

**THE IMPACT OF ARMED CONFLICT ON REGIONAL TRADE INTEGRATION IN
AFRICA: AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA) AND ITS
INTERACTION WITH INTERNATIONAL HUMANITARIAN LAW**

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DECLARATION

I hereby declare that this work is the product of my own research efforts; undertaken under the supervision of **Dr. Keseme Philip ODUDU** and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged.

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CERTIFICATION

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DEDICATION

This work is dedicated to God, whose supreme authority over human affairs – whether in times of conflict or cooperation – remains a constant reminder of his sovereignty. I am grateful for His enduring strength, insight, and guidance.

And to my parents, Pastor (Dr.) and Deaconess (Mrs.) Olufemi Joda, for their unwavering support, sacrifice, and belief in my journey. To my siblings, Aunty Fikayo, Mayowa, and Oluwanifemi for continuously challenging me to be the best version of myself through their own lives.

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Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949

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Protocol on Rules and Procedures on the Settlement of Disputes under the African Continental Free Trade Area Agreement (AfCFTA), 2018

Vienna Convention on the Law of Treaties (VCLT), 1969

WTO, Dispute Settlement Understanding (DSU), Marrakesh Agreement Establishing the World Trade Organization, 1994.

LIST OF ABBREVIATIONS

AfCFTA	African Continental Free Trade Area
AfDB	African Development Bank
AMU	Arab Maghreb Union
AP	Additional Protocol
APSA	African Peace and Security Architecture
AU	African Union
BIAT	Boosting Intra African Trade
CAR	Central African Republic
CENSAD	Community of Sahel-Saharan States
CFTA	Continental Free Trade Area
CIAM	Conflict-Impact Assessment Mechanism
COMESA	Common Market for Eastern and Southern Africa
DRC	Democratic Republic of Congo
DSB	Dispute Settlement Body
DSM	Dispute Settlement Mechanism
DSU	Dispute Settlement Understanding
EAC	East African Community
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EU	European Union
FDI	Foreign Direct Investment
FEWS NET	Famine Early Warning Systems Network

FTA	Free Trade Area
GATS	General Agreement on Trade in Services
GBV	Gender Based Violence
GC	Geneva Convention
GDP	Gross Domestic Products
IAC	International Armed Conflict
ICC	International Criminal Court
ICGLR	International Conference on the Great Lakes Region
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDP	Internally Displaced Person
IGAD	Inter-Governmental Authority on Development
IHL	International Humanitarian Law
IPR	Intellectual Property Right
IPSS	Institute of Peace and Security Studies
LAPSSET	Lamu Port–South Sudan–Ethiopia Transport
LNG	Liquefied Natural Gas
LRA	Lord's Resistance Army
NIAC	Non-International Armed Conflict
OAU	Organization of African Unity
REC	Regional Economic Community
RINR	Regional Initiative against the Illegal Exploitation of Natural Resources
SADC	Southern African Development Community

UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNOWAS	United Nations Office for West Africa and the Sahel
UNTS	United Nations Treaty Series
USAID	United States Agency for International Development
VCLT	Vienna Convention on the Law of Treaties
WTO	World Trade Organization

ABSTRACT

The African Continental Free Trade Area (AfCFTA) aims to enhance economic integration and intra-African trade by removing barriers to the free movement of people, services, and goods. However, the fact that there are still armed conflicts in various regions of the continent poses a serious threat to the success and achievement of this regional trade regime. This essay examines the impact of armed conflict on regional integration of trade in Africa, focusing on legal and pragmatic inconsistencies between AfCFTA and International Humanitarian Law (IHL) rules. The essay examines how conflicts impact trade corridors, infrastructure, and markets, thereby undermining the objectives of the AfCFTA. It also explores whether and how the legal orders governing trade and war (i.e., the AfCFTA Agreement and IHL treaties such as the Geneva Conventions of 1949 and Additional Protocols of 1977) interact, intersect, or conflict in practice. The essay considers the state and non-state parties' obligations under the law of hostilities, notably on the protection of civilian infrastructure related to trade and humanitarian protection.

CHAPTER ONE

INTRODUCTION

1.1. Background to the Study

Africa has historically grappled with fragmented markets, weak regional linkages, and a heavy dependence on external trading partners. Intra-African trade has remained comparatively low, often hovering below 20% of the continent's total trade, in contrast to significantly higher levels in Europe and Asia¹. As at September 2025, this figure stands at only 15%, in sharp contrast to Intra-Asian trade which has surged to 60%². This disparity has long been attributed to colonial trade patterns, underdeveloped infrastructure, multiplicity of currencies, and political instability across the continent. To this, African leaders increasingly have seen the need for greater economic integration. Regional Economic Communities such as the Economic Community of West African States (ECOWAS), Southern African Development Community (SADC), and the East African Community (EAC) have long sought to reduce trade barriers, deepen cooperation, and build regional markets. However, despite these efforts, fragmentation persisted, largely due to overlapping membership³, weak implementation powers, and political rivalry among states. These realities underscored the need for a continent-wide initiative that could consolidate the different Regional Economic Communities (REC) into a single, coherent framework.

¹ United Nations Conference on Trade and Development (UNCTAD), *Economic Development in Africa Report 2019: Made in Africa – Rules of Origin for Enhanced Intra-African Trade* (United Nations 2019) 19.

² R Mathekga, 'Intra-African Trade under AfCFTA' GIS Reports Online (2025) <<https://www.gisreportsonline.com/r/africa-trade-afcfta/>> accessed 21 November 2025

³ S Wapmuk, and MJ Ali, 'The African Continental Free Trade Area (AFCFTA) and Regional Economic Integration: Prospects and Challenges'. *Zamfara Journal of Politics and Development*. (2022) 3(1), 5

The African Continental Free Trade Area (AfCFTA) was thus conceived as a bold and historic step towards deepening continental integration. Adopted in Kigali in March 2018 and entered into force on 30 May 2019, the AfCFTA Agreement⁴ seeks to establish a single market for goods and services, facilitated by the free movement of persons, capital, and investments⁵. With the Agreement signed by 54 African Union member states and over 45 deposited as of 2023, the AfCFTA is the world's largest free trade area in terms of participating states⁶. Its objectives, set out in Article 3 of the Agreement, include creating a liberalized market for goods and services, contributing to the movement of capital and natural persons, and laying the foundation for the establishment of a Continental Customs Union⁷. Effectively, the AfCFTA is more than a trade agreement. It is also a development initiative rooted in the African Union's (AU) Agenda 2063: The Africa We Want, which envisions "an integrated, prosperous, and peaceful Africa, driven by its citizens and representing a dynamic force in the global arena". Intra-regional trade stands to register its most spectacular growth under the implementation of the AfCFTA. Early estimates suggest that cross-border trade can increase by \$34.6 billion (52 percent) come the end of the second decade, and a further \$85 billion if trade facilitation, rather than mere tariff liberalization, is taken as a complementary measure during implementation⁸.

⁴ African Union, *Agreement Establishing the African Continental Free Trade Area (AfCFTA)*, adopted 21 March 2018, entered into force 30 May 2019

⁵ Ibid

⁶ African Union Commission, *Status of AfCFTA Ratification* (African Union, 2023) <<https://au.int>> accessed 25 August 2025.

⁷ African Union (n4) art. 3; ET Aniche, 'African Continental Free Trade Area and African Union Agenda 2063: the Roads to Addis Ababa and Kigali'. *Journal of Contemporary African Studies*, (2020) 41(4), 377–392.

⁸ UNECA (United Nations Economic Commission for Africa). 'Industrializing through Trade: Economic Report on Africa 2015'. (Addis Ababa: UNECA, 2015)

Yet, these aspirations face significant hurdles. Among the most pressing is the persistence of armed conflict across different regions of Africa. From protracted civil wars in the Democratic Republic of Congo, to insurgencies in the Sahel, to political crises in Sudan and Ethiopia, armed conflicts continue to undermine stability, governance, and economic development. The effect of war on trade and integration is profound. War damages infrastructure, such as roads, bridges, and ports, which are crucial to trade flows. They disrupt supply chains, increase transaction costs, and create insecurity discouraging investment. For instance, Nigeria's and the wider Lake Chad region's Boko Haram insurgency has displaced millions, halted local economies, and constricted cross-border trade between Nigeria, Cameroon, Chad, and Niger⁹. Similarly, the war in Tigray, Ethiopia, has caused massive displacements and undermined the country's capacity to function as a regional trade hub in the Horn of Africa. Apart from such operational interruptions, war also undermines the institutional capacities of states to implement trade agreements. Governments preoccupied with insurgencies or internal conflicts will shift priorities away from supporting trade to security expenditure. Movement across borders can be limited, border crossings shut, and legal requirements under arrangements like the AfCFTA simply ignored. Therefore, the aspiration for a continental free trading area is undermined by the reality of insecurity.

This is where the role of International Humanitarian Law (IHL) becomes relevant. IHL, or the law of armed conflict, is enshrined in the Geneva Conventions of 1949¹⁰ and their

⁹ International Crisis Group, *Facing the Challenge of the Islamic State in West Africa Province (2019) Africa Report No 273* available at < <https://www.crisisgroup.org/africa/nigeria/273-facing-challenge-islamic-state-west-africa-province> > accessed 23 October 2025

¹⁰ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 970 ; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 971; Convention (III) relative to the Treatment of

Additional Protocols¹¹. It has one humanitarian purpose: to protect those who are not, or no longer, participating in hostilities, and to limit the methods and means of warfare¹². While IHL is not aimed at directly controlling economic activity or trade, its principles have significant indirect impacts on the sustenance of commercial and civilian life during war. For example, the protective norms for civilian objects like markets, transport facilities, and foodstuffs help to facilitate conditions for commerce even in war zones¹³. Moreover, the principles of IHL such as distinction, proportionality, and prohibition on the targeting of civilian objects can curb war's economic devastation. By compelling belligerents to avoid destroying civilian infrastructure, IHL helps by keeping the circumstances for business and regional integration intact. Violations of IHL such as attacks on markets, blockades of trade routes, or destruction of transport systems often have devastating consequences for both local economies and broader regional trade efforts¹⁴

Despite the existence of such intersections, the intersectionality between African regional trade integration and IHL remains untapped. Much of the current academic work on the AfCFTA is concerned with its economic potential, tariff levels, rules of origin, and

Prisoners of War, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 972; Convention (IV) relative to the Protection of Civilian Persons in Time of War, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 973.

¹¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), concluded on 8 June 1977, entered into force 7 December 1978, UNTS 17512.; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), concluded on 8 June 1977, entered into force 7 December 1978, UNTS 17513

¹² WJ Fenrick, 'Applying IHL Targeting Rules To Practical Situations: Proportionality And Military Objectives'.. *Windsor Yearbook of Access to Justice* (2009) 27(2), pages 271-290

¹³ H Jean-Marie and DB Louise , *Customary International Humanitarian Law*, (2005) Volume I: Rules, International Committee of the Red Cross (ICRC), Rule 9

¹⁴ M Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (Edward Elgar, 2nd edition, 2023) 24

institutional architecture¹⁵. Similarly, IHL scholarship largely concentrates on civilian protection, humanitarian access, and accountability for war crimes¹⁶. Very few studies consider how the two regimes interact, particularly in the African context where trade integration and armed conflict often coexist. This lacuna in scholarship forms the mainstay of this present work. It seeks to critically examine how conflict has impacted the AfCFTA and to what extent IHL can offer more protection to trade and integration. In doing so, it will highlight how respect for IHL commitments, such as the protection of civilian infrastructure, can bolster the resilience of regional trade institutions like the AfCFTA during war.

1.2. Statement of Problem

The African Continental Free Trade Area (AfCFTA) was conceived as a landmark legal tool to enhance intra-African trade, promote industrialization, and advance the developmental aspirations of the African Union's Agenda 2063. However, despite the potential of the AfCFTA, the fact of frequent armed conflicts across Africa poses a grave threat to its effective realization. In regions such as the Sahel, the Horn of Africa, and the Great Lakes, recurring conflicts have undermined state capacity, destroyed infrastructure, displaced populations, and disturbed the stability that is necessary for regional trade integration. The result is an increasing disconnect between the aspirations of the AfCFTA and the day-to-day realities of African states beset by conflict. The nub of the problem is that the AfCFTA architecture, as presently written, does not take sufficient account or anticipate the effect of armed conflict on trade integration. Its provisions work under assumptions of fairly stable

¹⁵ JT Gathii, *African Regional Trade Agreements as Legal Regimes* (Cambridge University Press 2011) 73.

¹⁶ D Akande and EC Gillard, 'Armed Conflict and Displacement: International Humanitarian Law and International Human Rights Law' *International Review of the Red Cross* (2017), 99, 663.

circumstances in which states can proceed gradually to liberalize trade and coordinate regulatory policies. However, for the majority of African countries, stability cannot be assumed¹⁷. Armed conflicts not only delay integration but, in the vast majority of cases, fundamentally alter the terms on which trade becomes possible. For example, the insurgency of Boko Haram stopped cross-border trade in the Lake Chad Basin by closing channels and driving out merchants¹⁸, while the war in Ethiopia's Tigray significantly damaged the country's status as a center of trade in the Horn of Africa. These realities render tariff reduction, freer trade in goods, and continental integration difficult to achieve.

