

# THE PROTECTION OF CIVILIANS IN ARMED CONFLICT: AN AFROCENTRIC PERSPECTIVE ON INTERNATIONAL HUMANITARIAN LAW

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## 1.0 INTRODUCTION

The Geneva Conventions of 1949 and its additional protocol of 1977 created International Humanitarian Law (IHL), a set of principles which governs warfare between nations and provides protection for civilians and other non-combatants in its eventuality. Yet, years after its implementation, civilian protection still remains weak. In 2023 alone, 33,443 civilians lost their lives to armed conflicts worldwide.<sup>73</sup> This number represents a 72% rise from 2022, with the effects on vulnerable groups devastating: 4 out of 10 casualties been women and children accounting for 3 out of 10.<sup>74</sup> These figures also show that women and children casualties have respectively doubled and tripled in 2023 compared to 2022.<sup>75</sup>

In Africa, the Democratic Republic of the Congo demonstrates this crisis clearly, with over 940,000 conflict victims reported in the first half of 2024 alone.<sup>76</sup> All these numbers point to one thing: current frameworks do not work effectively.

African viewpoints on International Humanitarian Law give insights to handling these challenges better. Western methods of civilian protection have proven their limits in Africa. This is because our colonial history, resource disputes, and local governance systems all shape how armed conflicts unfold here. With this in mind, this essay suggests how African customary law, traditional conflict resolution mechanisms, and local protection methods could make civilian protection stronger during armed conflicts.

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<sup>73</sup> UN News, “Percentage of Women Killed in War Doubled in 2023: UN Report” (UN News, October 23, 2024) <https://news.un.org/en/story/2024/10/1156016#:~:text=The%20UN%20recorded%20at%20least,killed%20doubled%20and%20tripled%2C%20respectively>. Accessed March 7, 2025.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> UNHCR, “Democratic Republic of the Congo Situation” (Global Focus, 2025) <https://reporting.unhcr.org/operational/situations/democratic-republic-congo-situation> accessed March 7, 2025.

## 2.0. DECONSTRUCTING INTERNATIONAL HUMANITARIAN LAW (IHL)

IHL rules about wartime behavior grew from moral needs; a shared interest among nations to reduce violence during armed conflicts.<sup>77</sup> They can be traced back to the Laws of Hague and Geneva, a group of international conferences which took place in these states and produced treaties related to war and conflict.<sup>78</sup> Currently, IHL finds its sources in the Geneva Conventions, its additional protocols, international customary law and case precedents;<sup>79</sup> operating through several principles, chief among these being:

- The distinction between civilians and combatants when targeting attacks during warfare,<sup>80</sup>
- The protection of persons *hors de combat* from military attacks,<sup>81</sup>
- The prohibition of weapons that cause unnecessary suffering,<sup>82</sup>
- The doctrine of proportionality during military operations,<sup>83</sup>
- The military necessity dogma and,<sup>84</sup>
- The core tenet of respect for all humanity.<sup>85</sup>

### 2.1. IHL's Paradox in the African context

The Geneva Conventions have achieved universal ratification across Africa. Also, all African states, except Eritrea and Somalia, are bound by the Additional Protocols I and II.<sup>86</sup> Despite this, civilian attacks, abductions, and hostage-taking still rule the day.<sup>87</sup> Understandably, it

<sup>77</sup> ICRC (International Committee for the Red Cross, Cordula Droegge and Elrini Giorgou, “How International Humanitarian Law Develops” (2022) 920–921 *International Review of the Red Cross* 1798 <http://international-review.icrc.org/articles/how-international-humanitarian-law-develops-920>.

<sup>78</sup> Wikipedia contributors, “International Humanitarian Law,” Wikipedia (2025) [https://en.m.wikipedia.org/wiki/International\\_humanitarian\\_law](https://en.m.wikipedia.org/wiki/International_humanitarian_law) accessed March 7, 2025.

