forces must be considered as a civilian.[50] Civilians have the right to immunity from the attack, unless and for such time as they take a direct part in hostilities.[51] Thus, the meaning direct participation in hostilities has to be considered as a main distinguishing element with respect to targeting. The idea of direct participation in hostilities refers to specific hostile acts carried out by individuals as part of the conduct of hostilities between parties to an armed conflict and it must be interpreted synonymously in situations of international and non-international armed conflict. The treaty terms of direct and active indicate the same quality and degree of individual participation in hostilities.[52] Civilian immunity is subject to very stringent conditions of not participating directly in hostilities. International humanitarian law should reinforce the moral and legal prohibition on targeting those who are not directly participating in

[40] API art 43 (2) right to participate in hostilities.
[41] API art 51 (2), Parties to the conflict must distinguish API art 48, combatants obliged to distinguish themselves API art 44, Prohibition against indiscriminate attacks API art 51 (4).
[42] Additional Protocol I, Article 50.
[43] Additional Protocol I, Article 51 (5b).
[44] Additional Protocol I, Article 43 (1).
[45] Additional Protocol I, Article 43 (2).
[46](1949 Geneva Convention (3rd) relative to the Treatment of Prisoners of War (hereinafter: Geneva Convention III), Article 13(1)).
[47] Geneva Convention III, Article 13 (3)
[48] Geneva Convention III, Article 26 (6).
[49] Geneva Convention III, Article 19.
[50] Additional Protocol I, Article 50.
[51] Additional Protocol I, Article 51 (2) and (3).
[52] Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, International Review of the Red Cross, Vol. 90, No. 872, 2008, 1015.

hostilities. This includes civilians who accompany the armed force or otherwise are in the vicinity of hostilities, but who remain uninvolved.

6. The Role of International Criminal Court (ICC)

The impact of the international criminal courts and tribunals in post conflict societies and, more specifically, the extent to which these international judicial bodies have contributed towards entrenching respect for human rights and the rule of law is outstanding. And also through assessing some of the stated objectives of international criminal justice and the accomplishments of these international judicial bodies, a broad picture is painted of their role and impact on the societies affected. Accountability mechanisms in post atrocity areas must be accepted by local populations and integrated into local consciousness and legal culture.[53] Although important, the prosecution by the international criminal courts of high level perpetrators of mass atrocities and genocide is only one of the different components of a transitional justice process. Those processes may include truth and reconciliation commissions, domestic trials, amnesties, vetting and civil society initiatives.

Specific attention is paid to the role of these international judicial institutions in building and strengthening the rule of law at both the international and the domestic level and their influence on political processes of reconciliation within the affected societies.[54] While criticism has often been voiced on whether these institutions have furthered socio-political progress in post conflict societies, it should be noted that, their mandate is limited to prosecuting high level perpetrators of genocide, war crimes, and crimes against humanity.[55] The ICC was able to prosecute persons for the crime of aggression.[56] While their mandate is limited to prosecuting the most serious international crimes, other underlying aims when establishing international and mixed criminal courts and tribunals include: truth finding, reparations, redress for victims, and reconciliation.

7. Conclusion

In a nutshell, the status of combatants and civilians in armed armed conflicts is well protected by the various Articles of the Geneva Convention, international human rights law and international humanitarian law. Article 3 of the Geneva Convention prohibits violence to life and person, including cruel treatment and torture, taking hostages, humiliating and degrading treatment and execution without regular trial against non-combatants including the wounded and sick. The civilians in an armed conflict scenario are also entitled to respect for their physical and mental integrity, honor, rights, religious convictions and practices and custom. The status of combatant and civilians during armed conflict was justifiably explained, including the pitfalls, constraints and the laws put in place to curb the violations during times of armed conflict. The international criminal justice system cannot solve all the myriad of challenges facing a post conflict society and its main function is almost surgical through the removal of the main perpetrators of mass crimes from a post conflict society and subjecting them to a criminal legal process for acts committed during the armed conflict. The possibilities and limitations of international criminal justice mechanisms have been tested to a significant extent and despite their limitations and imperfections, the international and hybrid criminal tribunals have changed the character of international justice and enhanced the global character of the rule of law. The activities of the ICC have been crucial to entrenching accountability and the rule of law both internationally and domestically. However, without the necessary accompanying economic and social justice reforms, transitional justice processes alone cannot stabilize a post conflict society. The ICC by prosecuting perpetrators of mass atrocity crimes such as genocide, war crimes, and crimes against humanity, helps in bringing closure to victims of armed conflict and provide them with some sense and measure of redress.

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[53] E.R. Hignnet, 'Restructuring Hybrid Courts: Local Empowerment and National Criminal Justice Reform', (2006) 23 *Arizona Journal of International and Comparative Law*, 434.

[54] W. Lambourne, 'Transitional Justice and Peacebuilding After Mass Violence', (2009) *The International Journal of Transitional Justice*, 24

[55] Report of the Secretary-General Pursuant to Paragraph 2 of the *Security* Council Resolution 808 (1993)

[56] Articles 15 (3) and 15b (3)