This situation presents central questions. How much does continuity of armed conflict impede the operationalisation of the AfCFTA? How can IHL principles be applied to the protection of trade-related infrastructure and civilian economic activity in ways that facilitate regional integration? Is there a need for reform within the AfCFTA design to encompass conflict-sensitive provisions that reflect Africa's security realities? Unless these issues are addressed, the AfCFTA can be torpedoed by the same conflicts that persist in destabilizing much of the continent

The essay problem, therefore, is the lack of adequate consideration of armed conflict in the AfCFTA legal framework and the underutilization of IHL as a complementary legal regime to trade resilience. The gap is both theoretical and practical significance: theoretically, it leaves open issues at the intersection of International Trade Law and IHL; practically, it risks undermining Africa's most ambitious regional trade integration project. It is essential to solve

¹⁷ GK Kieh Jr, 'The State and Political Instability In Africa', *Journal of Developing Societies* (2009), 25(1), 1-25

¹⁸ International Crisis Group, *Facing the Challenge of the Islamic State in West Africa Province (2019) Africa Report No 273*

this problem not only to make an academic contribution but also to make practical recommendations to policymakers, attorneys, and regional organizations that desire to safeguard Africa's integration efforts in the face of endemic insecurity.

1.3. Aims and Objectives

The aim of this long essay is to examine the impact of armed conflict on the implementation of the AfCFTA, and critically analyze how IHL can inform, support, or complement the legal and operational framework of the AfCFTA in conflict zones.

The following are the objectives of the essay:

- i. To examine the legal framework and objectives of the AfCFTA, such as regional trade integration in Africa.
- ii. To address the rules of law and protection under International Humanitarian Law that apply during armed conflict, specifically to reference civilian infrastructure and economic endeavors.
- iii. To identify and examine the ways in which armed conflict undermines the operational effectiveness of the AfCFTA in different parts of Africa.
- iv. To examine how far the AfCFTA legal system addresses or fails to address the threats and realities of conflict.
- v. To analyze the potential for legal and policy interface between the AfCFTA and IHL to minimize trade disruption in the context of conflict.
- vi. To suggest means of reinforcing the AfCFTA framework to ensure that it becomes more robust, intact, and aligned with humanitarian standards in conflict-affected areas.

1.4. Research Methodology

This essay adopts the doctrinal research methodology, or library-based study. It involves the critical reading of legal literature, treaties, case law, journal articles, and other policy and scholarly papers related to the African Continental Free Trade Area (AfCFTA) and International Humanitarian Law (IHL). The essay is mostly qualitative and analytical in nature.

Primary sources such as the African Continental Free Trade Agreement and its accompanying Protocols, the Geneva Conventions of 1949, and the Additional Protocols of 1977 will be relied on. Secondary sources such as academic journals, textbooks, commentaries on the law, international organizations' reports (e.g., the African Union, United Nations, International Committee of the Red Cross), and policy documents will also be taken into consideration in the legal interpretation and analysis support. Furthermore, the research will incorporate case studies of the war-affected African nations of the Sahel, the Horn of Africa, and the Great Lakes. These will situate the actual impact of armed conflict on trade integration and illustrate the failures of current legal orders.

1.5. Scope and Limitations

This essay is limited to examining the implications of armed conflict on trade integration in Africa at the regional level, that is, the African Continental Free Trade Agreement (AfCFTA) and its legal interface with International Humanitarian Law (IHL). The legal, institutional, and policy dimensions of this intersection will be the focus of the essay, with selected conflict-affected regions such as the Sahel, the Horn of Africa, and the Great Lakes region being used to illustrate practical concerns. The essay will focus on state and intergovernmental commitments

under the AfCFTA and IHL but will not deal with every conflict scenario or regional economic community specifically. The essay does not involve empirical fieldwork, interviews, or data gathering from affected communities. Additionally, while economic and political factors are discussed where relevant, the analysis is primarily legal in character.

1.6. Significance of the Study

This essay matters because it addresses a new and under-explored topic in international legal scholarship: the intersection of regional trade law and international humanitarian law in Africa. Despite the AfCFTA being a defining step toward economic integration, it is greatly affected by the persistent armed conflicts in the continent. This essay highlights the legal and operational impact of such conflicts on trade implementation and explores the extent to which International Humanitarian Law can provide protection for trade-related infrastructure and civilian economic activity. The essay contributes to the new body of literature on conflict-sensitive trade policy and offers guidance that can direct policymakers, regional institutions, and scholars on the best way to strengthen the legal framework of the AfCFTA in order to be more war-resistant in conflict zones. It further develops an integrated legal thinking through promoting cross-talk between trade law and humanitarian law which are usually treated separately in legal and policy analysis.

CHAPTER TWO

CONCEPTUAL CLARIFICATION, THEORETICAL FRAMEWORK, AND LITERATURE REVIEW

2.1. Conceptual Clarifications

2.1.1. Regional Trade Integration

Regional integration of trade is a process whereby states within a specific region collaborate to reduce barriers to trade and investment, economic policy harmonization, and ultimately have an integrated market¹⁹. In its own legal definition, it is an explicit arrangement of obligations under international or regional agreements whereby states commit to liberalizing trade, harmonizing rules, and, in some cases, pooling sovereignty to achieve economic and political goals²⁰. Regional integration appeals as a concept that helps promote growth, well-being and economic development among members²¹. It may also foster a variety of non-economic objectives, including promoting regional security and political coordination among members²². Regional integration in Africa is seen by policymakers and researchers as a potential approach to raising the volume of intra-regional trade, encouraging economic growth and ensuring African countries' integration into the world economic order. It can also be used as an instrument for accelerating structural change in African countries using economies of scale,

¹⁹ EB Haas. 'The Study of Regional Integration: Reflections on the Joy and Anguish of Pretheorizing', in LN Lindberg and AS Scheingold (eds.), *Regional Integration: Theory and Research*. (Harvard University Press, 1971) 3-44

²⁰ E Haas, *The Uniting of Europe: Political, Social, and Economic Forces* (Stanford University Press, 1958) 16–22.

²¹ C Peters-Berries, "*Regional Integration in Southern Africa - A Guidebook*", (Bonn: INWENT, 2010)

²² J Carbaugh, "*International Economics. Australia*", (Thompson, 13th Edition 2011)

improved competitiveness, better resource mobilization and the establishment of regional value chains²³

Economically, it facilitates the access to larger markets, encourages specialization, and enhances competitiveness by reducing tariff and non-tariff barriers. Politically, it intensifies cooperation between the states and creates patterns that reduce the chances of war since interdependence provides incentives for peace²⁴. The European Union is often considered the most advanced model of regional integration, but Africa has long sought to emulate such success through its own regional economic communities (RECs²⁵). The effective implementation of regional schemes of trade integration hinges in large part on stability, the rule of law, and institutional capacity. All these prerequisites are tended to in many cases to be undermined in Africa by political instability and war. State failure to provide safe frontiers, efficient infrastructure, and stable governance makes liberalization of trade difficult²⁶.

2.1.2. Armed Conflict

The "armed conflict" is the cornerstone of this study since it is that which provides the context in which the integration of trade is examined. International Humanitarian Law (IHL) does not give a comprehensive or precise definition of what constitutes an armed conflict²⁷. However, The International Criminal Tribunal for the Former Yugoslavia (ICTY) clarified in the *Tadić*

²³ V Gammadigbe, "Is Regional Trade Integration a Growth and Convergence Engine in Africa?" (2021). *IMF Working Paper WP/21/19* <<https://www.imf.org/en/-/media/files/publications/wp/2021/english/wpiea2021019-print-pdf.pdf>> accessed 22 November 2025

²⁴ B Balassa, "*The Theory of Economic Integration*" (Routledge Revivals 1st ed. 1961) 13

²⁵ RF Oppong, 'The African Union, the African Economic Community and Africa's Regional Economic Communities: Untangling a Complex Web' (2010) *African Journal of International and Comparative Law Volume 18,1* at 124

²⁶ World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects* (World Bank, 2020) 18–22

²⁷ N Melzer, *International Humanitarian Law: A Comprehensive Introduction*, (ICRC, 2016) 52

case that “an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups.”²⁸

Armed conflicts are broadly classified in two categories:

1. **International Armed Conflicts (IACs):** These are conflicts involving armed hostilities between two or more sovereign states, governed by the full regime of the Geneva Conventions²⁹ and Additional Protocol I³⁰.
2. **Non-International Armed Conflicts (NIACs):** taking place within the territory of a single state, between state armed forces and organized armed groups, or between such groups themselves. These are regulated primarily by Common Article 3 of the Geneva Conventions and Additional Protocol II³¹.

Africa has been disproportionately affected by NIACs. The South Sudanese civil war (2013–2018), for example, displaced millions and seriously disfigured regional trade routes³². Boko Haram's Lake Chad Basin insurgency has razed trade infrastructure, shut markets, and displaced traders in Nigeria, Niger, Chad, and Cameroon³³. Similarly, the conflict in Ethiopia's Tigray region cut off access to significant trade routes uniting landlocked countries such as South

²⁸ *Prosecutor v Tadić* (Decision on Jurisdiction) IT-94-1, 2 October 1995, para 70.

²⁹ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 970 ; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 971; Convention (III) relative to the Treatment of Prisoners of War, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 972; Convention (IV) relative to the Protection of Civilian Persons in Time of War, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 973.

³⁰ K P Odudu ‘Deconstructing the Thematic Dichotomy between International and Non-International Armed Conflicts in International Humanitarian Law’ *University of Ibadan Law Journal* (2020) 10, 83; International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 1125 UNTS 3, 8 June 1977

³¹ International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 1125 UNTS 609, 8 June 1977

³² International Crisis Group, *South Sudan: A Civil War by Any Other Name* (2014) *Africa Report No 217*.

³³ UNDP, *Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point for Recruitment* (UNDP 2017), 27–32

Sudan and Uganda to the port of Djibouti³⁴. These conflicts often lead to the fragmentation of domestic markets, replacing lawful commerce with smuggling and black-market activities, further undermining regional integration initiatives.

2.1.3. International Humanitarian Law

International Humanitarian Law (IHL), also referred to as the “law of armed conflict,” is the body of international law that governs the conduct of armed conflicts and seeks to protect persons who are not or no longer taking part in hostilities³⁵. Its sources include treaty law (notably the Geneva Conventions of 1949 and their Additional Protocols), customary international law, and judicial decisions of international courts and tribunals³⁶.

The core principles of IHL are particularly relevant to this study:

- i. **The Principle of Distinction:** Parties must at all times distinguish between combatants and civilians³⁷, and between military objectives and civilian objects³⁸. Civilians and civilian objects are protected against direct attack.
- ii. **The Principle of Proportionality:** Attacks that may cause incidental loss of civilian life or damage to civilian objects must not be excessive in relation to the anticipated military advantage³⁹.

³⁴ Human Rights Watch, *Ethiopia’s Tigray Conflict: Impact on Civilians and Humanitarian Access* (Human Rights Watch, 2022)

³⁵ GD Solis, *The Law Of Armed Conflict: International Humanitarian Law In War* (Cambridge University Press, 2021) at 18

³⁶ I Bantekas, ‘Reflections on Some Sources And Methods Of International Criminal And Humanitarian Law’. *International Criminal Law Review*, (2006) 6 121.

³⁷ H. Jean-Marie & D.B.Louise , *Customary International Humanitarian Law*, Volume I: Rules, International Committee of the Red Cross (ICRC), (2005) Rule 1

³⁸ *Ibid*, Rule 7

³⁹ *Ibid*, Rule 14

- iii. **The Principle of Necessity:** Only measures necessary to achieve a legitimate military objective are permitted⁴⁰.

These principles extend protection to objects indispensable to civilian survival, including foodstuffs, markets, water installations, and other infrastructure that supports civilian life⁴¹

Whereas IHL is fundamentally humanitarian in purpose⁴², its indirect effect on economic existence cannot be denied. In the protection of infrastructure and markets, IHL safeguards the very roots upon which commerce and trade subsist. Thus, for example, where roads and bridges are shielded from unlawful targeting, cross-border trade flows can resume sooner after hostilities. To this end, IHL plays the role of a stabilizing one that mitigates some economic impacts of war⁴³, although trade law per se may not be silent on the same.

2.1.4. Trade Disruption and Economic Resilience

Disruption of trade is the cessation of cross-border exchange of goods, services, and investments due to exogenous shocks such as armed conflicts, pandemics, or natural disasters. Disruption in war-torn areas is particularly severe as it entails physical damage to the infrastructure and institutional mechanisms for trading⁴⁴. Armed conflicts also result in the displacement of traders, destruction of warehouses, and closure of borders, all weakening predictability required for business transactions. Where there is an interruption in formal trade,

⁴⁰ St. Petersburg Declaration (1868), preamble

⁴¹ H. Jean-Marie and DB. Louise, (n39) Rule 10

⁴² JS. Pictet, *Development and Principles of International Humanitarian Law* (Martinus Nijhoff, 1985). p. 2

⁴³ R. Oppenheimer, *International Law in War and Its Economic Impact* (February 18, 2025). Available at SSRN: <<https://ssrn.com/abstract=5145423>> accessed 11 September 2025

⁴⁴ UNCTAD, *Economic Development in Africa Report 2021: Reaping the Potential Benefits of the AfCFTA for Inclusive Growth* (United Nations, 2021) 44–46.

informal and illicit trade increases, which energizes black markets, arms trafficking, and organized armed group exploitation of natural resources⁴⁵

Economic resilience, however, refers to the capacity of an economy or regional trade framework to adapt to shock and recover in a manner that it facilitates long-term growth⁴⁶. Resilience, in an African context, will depend on whether legal and institutional frameworks such as the AfCFTA will be capable of anticipating and accommodating conflict-led dislocations⁴⁷

2.2. Theoretical Framework

2.2.1 Legal Pluralism

Legal pluralism is the existence and coexistence of more than one legal order in the same social space⁴⁸. It challenges the conception of law as a unitary, state-based institution by recognizing that law is produced and enacted at multiple levels international, regional, national, and even informal or customary⁴⁹. It creates a system whereby “two or more legal systems coexist in the same social field” and is a dominant feature of most legal orders around the world⁵⁰. Legal pluralism is a critical concept in African trade integration. African states at one and the same time are subject to international trade law via the World Trade Organization (WTO), regional economic community (REC) agreement such as ECOWAS or SADC, and most recently continental AfCFTA regime. Simultaneously, they are subject to humanitarian obligations under

⁴⁵ Global Witness, *War and the Trade in Natural Resources in Africa* (Global Witness, 2018) <<https://globalwitness.org/en/regions/africa/>> accessed 22 November 2025

⁴⁶ S Hallegatte, *Economic resilience: definition and measurement*. (World Bank Policy Research Working Paper, 2014) 6852.