<sup>79</sup> For instance, the European Court of Human Rights (ECtHR) holding in *Milanković v. Croatia*, App No. 33351/20, Judgment: 20 January 2022.

<sup>80</sup> As contained in Article 48 and 52 of the Additional Protocol I to the Geneva Conventions.

<sup>81</sup> Common Article 3 of the Geneva Conventions, Article 41 of the Additional Protocol I, and Rule 47 of the Customary International Humanitarian Law Rules.

<sup>82</sup> Rule 70 of the Customary International Humanitarian Law. ICRC, “Customary International Humanitarian Law Rules” <https://ihl-databases.icrc.org/en/customary-ihl/v1/in>.

<sup>83</sup> Article 51(5)(b) of Additional Protocol I to the Geneva Conventions.

<sup>84</sup> Rule 15 of the Customary International Humanitarian Law Rules. ICRC (n 2).

<sup>85</sup> Article 35(2) of the Additional Protocol I.

<sup>86</sup> Kasim Balarabe, “Africa and the Domestic Implementation of the Geneva Conventions and Additional Protocols: Problems and Solutions” (2022) 66 *Journal of African Law* 175 <https://www.cambridge.org/core/journals/journal-of-african-law/article/africa-and-the-domestic-implementation-of-the-geneva-conventions-and-additional-protocols-problems-and-solutions/461339E3952F0EEEC87BD9F26A9D8081>.

<sup>87</sup> *Ibid.*

is hard to balance IHL's universal principles with local contexts in humanitarian work. Humanitarian principles should work everywhere, but reality proves different.<sup>88</sup> Modern humanitarian work uses standard rules and technology to help everyone, however, this approach has clashed with African political systems.<sup>89</sup> This is because many factors have weakened these humanitarian rules.<sup>90</sup>

First off, IHL's paradox lies in its Western roots and claims to be universal. International law started with Western culture and tried to make its values global.<sup>91</sup> IHL's formal and abstract nature was both its strength and a way to hide European and Western states' imperial goals.<sup>92</sup> African nations had no real say in early IHL rules and did not benefit from these laws during colonial times.<sup>93</sup> This, plus our checkered colonial history, has shaped a lot of Africa's current anti-European feelings, thus, affecting how they see IHL today.<sup>94</sup>

Moreover, most armed conflicts currently in African states are non-international,<sup>95</sup> which are not covered sufficiently by IHL rules and compounds with the lack of proper domestic laws,<sup>96</sup> to further frustrate its agenda. Even countries with criminal laws do not match their Convention obligations.<sup>97</sup>

In this regard, the African Union (AU) is working hard to improve IHL implementation. Her 2021 Peace Support Operations Doctrine now includes specific IHL provisions, and

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<sup>88</sup> United Nations Security Council, "Report of the Secretary-General on the Protection of Civilians in Armed Conflict" (United Nations 2012) [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2012\\_376.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_376.pdf) accessed March 7, 2025.

<sup>89</sup> Ibid.

<sup>90</sup> Balarabe (n 2).

<sup>91</sup> Dan Mahatany, "Five Ways to Protect Civilians in Contemporary Armed Conflict" (STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE (SIPRI), SIPRI, August 29, 2023) <https://www.sipri.org/commentary/blog/2023/five-ways-protect-civilians-contemporary-armed-conflict> accessed March 7, 2025.

<sup>92</sup> Ibid.

<sup>93</sup> Gus Waschefort and International Committee of the Red Cross, "Africa and International Humanitarian Law: The More Things Change, the More They Stay the Same" (2016) 98 International Review of the Red Cross 593 <https://doi.org/10.1017/s1816383117000182>.

<sup>94</sup> Ibid.

<sup>95</sup> ICRC (n 2).

<sup>96</sup> Balarabe (n 3).