⁴⁷ J Simmie, and R Martin, ‘The Economic Resilience of Regions: Towards an Evolutionary Approach.’ *Cambridge Journal Of Regions, Economy and Society*, (2010) 3(1) 27-43.

⁴⁸ K. von Benda-Beckmann, and B Turner, ‘Legal Pluralism, Social Theory, and the State’. *The Journal of Legal Pluralism and Unofficial Law*, 2018 50(3) 255–274.

⁴⁹ J Griffiths, ‘What is Legal Pluralism?’ *The Journal Of Legal Pluralism And Unofficial Law*, (1986) 18(24) 1-55.

⁵⁰ ES. Merry ‘Legal Pluralism’ *Law and Society Review* (1988) 22 (5) 869-96

International Humanitarian Law (IHL) if there is armed conflict that disrupts economic life. These coinciding regimes make for a plural legal order in which trade norms and humanitarian norms must be synthesized so that it can have effective effects⁵¹.

2.2.2 Functionalism in International Law

Functionalism is a belief that international cooperation is a pragmatically driven process of needs and not ideology. It believes that states cooperate more in areas of "low politics" (such as commerce, health, technical issues) than in areas of "high politics" (such as military security)⁵². By gradually building cooperation in technical and economic fields, states create habits of collaboration that can spill over into political and security cooperation⁵³.

In global governance, functionalism highlights the role of institutions in addressing common problems. The WTO, for instance, provides a forum for the resolution of trade disputes and the formulation of binding rules. In Africa, the AfCFTA illustrates functionalist ideals: by integrating markets and reducing barriers to trade, it is designed to generate interdependence that could reduce incentives for conflict⁵⁴.

2.2.3 Peace Through Trade Theory

The Peace Through Trade Theory is rooted in liberal internationalist theory and argues that economic interdependence renders armed conflict more unlikely⁵⁵. The argument is that after states have become economically interdependent, war becomes more costly, and the incentives

⁵¹ JT Gathii, *"African Regional Trade Agreements as Legal Regimes"* (Cambridge University Press, 2011) 55–57

⁵² D. Mitrany, *"A Working Peace System"* (Royal Institute of International Affairs, 1943) 12–15

⁵³ E Haas, *The Uniting of Europe: Political, Social, and Economic Forces* (Stanford University Press, 1958) 35–40.

⁵⁴ World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects* (World Bank, 2020) 14–17.

⁵⁵ R Rosecrance, *'The Rise of the Trading State: Commerce and Conquest in the Modern World'* (Basic Books, 1986) 45–48.

for peace are enhanced. Trade then serves as a pacifying force that generates stability and cooperation⁵⁶. Historically, Immanuel Kant's *Perpetual Peace* essay argued that commerce has a “civilising effect” by making war less rational for states dependent on trade⁵⁷.

Later liberal theorists developed this idea into a formal theory linking free trade to peace. Empirical studies have concluded that increased levels of bilateral trade reduce the likelihood of states' militarized conflict, although not invariably⁵⁸. In Africa, the Peace Through Trade theory underpins much of the rationale for AfCFTA. The Agreement envisions not only economic growth but also the consolidation of peace and security through increased interdependence⁵⁹. By creating continental value chains and reducing reliance on external trade partners, AfCFTA could provide incentives for cooperation while reducing the drivers of conflict. For instance, economic integration coupled with collective security arrangements in the Economic Community of West African States (ECOWAS) have been in place for centuries, suggesting a link between peace-building and trade.

2.2.1 Historical Foundations

A conceptual understanding of the nexus between trade, conflict, and legal regulation has deep roots in the development of international law and state political economy. In historical perspective, commerce and conflict have invariably been closely linked⁶⁰. Early trade routes-

⁵⁶ H Dorussen, and H. Ward, 'Trade networks and the Kantian peace'. *Journal of Peace Research*, (2010) 47(1) 29-42.

⁵⁷ Immanuel Kant, *Perpetual Peace: A Philosophical Sketch* (1795) In H. S. Reiss (Ed.), H. B. Nisbet (Trans.), *Kant: Political Writings* (Cambridge University Press, 1991) 93

⁵⁸ J Oneal and B Russett, “*Triangulating Peace: Democracy, Interdependence, and International*” (Norton, 2001) 12–15.

⁵⁹ Agreement Establishing the African Continental Free Trade Area, adopted 21 March 2018, entered into force 30 May 2019, Preamble

⁶⁰ DC Copeland, 'Economic Interdependence and War: A Theory of Trade Expectations' *International Security*, (1996) 20(4), 5–41.

such as the Trans-Saharan trade corridors, East African coastal networks, and Nile Basin commercial systems-were invariably ruptured by territorial rivalries, power struggles, and the expansionist ambition of empires⁶¹. These disruptions entailed an early awareness that economic exchange could not flourish absent a minimum level of stability, security, and normative order. Accordingly, customary systems of rules gradually emerged which regulated interactions across political boundaries and represented some of the earliest precursors to modern international trade law.

The historical development of International Humanitarian Law also forms a critical foundation for understanding contemporary approaches to economic protection during armed conflict. While the codified laws of war emerged most prominently in the 19th and 20th centuries⁶², the humanitarian impulse to limit suffering during conflict has ancient origins. For instance, African customary law recognized principles limiting unnecessary destruction of property, protecting non-combatants, and preserving essential community assets during inter-ethnic hostilities. Similar principles appeared in the early Islamic law of armed conflict that influenced trade and governance systems across North and West Africa⁶³. These traditions have collectively informed later global legal developments, which culminate in the Geneva Conventions and their Additional Protocols, now providing the primary framework for regulating conduct during armed conflict.

Starting in the mid-20th century, the emergence of modern international trade law with the creation of GATT and later the WTO established more formal regimes of governance over

⁶¹ *ibid*

⁶² E Crawford, and J Mowbray, 'The Terminology of the Law of Warfare: A Linguistic Analysis of State Practice' *Journal of International Humanitarian Legal Studies*, (2023) 14(2), 197-222.

⁶³ T Khan, 'International Humanitarian Law: An Overview' *International Journal of Law Management and Humanities* (2023) 6(6) 1192

economic relations among states⁶⁴. The architecture of those regimes was based on assumptions about political stability and did not adequately anticipate the ways in which conflict—particularly intrastate conflict—could affect the ability of states to engage in effective trade governance. African states, newly independent throughout the same period of time, inherited legal systems that were not entirely well-suited to deal with the realities of persistent conflict, weak institutions, and fragile economic structures. The end of the Cold War marked an important turning point as the international community increasingly acknowledged the economic consequences of conflict and the need for legal frameworks that respond to these challenges. For Africa, regional economic integration emerged as a key strategy for the pursuit of stability and development. Regional organisations in the formative years—such as ECOWAS, SADC, and COMESA—adopted legal and institutional systems intended to strengthen cooperation and respond to cross-border insecurity. These bodies initially provided conceptual and institutional foundations for the creation of the African Continental Free Trade Area. The AfCFTA is by no means a singular development but rather several decades of efforts on regional integration influenced by unique political and conflict dynamics.

2.3. Literature Review

2.3.1 AfCFTA and Trade Integration

AfCFTA has been widely discussed in the literature as the game-changer model for African economic integration. According to the World Bank, AfCFTA can increase intra-African trade by 81% by 2035 and take 30 million people out of the state of extreme poverty if properly

⁶⁴ P Karla, 'The Role Of International Trade Agreements In Shaping The Global Business Environment' *International Journal of Finance and Commerce* (2023) 5(3) 1

implemented⁶⁵. UNCTAD further emphasizes its potential to diversify African trade away from commodity dependence towards value-added production⁶⁶. Wapmuk and Ali acknowledge that the major objectives of the AfCFTA are to create a unified continental market for goods and services with the inclusion of free movement of persons and investments and thus enable the creation of continental customs union⁶⁷. AfCFTA is intended to enhance competitiveness of African industry, improve manufacturing capacity, achieve continental market access and ensure reallocation of resources in a more effective manner. This in turn is intended to have long-lasting impacts on member states growth and development, enhance investment opportunities and employment generation.

Scholars such as Gathii argue that AfCFTA is a huge legal innovation on the continent's trading landscape, moving from the patchwork sub-regional treaties to a complete continent-wide model that holds the potential to boost bargaining power in the global economic arena⁶⁸. Others note that it is aligned with the African Union Agenda 2063, which envisions economic integration at the core of Africa's development policy⁶⁹. However, critics highlight implementation obstacles. Viljoen and Nmehielle speak of persistent infrastructural deficiencies, state capacity fragility, and institutional non-harmonisation as key challenges facing AfCFTA success⁷⁰. Collier highlights that fragile states with ongoing conflict may be structurally excluded from integration gains, and questions if AfCFTA can achieve inclusive

⁶⁵ World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects* (World Bank, 2020) 12–15.

⁶⁶ UNCTAD, *Economic Development in Africa Report 2021: Reaping the Potential Benefits of the AfCFTA for Inclusive Growth* (United Nations, 2021) 35–37

⁶⁷ S Wapmuk, and JM Ali, The African Continental Free Trade Area (AfCFTA) And Regional Economic Integration: Prospects And Challenges, *Zamfara Journal of Politics and Development*, (2022). 3(1), 15.

⁶⁸ JT Gathii, *African Regional Trade Agreements as Legal Regimes* (Cambridge University Press, 2011) 47–52

⁶⁹ African Union, *Agenda 2063: The Africa We Want* (African Union Commission, 2015)

⁷⁰ F Viljoen and VO Nmehielle, 'The African Union and African Economic Integration' *African Human Rights Law Journal* (2012) 12 47-58.

outcomes on the continent⁷¹. In spite of this extensive rhetoric, much of the literature assumes a relatively stable political environment, with little consideration given to how armed conflict interacts with AfCFTA's trade regime. This lacuna underscores the need for studies placing AfCFTA within the contexts of Africa's conflict states.

2.3.2 Armed Conflict and Trade Disruption

The political economy has traditionally explored the intersection of armed conflict and trade dislocation. According to their "conflict trap" thesis, Collier and Hoeffler claim that war and poverty are mutually reinforcing, with conflict squandering economic potential and economic decline catalyzing more conflict. This is evident most directly in African countries where war disrupts production, supply chains, and cross-border commerce routes⁷². South Sudan and Democratic Republic of Congo's national economies have been devastated by wars and regional trading networks broken, as per economic empirical evidence⁷³. Sahel and Nigerian insurgencies in West Africa have frustrated ECOWAS's ability to provide trade corridors, as transport routes are regularly attacked or blocked⁷⁴. The International Crisis Group also documented how the conflicts within Ethiopia and the Horn of Africa undermined not only the regional but also international market flows, undermining integration efforts⁷⁵.

One of the dominant threads of literature stresses the exploitation of trade to finance war. Le Billon describes how illicit trade in commodities such as diamonds, timber, and oil has

⁷¹ Paul Collier, *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It* (Oxford University Press, 2007) 25–29

⁷² P Collier and A Hoeffler, 'Greed and Grievance in Civil War' *Oxford Economic Papers* (2004) 56–563.

⁷³ D Keen, *Endless War? Hidden Functions of the War on Terror* (Pluto Press, 2006) 73–76.

⁷⁴ ECOWAS Commission, *Report on Trade and Transport Facilitation in West Africa* (ECOWAS, 2019) <https://parl.ecowas.int/wp-content/uploads/2020/08/ENG_Country_Report_Ghana_2nd_Ord_Session_Nov-Dec_2019.pdf> accessed 22 November 2025

⁷⁵ International Crisis Group, *Ethiopia's Tigray War: A Deadly Stalemate* (Africa Briefing No 167, 2021).

financed combatants and prolonged wars on the continent⁷⁶. This "conflict economy" dimension complicates it for one to assume that trade is always stabilizing. While this literature is insightful insofar as it relates to trade disruption, it never quite examines the intersection between trade agreements like AfCFTA and armed conflict situations. Few articles challenge how AfCFTA might adapt to conflict circumstances or provide provisions for resilience.

2.3.3 Application of International Humanitarian Law in Economic Contexts

International Humanitarian Law (IHL) has previously considered civilians and humanitarian protectors in times of war, but today its economic implications are better known. Sassòli argues that IHL prohibitions against the destruction of civilian objects, pillage, and starvation as a weapon of war have direct implications for the protection of economic life in war⁷⁷. The International Court of Justice in *Nicaragua v United States* affirmed that economic infrastructure basic to civilian survival is within the ambit of IHL protection⁷⁸. Similarly, Additional Protocol I in Article 52 specifically safeguards civilian objects, among which are markets, transport, and industries vital for trade⁷⁹. Scholars have begun exploring the nexus between IHL rules and commerce. Akande and Gillard note that adherence to IHL in war helps sustain the economic recovery circumstances and regional cooperation which may come after conflict⁸⁰. Others suggest that the incorporation of IHL in the governance of trade would render

⁷⁶ Philippe Le Billon, "Wars of Plunder: Conflicts, Profits and the Politics of Resources" (Hurst, 2012) 64–67.

⁷⁷ Marco Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (2nd edn, Edward Elgar, 2023) 118–121.

⁷⁸ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* [1986] ICJ Rep 14, 112.

⁷⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3, Article 52.

⁸⁰ D. Akande and E. Wilmshurst, 'Armed Conflict and Displacement: The Role of International Humanitarian Law' *International Review of the Red Cross* (2017) 99 663- 671.

economies stronger to prevent the complete collapse of commercial frameworks when there are crises⁸¹.

Despite these findings, there is a scarcity of scholarly work on the economic dimension of IHL. Little analysis exists on the operationalization of humanitarian law obligations in terms of frameworks like AfCFTA, or of how trade integration can be designed in support of IHL in zones of conflict. This is the primary motivation for the present research.

⁸¹ Lindsey Cameron, 'International Humanitarian Law and the Regulation of Economic Activity in Conflict Zones' *Yearbook of International Humanitarian Law* (2013) 15 77.

CHAPTER THREE

ARMED CONFLICT AND ITS IMPACT ON REGIONAL TRADE INTEGRATION UNDER THE AfCFTA

3.1. Overview of the AfCFTA

The African Continental Free Trade Area (AfCFTA) is among the most ambitious institutional and legal efforts by the African Union (AU)⁸². It was conceived in the broader context of Agenda 2063, the AU's blueprint for continental integration and socio-economic transformation. Signed in March 2018 at Kigali, Rwanda, and coming into effect on 30 May 2019, the AfCFTA aims to establish a single African market for goods and services, with free movement of business persons and investments, and a roadmap towards the eventual formation of a continental customs union. It has fifty-four African member states and is the largest free trade area in the world by membership, and potentially one of the continent's most groundbreaking initiatives for its trade, development, and integration into the law. The AfCFTA entered into force on May 2020, one month after the minimum of 22 states had made their instruments of ratification to the Chairperson of the AU Commission (the minimum entry into force requirement for the Agreement). As a result of the pandemic, AfCFTA entered into force on January 1, 2021, instead of the originally scheduled July 1, 2020. The AfCFTA Agreement is not only a trade agreement but also a development-oriented legal instrument that seeks to correct structural imbalances in African trade. Historically, African economies have been characterized by raw material export reliance, excessive vulnerability to external shocks, and poor intra-African trade. Intra-African trade constituted about 15% of total African trade in 2019, whereas Asia enjoys 59% and Europe

⁸² African Union, *Agreement Establishing the African Continental Free Trade Area* (2018), entered into force 30 May 2019.

has 68%⁸³. As at 2021, this figure had fallen to only 12%, compared to 47% in North America, 53% in Asia, and 69% in Europe⁸⁴. AfCFTA seeks to reverse this by enhancing intra-continental production linkages, energizing value addition, and creating economies of scale via market integration. In so doing, AfCFTA is expected to reconfigure Africa's position in the global economy while underpinning peace, stability, and regional solidarity.

3.1.1. Historical Background to the AfCFTA

The AfCFTA is the realization of a grand project which begun in the 1980 Lagos Plan of Action, to enhance the economic self-reliance of Africa and reduce its dependence on global trade and aid. This was subsequently enshrined in the Organization of African Unity's (OAU) 1991 Abuja Treaty, which provided a framework to utilize regional integration as a transitional progress toward creating an African Economic Community by 2028. Since the AU succeeded the OAU, eight Regional Economic Communities (RECs) were formally recognized to be the pillars of the AU⁸⁵. These economic blocs that are advancing the process of regional integration include: Southern African Development Community (SADC); East African Community (EAC); Common Market for Eastern and Southern Africa (COMESA); Economic Commission of Western African States (ECOWAS); Economic Community of Central African States (ECCAS); Inter-Governmental Authority

⁸³ United Nations Conference on Trade and Development (UNCTAD), *Economic Development in Africa Report 2019: Made in Africa – Rules of Origin for Enhanced Intra-African Trade* (United Nations 2019) 19.

⁸⁴ WW. Olney, 'Intra-African Trade' *Review of World Economics* (2022) 158 25–51.

⁸⁵ RF Oppong, 'The African Union, the African Economic Community and Africa's regional economic communities: untangling a complex web'. *African Journal of International and Comparative Law*, (2010) 18(1) 92-103.

on Development (IGAD); Arab Maghreb Union (AMU); and Community of Sahel-Saharan States (CENSAD)⁸⁶.

The biggest leap towards these goals was the initiation of the formal negotiations for AfCFTA. AfCFTA's roadmap was adopted by the AU Summit in Addis Ababa in 2012. The Heads of States of the AU particularly adopted the action plan on Boosting Intra African Trade (BIAT) and took a decision to fast-track the establishment of a Continental Free Trade Area (CFTA) by 2017 through a 4-step roadmap. First, finalization of the COMESA-EAC-SADC tripartite Free Trade Area (FTA) by 2014; second, attainment of regional FTAs by non-tripartite RECs depending on the member states' choice between 2012 and 2014; third, tripartite FTA and other regional FTAs merger into a CFTA project between 2015 and 2016; and fourth, achievement of the CFTA by 2017 with the option of revising the target date depending on progress made⁸⁷. The AU Heads of State and Government also endorsed the Agenda 2063 in 2013, during the 50th Anniversary of the OAU/AU in Addis Ababa. The AU Agenda 2063 - The Africa We Want, "is a strategic framework for the socio-economic transformation of the continent within the next 50 years. It builds on, and seeks to accelerate the implementation of past and existing continental plans for growth and sustainable development"⁸⁸. The agenda's aspirations, *inter alia*, are an integrated continent where "free movement of people, capital, goods and services will result in huge increases in trade and investments among African countries". The signing of the CFTA agreement lifted

⁸⁶ *ibid*

⁸⁷ United Nations Conference On Trade And Development, 'African Continental Free Trade Area: Policy and Negotiation Options for Trade in Goods', (United Nations, 2016) <https://unctad.org/system/files/official-document/webditc2016d7_en.pdf> accessed 21 November 2025

⁸⁸ African Union. 'What is Agenda 2063?' 16 June, 2018,< <https://au.int/en/agenda2063>>. accessed 27 September, 2025

the spirits of African leaders towards recommittal to the quest for African economic integration project. This commitment resulted in the launch of the negotiations for a CFTA on 15 June 2015, at the AU Heads of State summit in Johannesburg. In July 2016, African leaders decided to fast track the CFTA negotiations and set up a High Level Panel to ensure the success of the project, with a deadline for its launch by the end of 2017⁸⁹. The 2018 Kigali Summit was a turning point when 44 AU Member States signed the Agreement establishing the AfCFTA⁹⁰. As of July 2019, the operational stage began at Niamey, Niger, and by 2021, AfCFTA trade officially began, albeit on a small scale. Eritrea is the only nation that has not yet signed the Agreement, which points to the virtual universality of the African countries' concurrence on the necessity of the project⁹¹

3.1.2 Institutional Framework of the AfCFTA

To direct the management of various components of AfCFTA, the agreement provides for the institutional structure and mechanism for resolving disputes that will manage its operations. The organization comprises various organs⁹² that include the AU Assembly, which will direct and plan AfCFTA⁹³, the Council of Ministers, which can make binding recommendations pursuant to the AfCFTA agreement⁹⁴, the Committee of Senior Trade

⁸⁹ African Union, Decision On The Continental Free Trade Area, Assembly/AU/Dec.608 (XXVII) 2016 <https://au.int/sites/default/files/decisions/31274-assembly_au_dec_605-620_xxvii_e.pdf > accessed 22 November 2025

⁹⁰ V Songwe, JA Macleod and others 'The African Continental Free Trade Area: A Historical Moment for Development in Africa', *Journal of African Trade* (2021) 8 12-23

⁹¹ Trudi Hartzenberg, 'African Continental Free Trade Area: Promise and Realities' *Journal of World Trade* (2021) 55(6) 843.

⁹² African Union, *Agreement Establishing the African Continental Free Trade Area* (2018), entered into force 30 May 2019 Article 9

⁹³ *ibid*, Article 10 (1)

⁹⁴ *ibid*, Article 11(3)

Officials, which implements the decisions of the Council of Ministers⁹⁵, and the AfCFTA Secretariat in an administrative capacity⁹⁶.

Disputes between member states under the AfCFTA regime shall be resolved by a Dispute Settlement Body (DSB)⁹⁷ and an Appellate Body based on the model of the WTO dispute settlement system. The Protocol⁹⁸ to be applicable provides that the parties shall first negotiate with a view to reaching an amicable resolution of the dispute, failing which they may refer the case to the DSB or, in effect, to arbitration⁹⁹. The other component of the dispute settlement mechanism is the rule of reserve consensus which, similar to its WTO counterpart, provides that certain decisions of the DSB (such as the adoption of a panel or Appellate Body report) must be endorsed, except where there is a consensus in the DSB not to do so. For example, Article 19(4) of the Protocol on Rules and Procedures on the Settlement of Disputes¹⁰⁰ provides that, within sixty days from the date on which the final panel report is circulated, the report shall be adopted at a meeting of the DSB unless a party to the dispute notifies the DSB of its intention to appeal, or the DSB decides by consensus not to adopt the report. The purpose of such a mechanism is to prevent paralysis of decision-making. Adoption of reports becomes almost automatic due to the high threshold of consensus required to halt them. Even after having fashioned such institutional adjustments, in a way the AfCFTA agreement is little more than an agreement to agree, a system of strong commitments still to be made under six pending protocols on goods trade, services trade, competition, investment, intellectual property, and settling disputes. The

⁹⁵ *ibid*, Article 12(2)a

⁹⁶ *ibid*, Article 13

⁹⁷ *ibid*, Article 20 establishes a Dispute Resonlution Mechanism, and refers to the Protocol created for that purpose

⁹⁸ Protocol on Rules and Procedures on the Settlement of Disputes under the African Continental Free Trade Area Agreement (AfCFTA), adopted on March 21, 2018

⁹⁹ *ibid*, Article 6 (1)-(2)

¹⁰⁰ *ibid*

member states will still have to determine how much economic sovereignty they are willing to relinquish, and open up their industries and employees to cross-border competition¹⁰¹.

3.1.3 Scope of Coverage of the AfCFTA

AfCFTA is designed as a comprehensive trade agreement extending well beyond tariffs to involve a very wide range of regulatory issues. Article 6 of the Agreement specifies its scope as covering: Trade in goods, Trade in services, Investment, Intellectual property rights and Competition policy¹⁰². The Trade in Goods Protocol aims at the progressive elimination of tariffs and non-tariff barriers. It covers the rules of origin, customs facilitation, trade facilitation, transit, technical barriers to trade, and sanitary and phytosanitary measures. This is a step that not only liberalizes tariffs but also addresses behind-the-border barriers that usually restrict African trade flows¹⁰³. The Protocol on Trade in Services seeks to bring about liberalization in important sectors, including financial services, transport, communications, and tourism. The framework draws lessons from the General Agreement on Trade in Services (GATS), but with added flexibility for developing countries¹⁰⁴. This matters since Africa's service sector has grown significantly, representing over 50% of GDP in most economies, and will probably be an important catalyst for integration¹⁰⁵.

¹⁰¹ Peter Leon, and others. *The African Continental Free Trade Agreement: A New Pathway For Africa?* Herbert Smith Freehills. November 28, 2019. <<https://hsfnotes.com/africa/2019/11/28/the-africancontinental-free-trade-agreement-a-new-pathway-for-africa/#page=1>> accessed 27 September, 2025

¹⁰² African Union, *Agreement Establishing the African Continental Free Trade Area* (2018), entered into force 30 May 2019, Article 6

¹⁰³ T Tayo, and M Odijie, “*The AfCFTA Protocol on Trade in Goods*”. In *The Quest for Unity* (Routledge, 2024) 337-354

¹⁰⁴ RY Simo, ‘Trade in Services in the African Continental Free Trade Area: Prospects, Challenges and WTO Compatibility’, *Journal of International Economic Law*, (2020) 23, 65–95

¹⁰⁵ World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects* (World Bank 2020).

Phase II negotiations, which are ongoing, take AfCFTA into investment, competition policy, and intellectual property rights (IPRs). These are vital for industrialization and innovation. By harmonizing rules in these areas, the AfCFTA can consolidate investment, keep anti-competitive practices in check, and protect African innovations in a development-friendly manner. But others see these areas as a source of tension between national sovereignty and regional undertakings, particularly in poor states already marred by governance challenges¹⁰⁶.

3.1.4 Expected Economic Impacts of the AfCFTA

The AfCFTA is also likely to remake the economic geography of Africa. The World Bank approximates that, if it is successfully implemented, it can lift 30 million people out of extreme poverty and increase intra-African trade by 81% by 2035¹⁰⁷. The elimination of tariffs on 90% of goods can yield enormous welfare benefits, yet non-tariff cutting and trade facilitation enhancements can double such benefits.

From the industrialization perspective, AfCFTA offers an opportunity for African countries to de-risk raw material exports and create regional value chains. For example, vehicle manufacturing hubs in Morocco and South Africa can be combined with Nigerian steel, Côte d'Ivoire rubber, and textiles from Ethiopia to create high-value manufacturing

¹⁰⁶ OD Akinkugbe, 'A *Critical Appraisal of the African Continental Free Trade Area Agreement*' in Franziska Sucker and Kholofelo Kugler (eds.) 'International Economic Law (southern) African Perspectives and Priorities', (JUTA Law, South Africa; 2021) 283-306.