<sup>97</sup> Ibid.

most AU documents now include IHL standards. For instance, The African Charter on the Rights and Welfare of the Child makes member states protect civilians during wars.<sup>98</sup> However, African voices still remain quiet in global IHL discussions, both among nations and scholars, thus, raising the question whether Africa's current IHL challenges get enough attention globally.<sup>99</sup>

### 3.0. REIMAGINING PROTECTION: AN AFROCENTRIC FRAMEWORK

*"Many ancient African societies had advanced and sophisticated humanitarian protection mechanisms and war codes to regulate the conduct of armed hostilities."<sup>100</sup> —Darlington Tshuma.<sup>101</sup>*

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To realise a more robust protection under the IHL framework, we must consider the African man's perspective. Long before colonization, African societies had sophisticated systems to protect civilians and regulate armed conflicts. These systems drew their strength from cultural values, like the philosophy of *Ubuntu*, which emphasized interconnectedness and collective responsibility.<sup>102</sup>

It is worth noting that IHL's core tenets of humanity naturally connect with the principle of *Ubuntu*. This African philosophy illustrates that all human beings exist as part of an intricate relational, communal, and societal framework.<sup>103</sup> African societies created protection mechanisms through *Ubuntu* that prioritized collective welfare over individual rights. The

<sup>98</sup> AMANI Africa, "Review of the Integration and Implementation of IHL in African Union Policies and Activities" (AMANI AFRICA 2022) <https://amaniafrica-et.org/wp-content/uploads/2022/12/Review-of-the-Integration-and-Implementation-of-IHL-in-African-Union-Policies-and-Activities.pdf> accessed March 7, 2025.

<sup>99</sup> Waschefort and International Committee of the Red Cross (n 2).

<sup>100</sup> Darlington Tshuma and ICRC (International Committee of the Red Cross), "African Customs and Traditions and the Indigenization of International Humanitarian Law in Armed Conflict" (2024) 926 International Review of the Red Cross 639 <https://international-review.icrc.org/articles/african-customs-and-traditions-and-the-indigenization-of-ihl-926>.

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<sup>102</sup> Sarah Jean Mabeza and Tamalin Bolus, "Changing the Narrative: A Tool on African Traditions and the Preservation of Humanity during War" (2022) 104 International Review of the Red Cross 1638 <https://doi.org/10.1017/s1816383122000388>.

<sup>103</sup> Angelo Nicolaides, "Duty, Human Rights and Wrongs and the Notion of Ubuntu as Humanist Philosophy and Metaphysical Connection" (2022) 8 Athens Journal of Law 123 <https://doi.org/10.30958/ajl.8-2-2>.

philosophy promoted humane treatment of adversaries and stands against torture and mass atrocities.<sup>104</sup>

As already mentioned, African societies also used various approaches to resolve conflicts based on individual cultural practices and customary laws. These mechanisms helped instill peace and manage conflicts.

Then, Council of elders in many African communities acted as mediators who focused on reconciliation rather than punishment.<sup>105</sup> The Shona of Zimbabwe used *zviera* (taboos) to protect civilians, especially women and children. The proverb “*Usauuraya mai vako, unotanda botso*” (Do not harm your mother, you will go mad) was used to protect vulnerable groups from wartime effects.<sup>106</sup>

These mechanisms should be preserved like in Ghana, where The *Talensi* resolution approach was legitimised by her 1992 Constitution.<sup>107</sup> This process recognized chieftaincy institutions created through customary law.<sup>108</sup> Another example is the Somali conventions on warfare, which shows similarities with the 1949 Geneva Conventions, proving that IHL principles are not foreign to Africa.<sup>109</sup>

Additionally, an Afrocentric framework will not be complete without centering the voices of African women. In traditional African societies, women's social institutions did more than just organize social assemblies. The *Anlu* movement of the *Kom* People of Northwest Cameroon, for instance, were a powerful voice against injustices toward women.<sup>110</sup> However, patriarchal traditions and practices were and still remain major barriers to women's access to decision-making positions. They struggle to enter formal political spheres due to high illiteracy rates, poverty, and unequal work burdens at home and in their communities.<sup>111</sup>

<sup>104</sup> Tshuma and ICRC (International Committee of the Red Cross) (n 2).