¹⁰⁷ World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects* (World Bank, 2020) 23

industries which are competitive at the global level¹⁰⁸. Moreover, liberalization of service sectors, primarily transport and communications, will be important in reducing the cost of trade, which remains some of the highest in the world. The AfCFTA is also expected to enhance Africa's bargaining power in regional and international trade negotiations. By consolidating the disaggregated markets, the African countries will be able to negotiate on a single platform with like-minded players outside the continent (e.g., EU, US, and China) to gain bargaining power. This can dissuade Africa from excessive dependence on external actors and encourage greater self-reliance.

Nevertheless, such projections depend on stability, effective governance, and infrastructure development. Conflict, political instability, and low institutional capacity could thwart these expectations. Sahel, Horn of Africa, and Great Lakes trade corridors, for instance, are still highly vulnerable to conflict disruptions. This casts doubt on the potential of the AfCFTA to fulfill its promise in the absence of peace and security—a point this dissertation aims to examine in later chapters.

3.2 Implementation Challenges in Conflict-Affected States

African Continental Free Trade Area (AfCFTA) was conceived as an avenue to remove obstacles to intra-African trade and regional integration. Its implementation, however, meets significant challenges in conflict-affected countries. Unlike stable economies where institutional reform and trade liberalization can go on as usual, conflict-affected countries are marred by closure of borders, vandalism of infrastructure, displacement of people,

¹⁰⁸ UNCTAD, *Economic Development in Africa Report 2021: Reaping the Potential Benefits of the AfCFTA for Inclusive Growth* (United Nations 2021)

corruption, and fragile institutions of governance. These issues erode their ability to meet AfCFTA standards and deprive them of the benefit of enjoying its advantage.

This section analyzes the specific challenges that impede AfCFTA implementation in conflict settings. It considers four primary issues: (1) border closure and trade barriers; (2) infrastructure damage; (3) insecurity and displacement; and (4) institutional weakness and governance deficits. The analysis demonstrates how armed conflict not only disrupts trade flows but also dismantles the legal, administrative, and institutional obligations entered into under the AfCFTA agreement.

3.2.1 Border Closures and Trade Restriction

Border closure is one of the immediate and most visible impacts of armed conflict on trade integration. States often employ border closure as a security measure to restrict insurgents, arms smuggling, and maintain territorial control. However, such closure is in direct opposition to the AfCFTA basic principle of free movement of goods and persons.

An example was Nigeria's border closure in 2019, initially attributed to smuggling and insecurity related to Boko Haram in the northeast. The closures effectively suspended regional trade with neighbors Niger and Benin, both of which rely heavily on cross-border trade¹⁰⁹. Despite being one of the primary movers of the AfCFTA, this unilateral decision was a case of security taking precedence over integration, demonstrating the fragility of AfCFTA commitments in conflict-prone regions. Similarly, in the Horn of Africa, conflict

¹⁰⁹ C Blum, *Cross-Border Flows Between Nigeria And Benin: What Are the Challenges for (Human) Security?*, (Friedrich-Ebert-Stiftung, Abuja, 2014) 3

in Ethiopia's Tigray region led to the closure of borders and trade corridors with Eritrea, Sudan, and Djibouti¹¹⁰. That the Djibouti corridor, through which around 95% of Ethiopia's foreign trade is cleared, was disrupted indicates how war can paralyze a country's trade infrastructure, thus derailing AfCFTA objectives.

These examples reveal a basic contradiction: the AfCFTA is based on openness and cooperation, yet conflict compels states to regress to unilateralism and protectionism. Without measures to address or make room for such emergencies, AfCFTA commitments can be rendered aspirational rather than binding.

3.2.2 Infrastructure Destruction and Trade Disruption

Infrastructure is the bloodstream of regional trade integration. Roads, railways, ports, and telecommunication networks are the precondition for tariff liberalization, customs harmonization, and rules of origin under the AfCFTA. Armed conflict, however, systematically destroys or renders such infrastructure unavailable, thereby raising transaction costs and forcing trade into informal or illicit channels.

The Sahel offers a dramatic illustration. Major trade routes linking coastal West Africa with landlocked nations have been targeted by long-standing insurgencies in Mali, Niger, and Burkina Faso. UNECA estimates that attacks on transport corridors have increased freight costs by 20–30%, eroding the potential benefits of tariff removal under AfCFTA¹¹¹. In

¹¹⁰ International Crisis Group, “*Ethiopia’s Tigray Conflict: A Deadly, Dangerous Stalemate*” (Africa Briefing No 171, 2022)

¹¹¹ United Nations Economic Commission for Africa (UNECA), *Transforming African Corridors: Infrastructure, Trade and Security* (UNECA 2021).

some areas, insecurity has compelled traders to reroute goods via longer, more costly routes, countermanding efficiency and competitiveness. In the Great Lakes, infrastructure destruction has been no less catastrophic. Conflict in the Democratic Republic of Congo (DRC) has repeatedly severed transport links vital for exporting minerals and agricultural produce. Roads and bridges connecting eastern DRC to Rwanda and Uganda are habitually shut off by militias, restricting the free flow of goods and establishing militia-run parallel markets¹¹². These facts on the ground directly confront AfCFTA's vision of structured, rules-based intra-African trade. Similarly, in South Sudan, civil war has devastated road networks and river transportation routes along the Nile, dramatically narrowing the country's participation in regional trade. Despite being a signatory to the AfCFTA, South Sudan's infrastructure collapse makes meaningful participation all but impractical¹¹³. The AfCFTA framework assumes the availability of functional infrastructure as a prerequisite for trade liberalization. However, in countries affected by conflict, this prerequisite is rarely met. That there are no contingency measures for infrastructure rehabilitation or humanitarian trade facilitation points to a serious design flaw in the Agreement.

3.2.3 Displacement and Insecurity

The second main hindrance to AfCFTA actualization in conflict-prone nations is the vast displacement of individuals and the overall atmosphere of insecurity. Armed struggles in Africa have generated unmatched humanitarian emergencies, with millions of citizens displaced internally or externally within host nations. The displacement not only breaks human security but undermines the socio-economic foundation upon which AfCFTA is

¹¹² Philippe Le Billon, *Wars of Plunder: Conflicts, Profits and the Politics of Resources*. (Hurst and Camp, 2012)

¹¹³ R Ranganathan and M Cecilia, *South Sudan's Infrastructure: A Continental Perspective. Africa Infrastructure Country Diagnostic (AICD) Country Report*, (World Bank 2011)

founded¹¹⁴. According to the UNHCR Global Trends Report 2023, Africa has over 44 million forcibly displaced people, including refugees, asylum seekers, and internally displaced persons (IDPs)¹¹⁵. Sudan, South Sudan, the Democratic Republic of Congo (DRC), Somalia, and Ethiopia are a few of the most impacted nations. This population displacement puts domestic production systems out of order, erodes consumer markets, and demilitarizes available labour forces to participate in trade-related activities. Displacement further fuels the rise of informal cross-border trade. In concentrations of displaced people along border regions, informal markets most often manifest as coping strategies. While such trade creates livelihoods, it does not fall within AfCFTA-set formal trade frameworks. Hence, governments lose revenue from tariffs, and AfCFTA's rules-based trading system is undermined¹¹⁶.

Lastly, insecurity by armed groups establishes zones where AfCFTA undertakings are inconsequential. In northern Mozambique, the Cabo Delgado insurgency has focused on infrastructure associated with liquefied natural gas (LNG) projects, hindering not just energy investment but also related trade flows¹¹⁷. Al-Shabaab in Somalia and eastern Kenya also persists in placing informal tolls on traders and transporters, effectively substituting state power with insurgent taxation systems¹¹⁸. These trends present a paradox: AfCFTA's

¹¹⁴O Ukaeje, 'Political Instability and Insecurity in Africa: Implications for African Union Agenda 2063' *Journal of Contemporary International Relations and Diplomacy*, (2022) 3(1), 443–466.

¹¹⁵ United Nations High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2023* (UNHCR 2024).

¹¹⁶ S Golub, "Informal Cross-Border Trade and Smuggling in Africa". in O Morrissey, RA Lopez, and K Sharma (eds) 'Handbook on Trade and Development' (Edward Elgar Publishing, 2015) 179-209

¹¹⁷ International Crisis Group, *Stemming the Insurgency in Mozambique's Cabo Delgado* (Africa Report No 303, 2021).

¹¹⁸ K Menkhaus, 'Governance without Government in Somalia: Spoilers, State Building, and the Politics of Coping' *International Security*, (2007) 31(3) 74.

vision for a harmonized continental market is being outrun by parallel insurgent economies in conflict zones.

3.2.4 Weak Governance and Institutional Fragility

Perhaps most significant is the challenge of institutional weakness in conflict states. Effective participation in AfCFTA requires strong institutions capable of enforcing commitments on tariff liberalization, rules of origin, customs cooperation, and dispute settlement. These capacities do not exist or are non-functioning in weak states. For instance, in the Central African Republic (CAR), decades of civil war have left state institutions hollow. Customs agencies are underfunded, border posts are occupied by militias, and smuggling is the default mode in cross-border trade¹¹⁹. While CAR has signed and ratified the AfCFTA, institutional weakness makes realistic implementation impossible.

Corruption also exacerbates them. Rent-seeking in most countries in conflict extensively creates significant barriers to formal trade in their customs agencies. There are a number of unofficial taxes by state and non-state actors that complicate the AfCFTA process, discouraging compliance with AfCFTA processes. Corruption in customs clearance can increase transaction costs by up to 15%, as has been stated in a World Bank study¹²⁰, which reduces the benefits of tariff liberalization. Institutional weakness is also a challenge in Somalia, whose government is fragmented and has failed to establish sane trade policy. Despite its eventual accession to the AfCFTA being projected, Somalia's weak institutions

¹¹⁹ Louisa Lombard, *State of Rebellion: Violence and Intervention in the Central African Republic* (Zed Books 2016).

¹²⁰ World Bank, *Doing Business 2020: Comparing Business Regulation in 190 Economies* (World Bank 2020).

result in even a modicum of customs cooperation becoming virtually unthinkable. Without institutional strength, AfCFTA promises become theoretical as opposed to tangible¹²¹.

Another governance issue is judicial independence and effective mechanisms for dispute resolution. The AfCFTA dispute settlement process is predicated on the assumption that states have the capacity and political will to implement continental adjudication procedures. In fragile states, though, governments prefer to avoid recourse to legal remedies and opt for extrajudicial or unilateral actions. It results in legal uncertainty and makes investment unattractive and deprives one of the AfCFTA's central objectives—creating a rules-based, predictable trading climate. Secondly, institutional weakness undermines compliance monitoring. The AfCFTA Secretariat relies on member states to report, implement reforms, and provide trade information. Conflict-affected states tend to default on these, and data gaps result, which undermine effective monitoring and enforcement. Without reporting, it is difficult to assess progress, exposing AfCFTA to selective or symbolic implementation.

Generally, weak institutions and weak governance are institution-level hindrances that deprive conflict-affected countries of the ability to benefit from AfCFTA. Unless these governance gaps are addressed, the Agreement would turn into a source of imbalance, benefiting the stable countries while lagging behind the fragile states.

3.2.5 Legal and Practical Barriers to AfCFTA Implementation

¹²¹ AI. Samatar, 'The State in Somalia: Between Disintegration and Reconstruction' *Review of African Political Economy* (2016) 43(2) 173.

Apart from the physical damage of infrastructure and displacement of populations, conflict states have their own special legal and practical obstacles to their full integration into the AfCFTA regime. A significant legal obstacle is that there is no harmonization of humanitarian and trade law. Since IHL prohibits the deliberate targeting of destruction of civilian infrastructure needed for economic sustenance, in practice such facilities tend to be destroyed. AfCFTA itself does not provide exceptions, derogations, or alternative arrangements for those states which are unable to fulfill trade obligations as a result of armed conflict. This causes a legal inconsistency: states remain under obligation to fulfill commitments which they cannot fulfill, which calls into question the doctrine of impossibility in treaty law under Article 61 of the Vienna Convention on the Law of Treaties (VCLT)¹²². Another legal barrier concerns settlement of disputes under the AfCFTA Protocol on Rules and Procedures on the Settlement of Disputes. The AfCFTA system draws on the WTO Dispute Settlement Understanding (DSU) with formal complaints, panel proceedings, and appeals. Conflict-affected states rarely have the capacity, expertise, or resources to undertake lengthy litigation. More fundamentally, governments in a weak setting are often lacking in political stability to enforce unfavorable verdicts and therefore the system becomes ineffective in such a setting¹²³.

At the practical level, insecurity deters investment and the participation of the private sector, which are both critical for AfCFTA's success. Investors demand stable legal environments, while armed conflict is an indicator of uncertainty and risk that attracts capital flight. States engaged in conflict, as per the African Development Bank, attract on

¹²² Vienna Convention on the Law of Treaties (VCLT), 23 May 1969, 1155 UNTS 331, art 61.