<sup>105</sup> At Ajayi and Lo Buhari, “Methods of Conflict Resolution in African Traditional Society” (2014) 8 African Research Review 138 <https://doi.org/10.4314/afrev.v8i2.9>.

<sup>106</sup> Tshuma and ICRC (International Committee of the Red Cross) (n 3).

<sup>107</sup> Section 270 of The Constitution of The Republic of Ghana 1992 (Revised in 1996).

<sup>108</sup> David Naya Zuure, George Hikah Benson and Adams S Achanson, “Indigenous Conflict Resolution and the Protection of Human Rights among the Talensi of Ghana” (2020) 1 EAST AFRICAN JOURNAL OF EDUCATION AND SOCIAL SCIENCES 1 <https://doi.org/10.46606/eajess2020v01i03.0037>.

<sup>109</sup> AMANI Africa (n 2).

<sup>110</sup> Waindim and ACCORD (n 2).

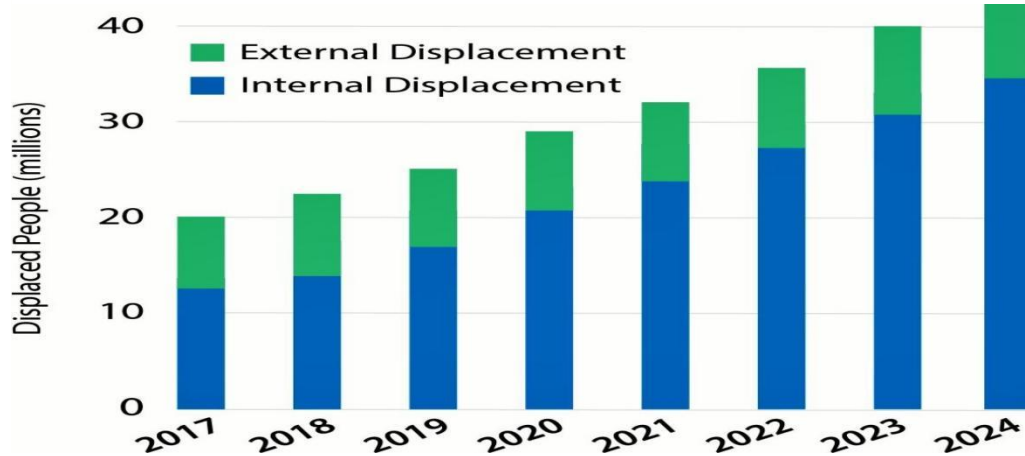
<sup>111</sup> Dyan Mazurana PhD and Geneva Call, “Women in Armed Opposition Groups in Africa and the Promotion of International Humanitarian Law and Human Rights” (Geneva Call 2005) [https://www.genevacall.org/wp-content/uploads/2023/06/20051126\\_women\\_armed\\_opposition\\_groups\\_africa\\_promotion\\_ihl\\_hr.pdf](https://www.genevacall.org/wp-content/uploads/2023/06/20051126_women_armed_opposition_groups_africa_promotion_ihl_hr.pdf) accessed March 7, 2025.

Current efforts to strengthen women’s leadership should focus on: promoting humanitarian and human rights norms, participating in governance, and addressing societal injustices.<sup>112</sup> This is why the AU works to address these challenges through the Protocol on the Rights of Women in Africa and the solemn Declaration on Gender Equality. These frameworks stress the importance of women's full participation in peace processes, including conflict prevention, resolution, and post-conflict reconstruction.<sup>113</sup>

## I. CHALLENGES SPECIFIC TO THE AFRICAN REALITY

Africa faces many challenges in protecting civilians as armed conflicts continue to escalate. The number of displaced Africans has grown steadily to over 45 million people in the last few years.<sup>114</sup>

**Fig. 4.0. TRENDS IN FORCED DISPLACEMENT IN AFRICA**



Sources: UNHCR, IDMC, IOM (mid-year totals)

<sup>112</sup> Ibid.