¹²³ OD Akinkugbe, 'Dispute Settlement under the AfCFTA: Lessons from the WTO' *Journal of World Trade* (2020) 44(3) 527.

average 40% less foreign direct investment (FDI) than stable African economies, constraining their capacity to integrate into continental value chains¹²⁴. Yet another obstacle is the erosion of state confidence. Cross-border factors are typical in conflicts, where either side in the fighting is supported or confronted by adjacent states. Regional cooperation in such a case is inhibited by blame. For instance, rivalry between Rwanda and the Democratic Republic of Congo (DRC) on the presence of armed groups in eastern Congo has often undermined trade integration schemes in the Great Lakes region¹²⁵. This political suspicion diminishes the sense of togetherness required for AfCFTA to function effectively. The overall effect of these obstacles is that impacted states risk becoming marginal actors within the AfCFTA, excluded from its benefits and unable to contribute to its objectives. Exclusion contradicts the AU vision of an integrated continental market and further deepens the gap between stable and fragile states.

Firstly, the AfCFTA's doctrine of fairness and equity, rooted in the AfCFTA goals under Article 3(e) of the Agreement, is jeopardized. If conflict states cannot implement commitments, the Agreement will disproportionately benefit safer economies such as South Africa, Kenya, and Egypt over vulnerable ones such as South Sudan, CAR, and Somalia. This will have the potential to entrench structural imbalances in African economic architecture¹²⁶. Secondly, without provision for adapting to conflict situations, AfCFTA

¹²⁴ African Development Bank, *African Economic Outlook 2022: Supporting Climate Resilience and a Just Energy Transition* (AfDB 2022). available at <<https://www.afdb.org/en/documents-publications-african-economic-outlook-2023-previous-african-economic-outlook/african-economic-outlook-2022>> accessed 22 November 2025

¹²⁵ International Crisis Group, *Averting Proxy Wars in the Eastern Congo and Great Lakes* (Africa Report No 303, 2022).

¹²⁶ African Union, *Agreement Establishing the African Continental Free Trade Area* (adopted 21 March 2018, entered into force 30 May 2019) Art 3(e).

legitimacy would suffer. States will be inclined to regard the Agreement as insensitive to their reality and de-prioritize its observance. Without adaptive safeguards such as security exceptions or humanitarian trade corridors, AfCFTA stands to be applied in peaceful nations only. Third, the fact that conflict-affected states are unable to participate to the full limits the continental desire for industrialization and expansion of intra-African trade. The AfCFTA targets increasing intra-African trade by 52% by the year 2035 (UNECA estimate), but this aim cannot be possible if large sections of the continent are beyond operational participation due to conflict¹²⁷.

3.2.6 Implications for AfCFTA Objectives

The cumulative effect of all these barriers is to leave affected nations at the risk of being marginal actors in the AfCFTA, excluded from its benefits and unable to make meaningful contributions towards its achievement. Such marginalization defeats the AU's vision of one continental market and instead contributes to the perpetuation of the gap between fragile and stable states. Second, the very basis of equity and inclusiveness for the AfCFTA's objectives under Article 3(e) of the Agreement is compromised¹²⁸. In a situation where conflict states cannot enforce obligations, the Agreement will favorably benefit more stable economies such as South Africa, Kenya, and Egypt at the expense of vulnerable ones such as South Sudan, CAR, and Somalia. This can reinforce structural disequilibrium in Africa's economic order. Secondly, failure to provide for conflict circumstances could erode the

¹²⁷ United Nations Economic Commission for Africa (UNECA), *Economic Report on Africa 2020: Innovative Finance for Private Sector Development in Africa* (UNECA 2020).

¹²⁸ African Union, *Agreement Establishing the African Continental Free Trade Area* (adopted 21 March 2018, entered into force 30 May 2019) art 3(e).

legitimacy of AfCFTA. Governments may view the Agreement as detached from their realities and may accord lower priority to compliance. Without adaptive mechanisms such as security exceptions or humanitarian trade corridors, AfCFTA will be regarded as a project designed for stable countries only. Thirdly, barring conflict-affected countries from full participation derails the continental goal of industrialization and intra-African trade expansion.

In sum, the realization of AfCFTA in conflict-affected nations is faced with a combination of physical, institutional, legal, and political challenges. Border closure, infrastructural destruction, displacement, weak governance, and unaddressed legal contradictions all weaken these nations' capacity to comply with AfCFTA obligations. All these concerns show that the AfCFTA, ambitious as it is, is not conflict-sensitive in nature. To ground this analysis in practical realities, the next section examines how these challenges unfold in real conflict-affected regions: the Sahel, the Horn of Africa, and the Great Lakes. These case studies will provide empirical illustrations of the interaction between armed conflict and AfCFTA implementation, further embedding the need for a conflict-sensitive approach.

3.3 Regional Case Studies

Even though AfCFTA aspires to a single continental market, on the ground there is quite a difference all over Africa. In certain regions, repeated instability, weak institutions, and inter-state insurgencies have greatly constrained states from fully participating in the Agreement. This part presents three regional case studies—the Sahel Region, the Horn of Africa, and the Great Lakes Region—to consider the manner in which armed conflict implicitly and explicitly hinders the rollout of AfCFTA. In each of the case studies, the

political and security dynamics of the region, the resulting trade disruptions, and the broader implications for regional integration are discussed.

3.3.1 Sahel Region

The Sahel Area, home to over 150 million people, stretching from Senegal and Mauritania in the west to Sudan and Eritrea in the east¹²⁹, is at the strategic geopolitical and economic position in Africa. It is a bridge of unification between North and Sub-Saharan Africa and has an important role in regional trade networks that predate colonial borders¹³⁰. In spite of its strategic potential, the Sahel has become one of the most violent places on Earth, with endemic terrorism from terrorist insurgencies, ethnic militias, and transnational criminal groups undermining state authority and regional economic development¹³¹. Constant encounters between military forces and armed groups in the Sahel have displaced millions of civilians from their homes in various countries across the Sahel¹³². Each conflict situation in the Sahel is unique from the other, with each possessing a complex background and heterogeneity of actors.

¹²⁹ United Nations, *UN Support Plan for the Sahel: Working Together for a Prosperous and Peaceful Sahel*, May 2018, available at: < https://www.un.org/africarenewal/sites/www.un.org.africarenewal/files/English%20Summary%20Report_0.pdf> accessed 21 October 2025

¹³⁰ AO Akinola, and N Ramontja. 'Violent conflict in the Sahel: Causes, dynamics, and actors'. In 'Contemporary issues on governance, conflict and security in Africa' . (Springer Nature Switzerland, 2023) pp. 125-146.

¹³¹ OJ Walther, *Wars and conflicts in the Sahara-Sahel*. (West African Papers, 2023) <https://www.oecd.org/en/publications/wars-and-conflicts-in-the-sahara-sahel_8bbc5813-en.html > accessed 22 November 2025

¹³² United Nations High Commission for Refugees (UNHCR), "Decade of Sahel Conflict Leaves 2.5 Million People Displaced", 14 January 2022, available at:< <https://www.unhcr.org/news/briefing/2022/1/61e137ac4/decade-sahel-conflict-leaves-25-million-people-displaced.html>> accessed 21 October 2025

Burkina Faso is currently in a deplorable state due to armed conflict and violence. There has been progressively mounting instability following the 2014 Uprising and subsequently from 2016, there were frequent attacks on the Burkinabe security forces and civilians by extremist groups. Extremist groups have been well represented in Burkina Faso and the neighboring Mali. These various extremist groups have also been involved in combat with each other because of the various ideologies of the groups they have pledged allegiance to (i.e. the Islamic State or Al-Qaeda). Over 2000 people have been murdered and 1.5 million displaced since 2015 due to extremist group violence in Burkina Faso¹³³. Besides, the lethargic presence of State institutions in rural areas beyond the capital city of Ouagadougou and the distrust that the public has in them has led to the eruption of multiple self-defence militias in threatened areas by extremist armed groups and other criminal actors. Those militias themselves have turned into perpetrators of multiple deadly ethnic or communal conflicts. Though deemed valid in their creation, some have questioned their operations in regard to which it has been claimed that they infringe the human rights¹³⁴.

Neighboring nation Mali has been under permanent armed conflict since 2012. Various peace pacts signed by the belligerents to the armed conflict failing to bring about a conclusive end to the conflict, an estimated number between May 2020 and June 2021 of

¹³³ International Committee of the Red Cross (ICRC), “Burkina Faso: Armed Violence and Communal Tensions Escalating Dangerously”, ICRC News Release, 21 May 2021, available at: <<https://www.icrc.org/en/document/burkina-faso-armed-violence-and-communal-tensions-escalating-dangerously>>. accessed 21 October 2025

¹³⁴ Amnesty International, “Burkina Faso 2021”, available at: <<https://www.amnesty.org/en/location/africa/west-and-central-africa/burkina-faso/report-burkina-faso/>>. accessed 21 October 2025

over 2000 people have been killed in the permanent armed fighting in Mali¹³⁵. The underlying drivers of the conflict are decades old and very intricate. The mutual distrust among various ethnic groups, horizontal inequalities in the population, and environmental problems, combined with the centralization of power in the hands of a few, are some of the issues that have been brewing for decades and continue to unroll up to this day. By the end of 2021, there were already over 350,000 internally displaced persons (IDPs) and over 50,000 Malian refugees¹³⁶.

Niger, which shares borders with both Burkina Faso and Mali, has suffered the catastrophic consequences of armed conflicts between State forces, armed groups and extremist groups over the last decade. In the first six months of 2021 alone, over 540 civilian conflict casualties were recorded in Niger. The war has had a devastating impact on children in Niger: of 3.8 million people in need of humanitarian aid in Niger, 2.1 million are children and 1.6 million children are malnourished¹³⁷. More than eighty child soldiers between the ages of 15–17 years old living in towns on the Niger–Burkina Faso border have been reportedly recruited as child soldiers¹³⁸.

¹³⁵ Kheira Tarif and Anab Ovidie Grand, “Climate Change and Violent Conflict in Mali”, ACCORD, 10 June 2021, available at: <<https://www.accord.org.za/analysis/climate-change-and-violent-conflict-in-mali/>>. accessed 21 October 2025

¹³⁶ UNHCR, “Operational Data Portal – Mali”, available at: <<https://data2.unhcr.org/en/country/mli>>. accessed 21 October 2025

¹³⁷ United Nations Children's Fund (UNICEF), “More Than 2.1 Million Children Caught Up in a Humanitarian Crisis in Niger”, Press Release, 1 July 2021, available at: <<https://www.unicef.org/niger/press-releases/more-21-million-children-caught-humanitarian-crisis-niger>>. accessed 21 October 2025

¹³⁸ Amnesty International, “‘I Have Nothing Left Except Myself’: The Worsening Impact on Children of Conflict in the Tillabéri Region of Niger”, AFR 43/4627/2021, 13 September 2021, p. 38, available at: <<https://www.amnesty.org/en/documents/afr43/4627/2021/en/>>. accessed 21 October 2025

Chad has also had its own experience of inter-communal violence and tensions. What has been happening in this Sahelian country involves a complex, albeit disastrous, political history. Armed violence and instances of violence blamed on politics, namely elections, and land use by both indigenous and non-indigenous persons as a result of resettlement have been reported in the past decades¹³⁹. In Lac Province, Chad, in the Lake Chad Basin, the insecurity due to armed conflicts has had a catastrophic humanitarian effect. In 2021 alone, over 60% of the province's populations (over 406,500 people) were displaced internally by frequent armed conflicts within the province¹⁴⁰. In 2021, over 1.8 million Chadians were affected by acute food insecurity.

In addition to the general impacts of armed conflicts that disrupt the life of civilians, Sahelians have also anticipated harsher consequences, with civilians directly targeted by various actors in the various armed conflicts in the region¹⁴¹. Various reports have shown that armed groups, self-defence groups and security forces have directly clashed with civilians. Between January and June 2020 alone, over 4660 were killed by armed conflict and violence in the Central Sahel region of Burkina Faso, Mali and Niger¹⁴². From February 2021 to February 2022, over 2000 civilians were killed in Burkina Faso, Mali and Niger.

The attacks were ethnic and religious identity and perceived allegiance to community

¹³⁹ Institute of Peace and Security Studies (IPSS), *Chad: Conflict Insights*, Peace & Security Report, Addis Ababa University, Addis Ababa, Ethiopia, April 2021, p. 3, available at: <<https://reliefweb.int/sites/reliefweb.int/files/resources/Chad-Conflict-Insights-vol-1-23042021.pdf>> accessed 21 October 2025

¹⁴⁰ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), “Global Humanitarian Overview: Chad”, available at: <<https://gho.unocha.org/chad>>. accessed 21 October 2025

¹⁴¹ Global Centre for the Responsibility to Protect, “Central Sahel, Niger”, 1 March 2022, available at: <<https://www.globalr2p.org/countries/niger/>>. accessed 21 October 2025

¹⁴² ICRC, “Central Sahel: Spike in Violence Leads to Higher Deaths, More Than 1 Million Fleeing Homes”, ICRC News Release, 14 September 2020, available at: <<https://www.icrc.org/en/document/central-sahel-spike-violence-leads-higher-deaths-more-1-million-fleeing-homes>>. accessed 21 October 2025

defense groups. Apart from the direct targeting of civilians, civilian targets such as farms, crops and food storage have also been damaged, adding to the already fragile food security in the region¹⁴³. Years of armed conflicts in the Sahel have also limited access to basic services and humanitarian assistance to the victims and most affected persons. The International Committee of the Red Cross has estimated that approximately 1.5 million Sahelians live in areas that are "virtually impossible to access humanitarian aid and essential services"¹⁴⁴. Protracted armed conflicts in the Sahel also lead to protracted loss of access to education. The conflicts have led to over 6000 schools being destroyed or closed¹⁴⁵, a violation of the right to education of the child¹⁴⁶. Various reports have also documented that children in the region, especially young boys, have been directly targeted by multiple armed groups and other parties to the conflict to attacks, in violation of IHL and IHRL's principles of protecting children from harm¹⁴⁷. Armed forces and armed groups in the Sahel have also conscripted children as fighters or in other roles¹⁴⁸, in contravention of the prohibitions in IHL and IHRL against the use and recruitment of child soldiers. Sahelian girls and women are vulnerable to a high prevalence of sexual and gender-based violence at the hands of armed forces and other armed groups. Rape, child and forced marriages,

¹⁴³ Global Centre for the Responsibility to Protect (n138)

¹⁴⁴ ICRC, "After Ten Years of Armed Violence in the Sahel, There is Still Time for Humanity", ICRC Statement, 10 February 2022, available at: <<https://www.icrc.org/en/document/after-ten-years-armed-violence-sahel-there-still-time-humanity>>. accessed 21 October 2025

¹⁴⁵ UNOCHA, "Sahel Crises Leave Devastating Impacts on the Most Vulnerable", 3 January 2022, available at: <<https://reports.unocha.org/en/country/west-central-africa/card/3EJsed29Gg/>> accessed 21 October 2025

¹⁴⁶ Sheppard, Bede, "Keeping Schools Safe from the Battlefield: Why Global Legal and Policy Efforts to Deter the Military Use of Schools Matter", (2019) *International Review of the Red Cross*, Vol. 101, No. 911, p. 671

¹⁴⁷ Amnesty International (n135), page 19

¹⁴⁸ *ibid*, page 27

female genital cutting and girls' and women's trafficking have increased in the Sahel over the last ten years¹⁴⁹.