<sup>113</sup> Mazurana and Geneva Call (n 2).

<sup>114</sup> Africa Center for Strategic Studies, “Conflicts Causing Record Level of Forced Displacement in Africa – Africa Center” (Africa Center, November 6, 2024) <https://africacenter.org/spotlight/conflicts-causing-record-level-of-forced-displacement-in-africa/> accessed March 7, 2025.

34.5 million people three-quarters of these individuals are internally displaced persons (IDP), with Sudan demonstrating the severest of cases – 5.35 million more internally displaced people in the last year.<sup>115</sup> She and five other African nations see more than 10% of their population living in forced displacement. These numbers make Africa home to the world's largest population of forcibly displaced persons.<sup>116</sup>

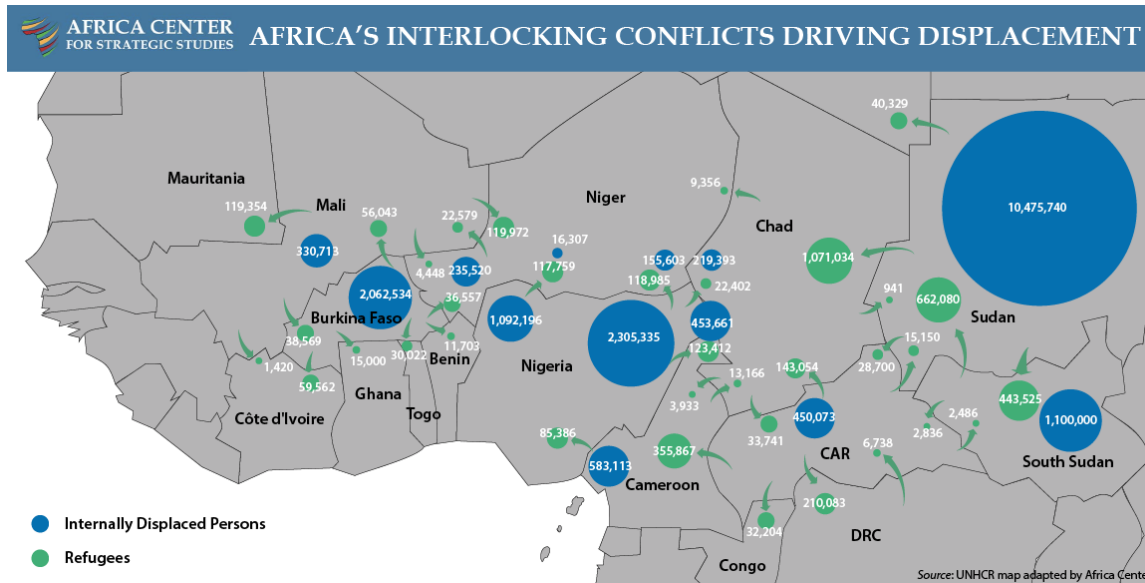
<b>Countries Most Contributing to Forced Displacement in Africa</b>				
<b>Country</b>	<b>IDPs</b>	<b>Refugees and Asylum Seekers</b>	<b>Total Displaced</b>	<b>Percentage of Country's Population Displaced</b>
Sudan	10,475,740	2,180,644	12,656,384	26
DRC	6,935,000	1,087,503	8,022,503	8
Somalia	3,935,643	1,084,282	5,019,925	28
Nigeria	3,397,531	451,410	3,848,941	2
Ethiopia	3,245,483	296,180	3,541,663	3
South Sudan	1,100,000	2,272,034	3,372,034	30
Burkina Faso	2,062,534	208,887	2,271,421	10
Cameroon	1,112,205	149,392	1,261,597	4
CAR	450,673	761,224	1,211,897	21
Eritrea	0	664,745	664,745	18
Mali	354,739	298,044	652,783	3
Mozambique	578,075	8,876	586,951	2
Niger	407,430	39,534	446,964	2
Burundi	7,484	319,872	327,356	2
Chad	219,393	89,858	309,251	2
Rwanda	0	268,252	268,252	2
<b>Total Displaced in Africa:</b>			<b>45,394,254</b>	

Source: Africa Center for Strategic Studies

<sup>115</sup> Ibid.

<sup>116</sup> Ibid.

One of the biggest drivers of this endemic are Resource conflicts. The Nine African countries which hold more than 90% of all forcibly displaced people: Sudan, Democratic Republic of the Congo, Somalia, Nigeria, Ethiopia, South Sudan, Burkina Faso, Cameroon, and Central African Republic, all witness fierce competition over their natural resources.<sup>1</sup> These conflicts fuel existing tensions and lead to widespread civilian casualties.



Source: Africa Center for Strategic Studies

Another factor is the Legacy of our Colonial Borders. During that era, various colonial powers drew artificial African boundaries without thinking about local communities or ethnic groups.<sup>2</sup> This random division split many related ethnic groups into different colonial territories. The Somali people, who share culture and lifestyle, now live as citizens of Ethiopia, Djibouti, and Kenya.<sup>3</sup> The Afar people face a similar fate, split between Ethiopia, Eritrea, and Djibouti.<sup>4</sup> These artificial borders disrupted traditional economic activities, further increased resource competition among borderland peoples, and heightened political tensions between neighboring states.

## A. THE ROLE OF THE AU AND REGIONAL ORGANIZATIONS

<sup>1</sup> Ibid.

<sup>2</sup> Tasew Tafese Gashaw and Wilson Centre, “Colonial Borders in Africa: Improper Design and Its Impact on African Borderland Communities” (Africa Up Close, November 17, 2017) <https://www.wilsoncenter.org/blog-post/colonial-borders-in-africa-improper-design-and-its-impact-on-african-borderland-communities> accessed March 7, 2025.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

The African Union has created specific guidelines to protect civilians through peace support operations.<sup>5</sup> These guidelines organize protection into four tiers:

- i. Protection through political process
- ii. Physical protection
- iii. Rights-based protection
- iv. Establishing a secure environment

Yet, African-led peace operations show limited operational capabilities.<sup>6</sup> Most operations concentrate on military force deployment but fail to properly include civilian ministries, development agencies, and local conflict prevention efforts.<sup>7</sup> These obstacles leave neighboring states shouldering much of the burden. Already, most of the other African countries host 98% of her refugees and asylum seekers.<sup>8</sup> This further strains nations struggling with internal challenges. East Africa highlights these regional impacts, with four of the top six causes of forced displacement in this region.<sup>9</sup>

### **TOWARDS A PRAXIS OF LIBERATION: VIABLE RECOMMENDATIONS**

As stated earlier, Africa's implementation of IHL needs strategic approaches to connect traditional practices with modern frameworks. The International Committee of the Red Cross (ICRC) believes a blend of international norms and indigenous practices will help strengthen IHL's relevance, authority, and legitimacy across the continent.<sup>10</sup>

#### **○ Strengthening Regional Implementation**

The West African International Humanitarian Law Plan of Action, ratified by 14 ECOWAS countries, represents a vital step toward concrete IHL implementation. This framework covers counter-terrorism measures, protection of children, migrants, and IDPs, prevention of sexual violence in armed conflict, weapons control, and IHL dissemination.

#### **○ Community-Based Protection Mechanisms**

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<sup>5</sup> African Union, "Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations" <https://www.peaceau.org/uploads/draft-au-poc-guidelines-english.pdf>.