3.3.1.1 Economic, Policy, and Humanitarian Consequences

Loss of life would be one of the most visible and devastating impacts of the Sahel conflict. However, the number of deaths the conflict has caused is likely to be difficult to determine accurately, as it is affected by many factors, including the number of actors involved, the complexity of the conflict and lack of reliable data¹⁵⁰.

The Sahel crisis has revolutionized regional trade dynamics. Militia groups commonly raid trade routes, collect tolls from truckers, and destroy supply chains. In Mali, rebel occupation of large expanses of territory in the north and centre has constrained government reach and undermined customs collection¹⁵¹. Similarly, in Burkina Faso, guerrilla raids on highways have cut off routes to Ouagadougou from strategic regional corridors, paralyzing trade flows¹⁵². Insecurity on the borders has also resulted in border closures by states. Niger, for example, has closed its borders with Nigeria and Mali intermittently due to attacks by insurgents, going against AfCFTA's free movement of

¹⁴⁹ GBV AoR, “GBV in the Central Sahel – GBV AoR West and Central Africa: Briefing Document for the Central Sahel Ministerial Meeting – 20 October 2020”, *ReliefWeb*, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/gbv_central_sahel_advocacy_doc_final_english_0.pdf>. accessed 21 October 2025

¹⁵⁰ S Raga, and others ‘Spillover effects of the Sahel conflict on selected West African countries’. ODI Emerging analysis. ODI <<https://odi.org/en/publications/the-sahel-conflicteconomic-security-spillovers-on-west-africa/>> accessed 21 October 2025

¹⁵¹ Eberechukwu Ezike, ‘The Economic Uncertainties of the AfCFTA Amidst Regional Conflict’ *The Republic*, 2025 9 2 <<https://rpublic.com/vol9-no2/economic-uncertainties-of-the-afcfta/>> accessed 21 October 2025

¹⁵² International Crisis Group, *A Course Correction for the Sahel Stabilisation Strategy* (Africa Report No 299, 2021).

goods and persons principle¹⁵³. Such closures, even though justified as measures of security, illustrate the conflict between the requirements of counterterrorism and the tendencies of commitments of regional trade liberalisation. Further, insecurity discourages investment in critical infrastructure needed to make AfCFTA work. Corridors such as the Trans-Sahelian Highway and railroad links between Mali and Senegal have been behind schedule and underinvested due to persistent instability. Investors do not want to invest in long-term projects in regions where armed groups remain active, thereby limiting the region from being integrated into regional supply chains¹⁵⁴.

The Sahel case shows that only through the guarantees of persistent insecurity can economic integration take root. The reciprocal dynamic between conflict, institutional vulnerability, and humanitarian crises has staunchly constrained AfCFTA's impact in the region. Inspiring progress requires a twofold response; enhancing local governance and addressing the humanitarian dimensions of trade disruption. Enshrining peace and security goals into the operational framework of AfCFTA is therefore imperative if the Agreement is to serve as an agent for economic growth and regional stability both.

3.3.2 The Horn of Africa

Geographically, the Horn of Africa is the East-periphery towards the north of the continent projecting into the Red Sea, flanked on the north by the Gulf of Aden and open on the

¹⁵³ United Nations Office for West Africa and the Sahel (UNOWAS), *Cross-Border Insecurity and Regional Stability in the Sahel* (UNOWAS 2022).

¹⁵⁴ African Development Bank, *Infrastructure Development in Africa 2022 Report* (AfDB 2022) <https://www.afdb.org/sites/default/files/documents/departamental-annualreports/picu_annual_report_20_21_eng.pdf> accessed 22 November 2025

southeast to the open Indian Ocean¹⁵⁵. There have been extensive, persistent, and daunting intra- and inter-state conflicts and wars in the Horn of Africa for the last five decades. As a result, the peace and stability of the region and the socioeconomic development and livelihood of the inhabitants have greatly suffered. It is used to refer to four countries, viz. Ethiopia, Eritrea, Somalia, and Djibouti. These countries are referred to as the "core Horn" as opposed to the "Greater Horn," which includes Sudan, Somalia, Ethiopia, Eritrea, Djibouti, Kenya, Uganda, and Tanzania¹⁵⁶. There are shared cultural aspects, historical connections, political entanglements, and customary economic ties in the Horn of Africa region¹⁵⁷. War and conflict in the region occur at numerous levels, and scale, and therefore can be termed as being at the local, national, and international levels, with each having its own reason for the conflict. National level conflicts occur as different stake holders struggle for state power, while local level conflicts frequently occur among identity-based groups and are motivated by competition for scarce resources. International conflicts occur between independent states and have different goals and dynamics in the political, military, diplomatic, and economic sphere¹⁵⁸.

In October 2023, Ethiopia's Prime Minister, Abiy Ahmed, said that Ethiopia wanted greater access to a regional sea port. In January 2024, Ethiopia negotiated an agreement with Somaliland for access to one of its ports¹⁵⁹. The international community does not regard

¹⁵⁵ HB Paul, 'The Horn of Africa: From War to Peace.' (London Macmillan,1991).

¹⁵⁶ M Yemane, and I Borowy, 'Inter-state and Intra-state Wars and Conflicts in the Horn of Africa.' *EAS Journal of Humanities and Cultural Studies*, (2023). 5(04), 210-219.

¹⁵⁷ African Development Bank (n151)

¹⁵⁸ E McWhinney, "Self-Determination of Peoples and Plural Ethnic States in Contemporary International Law: Failed States, Nation Building and the Alternative Federal Option." (Boston, 2007).

¹⁵⁹ Faisal Ali, Guardian, 1 January 2024. '<[Ethiopia and Somaliland reach agreement over access to ports](#)>', accessed 24 October 2025

Somaliland as a legitimate entity and Somalia regards it as part of its territory. As a result, the port agreement has created bitter tensions between the region and Somalia and Ethiopia, and there is a risk that it may escalate to war. Furthermore, humanitarian conditions in the Horn of Africa have also been exacerbated by impacts of a regional wide drought that affected the region from 2020 to 2023¹⁶⁰. The Famine Early Warning Systems Network (FEWS NET), funded by the United States Agency for International Development (USAID), approximated that in September 2024 roughly 17 million people in Ethiopia and 3.5 million people in Somalia required "urgent humanitarian food assistance" due to impacts of the current and past conflicts, weather-related shocks and economic shocks¹⁶¹. The region is also impacted by the Sudan civil war. The conflict, which began in 2023, has generated a serious humanitarian crisis in Sudan, characterized by widespread food insecurity¹⁶². Over 2 million people are estimated to have fled to neighboring countries as refugees¹⁶³. These conflicts have severely hampered the construction of infrastructure, particularly transport corridors such as the Lamu Port–South Sudan–Ethiopia Transport (LAPSSET) Corridor that was supposed to integrate regional economies and stimulate intra-African trade. Endemic insecurity and interference related to logistics have

¹⁶⁰ House of Lords Library, 18 January 2023 ‘<[Horn of Africa: Projections of a famine in 2023](#)>’, accessed 24 October 2025

¹⁶¹ Famine Early Warning Systems Network, September 2024 ‘<[Food assistance outlook brief](#)>’ accessed 24 October 2025

¹⁶² House of Lords Library, 6 September 2024. ‘<[Civil war in Sudan: Is there a path to peace?](#)>’, accessed 24 October 2025

¹⁶³ UN High Commissioner for Refugees, August 2024 ‘[Sudan crisis explained](#)’, accessed 24 October 2025

discouraged foreign investment, raised the cost of transactions, and worsened economic imbalances between regional states¹⁶⁴.

3.3.2.1 Economic and Humanitarian Consequences on the Region

Implementation of AfCFTA provisions in the Horn of Africa region is faced with formidable institutional and structural constraints. While Ethiopia and Djibouti have demonstrated commitment to regional integration through investment in transportation and logistics, widespread conflict still pulls the public purse towards military intervention and humanitarian relief at the expense of facilitating trade.

The decline of state authority in Somalia and strained Ethiopia-Eritrea relations hinder a unified coordination of policies needed for effective involvement in AfCFTA customs and trade harmonization initiatives. Eritrea, for instance, lies beyond most regional trade blocs, including the Intergovernmental Authority on Development (IGAD), limiting its inclusion in broader African trade arrangements¹⁶⁵. Moreover, constant closure of borders such as between Sudan and Ethiopia during the Tigray war shows how tensions in the political arena can counter AfCFTA's objective of free trade in goods and services. This has highlighted the vulnerability of regional trading arrangements to military and political instability, particularly in fragile states.

¹⁶⁴ African Development Bank, *Infrastructure and Trade Integration in Eastern Africa*, (AfDB Publications, 2022)

¹⁶⁵ United Nations Conference on Trade and Development, *Trade and Development Report: Africa Regional Review 2023*, (UNCTAD Geneva, 2023).

From the IHL point of view, the Horn of Africa underscores the legal and ethical issues posed when economic infrastructure is a victim of war. Targeting transportation routes, harbors, and markets violates the rules of distinction and proportionality in customary IHL and the Geneva Conventions¹⁶⁶. As an example, during the Tigray war, targets reported included bridges, supply lines, and warehouses essential for civilian existence and regional commerce. These actions not only contradict Article 52 of Additional Protocol I (1977) protecting civilian objects¹⁶⁷, but also become long-term obstacles to post-conflict economic recovery. The AfCFTA's economic integration objectives are thus pitted against states' humanitarian protection imperatives over civilian livelihoods during war. Resolving this legal inconsistency requires greater integration of IHL norms into trade regulatory frameworks, particularly through accountability-enhancing mechanisms for attacks on economic infrastructure.

Despite this, efforts at regional cooperation to stabilize the Horn and promote economic resilience have been made. The Intergovernmental Authority on Development (IGAD) has made attempts to mediate peace processes and coordinate development efforts between member states. However, the effect of these actions has been undermined by intersecting political agendas, weak enforcement mechanisms, and donor dependency¹⁶⁸. The African Union (AU) has also intervened through peacekeeping and diplomatic efforts but without

¹⁶⁶ International Committee of the Red Cross, *Economic Infrastructure and Civilian Protection in Conflict Zones*, (ICRC Publications, 2022).

¹⁶⁷ International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 1125 UNTS 609, 8 June 1977

¹⁶⁸ IGAD, *Annual Report on Peace, Security, and Development in the Horn of Africa 2021*, (IGAD Secretariat, 2021). <<https://igad.int/wp-content/uploads/2025/06/IGAD-ANNUAL-REPORT-2024.pdf>> accessed 22 November 2025

the trade and economic revival strategy being included. Hence, development of trade takes a backseat compared to security and humanitarian intervention. Failure to have similar economic reconstruction policies after conflict eats further into the long-term viability of the AfCFTA in the region.

Foreign interests have begun to increasingly shape the political and economic dynamics of the Horn. China's Belt and Road Initiative, for example, has invested funds in port and transportation infrastructure in Ethiopia and Djibouti, turning the region into a potential center of logistics for trade between Asia and Africa¹⁶⁹. However, these investments have also created dependencies and geopolitical competition that erode African-led regional integration.

Similarly, Western donors give counter-terrorism and humanitarian aid more priority than trade facilitation, thereby leaving a gap in policy where economic integration should be improved. This highlights the necessity for African-led efforts such as the AfCFTA to marry economic resilience with peace building objectives to reduce dependency on the outside world and promote more sustainable development.

3.3.3 The Great Lakes Region

For purpose of this chapter, we refer to the Great Lakes countries as the Democratic Republic of the Congo (DRC), Rwanda, Burundi and Uganda¹⁷⁰. Following the 1994 Rwandan genocide, when a million people were killed and millions of refugees and

¹⁶⁹ L Zhang, *China's Belt and Road Initiative and Its Impact on African Trade Corridors*, (Peking University Press, 2023)

¹⁷⁰ R Lemarchand, *The Dynamics of Violence in Central Africa*. (University of Pennsylvania Press, 2009)

displaced people were in transit¹⁷¹, the entire geographical region of the African Great Lakes has been afflicted by political instability, civil war and state collapse. This agony makes sense only in the context of a comprehensive analysis of its political and historical origins and of the interconnectivity of ethnic disagreements on a regional level¹⁷². While Rwanda has known relative peace and stability, In Burundi as well as certain zones of the DRC, political tensions and "ethnic" conflicts have not vanished. Anthropological and historical evidence suggests ethnic identities (e.g., "Hutu" and "Tutsi") are by no means fixed cultural entities but should rather be viewed as "fluid and changing social constructions"¹⁷³.