<sup>6</sup> Nate DF Allen and African Centre for Strategic Studies, "African-Led Peace Operations: A Crucial Tool for Peace and Security" (African Centre for Strategic Studies 2023) <https://africacenter.org/wp-content/uploads/2024/05/African-Led-Peace-Operations.pdf> accessed March 7, 2025.

<sup>7</sup> Ibid.

<sup>8</sup> Africa Center for Strategic Studies(n 2).

<sup>9</sup> Ibid.

<sup>10</sup> Tshuma and ICRC (International Committee of the Red Cross) (n 3).

Non-violent community protection initiatives show remarkable results when states fail to protect civilians. Small grants that support shelter improvements and self-protection strategies have proven successful.<sup>11</sup> These community-centered approaches match traditional African conflict resolution methods and offer sustainable solutions for civilian protection.

- **Information and Documentation Systems**

Detecting patterns of atrocities requires accurate information collation. Local organizations and international bodies can boost civilian protection through early warning mechanisms.<sup>12</sup> For instance, The World Health Organization collects and reports data on attacks against medical facilities, providers, vehicles, and patients.<sup>13</sup> This can be replicated in other organizations.

- **Regulatory Frameworks**

African nations often lack simple regulatory safeguards for private military and security companies' activities.<sup>14</sup> The AU's Peace Support Operations Doctrine illustrates how IHL standards can be incorporated.<sup>15</sup> Yet, Resource constraints and administrative delays continue to create implementation challenges<sup>16</sup>

- **Capacity Building Initiatives**

An example is the African Union Humanitarian Agency (AUHA), who leads responses to humanitarian emergencies across the continent.<sup>17</sup> This institution should be strengthened by enhancing coordination mechanisms, improving resource allocation, efficient decision-making processes, and better integration with regional bodies.

- **Policy Integration**

The African Union Peace and Security Council has integrated IHL principles into continental frameworks successfully.<sup>18</sup> These instruments: the Model Law on Protection of Cultural Property and Heritage, the Policy on Selection and Screening of PSO Personnel, and the Updated Guidelines for Protection of Civilians in Peace Support Operations; address specific IHL concerns.

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<sup>11</sup> Mahatany (n 2).

<sup>12</sup> Ibid.

<sup>13</sup> United Nations Security Council(n 2).

<sup>14</sup> Mahatany (n 3).

<sup>15</sup> AMANI Africa (n 3).

<sup>16</sup> Mutsa Mangezi and Sarah Swart, "Back to Basics: The Path to Enhancing African Adherence to International Humanitarian Law" <https://unisapressjournals.co.za/index.php/SAYIL/article/view/8808/4762>.

<sup>17</sup> AMANI Africa (n 4).

<sup>18</sup> Ibid.

### ○ Addressing Implementation Barriers<sup>p</sup>

IHL implementation faces several roadblocks across Africa: Administrative lethargy, political reluctance, and resource constraints delay ratification processes.<sup>19</sup> Solutions should focus on: efficient legislative processes, building technical capacity within government departments, establishing clear ministerial responsibilities, securing adequate funding mechanisms. Finally, Legal frameworks need constant development as conflicts evolve.<sup>20</sup> Thus, African states should actively participate in global IHL debates to ensure their unique challenges receive proper attention in international forums.

## 6.0 CONCLUSION

This essay illustrates why African views provide key solutions that can protect civilians during armed conflicts. Traditional African systems show sophisticated ways to complement modern IHL frameworks. Research has revealed three important insights: civilian protection works best in Africa when international standards blend with local practices, our traditional systems have valuable principles that could improve current protection frameworks, and each region needs specific solutions because of its unique challenges. This is why African states must actively join global IHL discussions. Their unique views will shape future protection frameworks. This mix of traditional wisdom and modern legal principles gives us the best chance to save civilian lives and build lasting peace across Africa.

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<sup>19</sup> Mangezi and Swart (n 2).

<sup>20</sup> Ibid.