One of the most unstable areas in the region is in Eastern Congo, in Orientale Province, North and South Kivu and Ituri. Civil wars between a series of competing belligerents and repeated conflicts with belligerents from neighboring African countries have resulted in more than four million, mostly civilian, deaths¹⁷⁴. While the west and center of the DRC have by and large been stabilized after decades of war, in 2012 a new crisis in the east developed, leading to yet more civilian deaths, serious human rights abuses and the breakdown of basic services. Some 71% of the population is living in absolute poverty, and

¹⁷¹ F Reyntjens, 'Rwanda: genocide and beyond.' *Journal of Refugee Studies*, (1996). 9(3), 240-251.

¹⁷² M Mamdani, *When Victims Become Killers. Colonialism, Nativism, and the Genocide in Rwanda*. (Kampala: Fountain Publishers, 2009).; Chretien J.-P., *Diverse Situations/Interconnected Crises*. In: J.-P. Chretien and R. Banegas, (eds.) *The Recurring Great Lakes Crisis. Identity, Violence and Power*. (Hurst & Co, 2008), 233- 250; M. Baregu, *Actors, Interests and Strategies in the Great Lakes Conflict Formation*. In: M. Baregu, ed. *Understanding Obstacles to Peace. Actors, Interests, and Strategies in Africa's Great Lakes Region* (Fountain Publishers,1996). 1-28.

¹⁷³ R Banegas, *Rethinking the Great Lakes Crisis: War, Violence and Political Recompositions in Africa*. In: J.-P. Chretien and R. Banegas, eds. *The Recurring Great Lakes Crisis. Identity, Violence and Power*. (Hurst & Co, 2008) 1-25

¹⁷⁴ B Coghlan, and others. 'Mortality in the Democratic Republic of Congo: A Nationwide Survey'. *The Lancet* 2006 (online). Available at: <<http://www.thelancet.com/>> accessed 23 October 2025.

the number of internally displaced people has risen to more than 2.6 million¹⁷⁵. Apart from national and regional factors (such as the dysfunctional state of the DRC, structural militarism, the phenomenon of 'warlordism' and the regional problem of refugees), it should be noted here that some of the greatest structural obstacles which continue to frustrate peace processes not only in Eastern Congo but in the entire Great Lakes region have a clear international dimension. First of all, the plundering of natural resources such as oil, gold, diamond, coltan and timber, by both multinational corporations as well as by the neighboring states of Rwanda and Uganda, is one cause of the prolongation of the conflict and the failure of the Congolese State to protect its people¹⁷⁶. A second obstacle, directly linked to the first, is in massive geopolitical rivalries between major Western powers such as the United States, France, Belgium and Britain, and some African countries - a rivalry which has been called the "second scramble for Africa"¹⁷⁷.

A regional conflict, in the opinion of Tschirgi, is not restricted to specific geographic or political boundaries. It involves the social networks of armed rebel organizations that can be tied together by shared economic interests or region-based ideologies and have the support of outsiders¹⁷⁸. In the Great Lakes area, Rwanda had been waging war during the early 1990s, but during the 2000s, conflict has moved to the DRC, where fighting rages on; the Uganda's Lord's Resistance Army (LRA) is also believed to be operating in remote regions along Uganda and Congo borders. Although nations in the Great Lakes region are

¹⁷⁵ United Nations Security Council, 'Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region (online). Available at:< [http://www.un.org/ Docs/journal/asp/ws.asp ? m=S /2013 /119](http://www.un.org/Docs/journal/asp/ws.asp?m=S/2013/119)> accessed 23 October 2025

¹⁷⁶ M. Meredith, *The State of Africa. A History of Fifty Years of Independence.* (Free Press,2008)

¹⁷⁷ M Baregu, 'Congo in the Great Lakes Conflict'. In: GM. Khadiagala, (ed.) *Security Dynamics in Africa's Great Lakes Region.* (Boulder: Lynne Rienner, 2006) 59 -79.

¹⁷⁸ N Tschigri, 'Making a Case for a Regional Approach to Peace building' *Journal of Peacebuilding and Development.* (2002) 25 38.

partially unique in terms of history, size of war and developmental levels, there are also a number of similarities that define the Great Lakes region well captured by Leeuwen¹⁷⁹. Firstly, nations in the region have not been able to construct inclusive political institutions. This has led to unequal participation in making decisions and access to resources. Second, the ethnicity becomes politicized and articulated in political violence. The Rwandan genocide has consolidated cross-border ethnic identification between Congo and Rwanda as well as regional ethnic based rebel movements. Third, the occurrence of mineral resources in the DRC produces gargantuan economic interests for neighboring countries that benefit from the illegal trading of minerals in the case of civil war¹⁸⁰.

Similarly, massive displacements and massive human movement-refugee flows across international borders in DRC also spread the effect of the conflict in neighboring countries. The Great Lakes war is an example of the transnational nature of conflict in contemporary times, where conflict effects in one country overflow into surrounding countries via refugee flow and regionally focused opposition forces operating within the conflict regions. Researches into peacekeeping and armed conflict reveal that when conflicts become interstate in nature, contagion's impact is so strong that it becomes difficult to consider each conflict as an individual case¹⁸¹. Most internal conflicts are also not just internal conflicts because some of their causes and effects typically spill over beyond national borders¹⁸². To this extent, knowledge and collaboration with the different actors, factors, and agencies is

¹⁷⁹ M. Van Leeuwen, 'Imagining the Great Lakes Region: Discourses and Practices of Civil Society Regional Approaches for Peace Building in Rwanda, Burundi and DR Congo'. *The Journal of Modern African Studies*, (2008) 393-426.

¹⁸⁰ *ibid*

¹⁸¹ K Beardsley, 'Peacekeeping and the Contagion of Armed Conflict.' *The Journal of Politics*, (2011). 73(4), 1051-1064.

¹⁸² N Ansorg, 'How does Militant Violence Diffuse in Regions? Regional Conflict System in International Relations and Peace and Conflict Studies' *International Journal of Conflict and Violence*, (2011) 173-187

part of the wider agenda for seeking innovative long-term solutions¹⁸³. These actors go from domestic to regional and international actors, and thus the conflict can also be classified as both internal and regionally internalized¹⁸⁴.

3.3.3.1 Economic and Humanitarian Consequences

The state of the region has given rise to what scholars describe as a “war economy,” where illicit trade in natural resources substitutes for formal economic structures¹⁸⁵. Smuggling of conflict minerals through permeable borders into Burundi, Uganda, and Rwanda not only deprives the DRC of its rightful revenue but also distorts regional patterns of trade. The challenge that presents to AfCFTA's vision of promoting legitimate, transparent, and rules-based commerce across the African continent is enormous. Perseverance of illegal and informal networks of trade subverts the credibility of customs and border management systems vital to the implementation of AfCFTA trade protocols.

Weak institutional capabilities and a lack of political confidence between member states have also constrained regional integration. Although the International Conference on the Great Lakes Region (ICGLR) and the East African Community (EAC) have taken measures to boost trade and peace, their effect is patchy. The ICGLR's Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) has also failed to ensure transparency in mineral trade due to a lack of enforcement and corruption in national

¹⁸³ JP Lederach, and S Appleby, Strategic Peace building: An Overview. In D Philpott, and G Powers, *Strategies of Peace: Transforming Conflict in a Violent World* (Oxford University Press. 2010) 19-44

¹⁸⁴ JP Lederach, ‘*Building Peace: Sustainable Reconciliation in Divided Societies*’. (United States Institute of Peace, 1997)

¹⁸⁵ S. Autesserre, ‘*The Frontlines of Peace: An Insider’s Guide to Changing the World*’ (Oxford University Press, 2019.)

governments¹⁸⁶. Tensions between Rwanda and the DRC, and those between Uganda and their neighbors, have led to constant border closures and interruption of trade, which frustrates efforts at regional integration¹⁸⁷. These conflicts illustrate the way in which mistrust in politics and security affairs has immediate repercussions on the smooth operation of AfCFTA schemes such as tariff removal, liberalization of the movement of goods, and cooperation for customs¹⁸⁸.

The economic ramifications of conflict in the Great Lakes Region are always accompanied by humanitarian crises. Civilian populations are displaced due to fighting around sites of mining or transportation corridors, impacting livelihoods and creating streams of refugees into neighboring nations. The widespread use of forced labour and civilian exploitation in mining during armed conflict are grave violations of International Humanitarian Law (IHL), particularly under the bans on forced labour and recruitment of civilians during armed conflict, as regulated under the Geneva Conventions and their Additional Protocols¹⁸⁹. Further, attacks on trade convoys, markets, and frontier towns

¹⁸⁶ International Conference on the Great Lakes Region (ICGLR), *Regional Initiative against the Illegal Exploitation of Natural Resources (RINR): Implementation Review Report*, (ICGLR Secretariat, 2021).

¹⁸⁷ AS Mpawenimana and others, 'Rwanda-Uganda Border Closure: The Border-Users Socio-Economic and Security Experiences' *African Journal of Political Science and International Relations* (2024) 18(3) 107-118

¹⁸⁸ G Nyikadzino, 'Political Instability, Intra-state Conflicts, And Threats To AfCFTA Agreement's 'Made In Africa' Aspirations' *Ubuntu Times* 15 December 2023 available at <<https://www.ubuntutimes.com/political-instability-intra-state-conflicts-and-threats-to-afcfta-agreements-made-in-africa-aspirations/>> accessed 21 November 2025

¹⁸⁹ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 970 ; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 971; Convention (III) relative to the Treatment of Prisoners of War, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 972; Convention (IV) relative to the Protection of Civilian Persons in Time of War, concluded on 12 August 1949, entered into force 21 October 1950, UNTS 973; International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 1125 UNTS 3, 8 June 1977; International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 1125 UNTS 609, 8 June 1977

violate the principle of distinction in IHL, which requires protection of civilian objects¹⁹⁰. The destruction of main trade infrastructure, such as roads and bridges along eastern DRC, also amplifies humanitarian distress and frustrates potential post-conflict reconstruction¹⁹¹.

While the Great Lakes Region is plagued by gigantic challenges, there are fledgling efforts to harness trade as a tool of peace building and source of regional stability. Efforts at cross-border trade between Rwanda, Uganda, and the DRC have been promoted as part of post-war recovery interventions, specifically for women traders who constitute the bulk of cross-border informal trade¹⁹². Such micro-economic activities provide social cohesion and facilitate trust-building across border societies. However, the lack of connection between such micro-level trade initiatives and AfCFTA's broader continental agenda limits their transformative potential. Lacking effective management and conflict-sensitive trade agreements, regional instability will continue to impede sustainable integration.

The AfCFTA provides a platform through which the economies of the Great Lakes could be diversified and dependence on exploitation of natural resources reduced. But that can only happen if peace and security are first dealt with. Conflict-sensitive trade policy, such as conflict mineral tracking and post-conflict infrastructure development, must be incorporated. The African Union and regional economic communities need to include IHL

¹⁹⁰ H Jean-Marie and DB Louise, *Customary International Humanitarian Law Rules*, (International Committee of the Red Cross (ICRC), 2005) Volume I Rule 7

¹⁹¹ Hugh Kinsella Cunningham, 'Eastern Democratic Republic of Congo: Living with the scars of conflict' ICRC, 7th March 2025 available at <<https://www.icrc.org/en/article/eastern-democratic-republic-congo-living-scars-conflict>> accessed 21 November 2025

¹⁹² African Development Bank, *Trade and Gender Inclusion in the Great Lakes Region: A Pathway to Stability*, (AfDB Publications, 2022) <https://www.afdb.org/sites/default/files/documents/strategy-documents/african_development_bank_group_gender_strategy_-_2021-2025.pdf> accessed 22 November 2025

compliance mechanisms within the AfCFTA implementation to avoid inadvertently fueling conflict through economic activity. For instance, trade certification schemes on minerals and open customs regimes would strengthen the rule of law in trade and reduce the financing channels of armed groups¹⁹³. The Great Lakes Region is a perfect example of the complex interplay between armed conflict, trade, and humanitarian law in Africa. Despite its enormous economic promise, the region is trapped in the cycle of volatility that militates against the goals of continental trade integration. Sustainable delivery of the AfCFTA in the Great Lakes must respond to a twin strategy of governance and peace building institutions and finding humanitarian and human rights protections within trade policy. It is only through such interconnected strategies that the region can transition from conflict economies to continental growth and cooperation drivers.

3.4 Evaluation of AfCFTA's Gaps in Addressing Conflicts

3.4.1 Lack of Conflict-Sensitive Provisions in the Framework

The AfCFTA Agreement and protocols focus primarily on trade liberalization, investment, intellectual property, and dispute settlement. Its text does not mention the fact that armed conflict remains an important hindrance to trade and economic development for most of Africa. This is important because the efficacy of Africa's trade integration depends not only on market access but on the availability of peace and security¹⁹⁴. The AfCFTA Agreement's

¹⁹³ African Union, *Policy Report on Conflict Minerals and Trade Governance in Africa*, (AU Commission, 2023.) <<https://aprm.au.int/sites/default/files/files/2025-09/consolidatedagr25-digital-22-sept-25.pdf>> accessed 22 November 2025

¹⁹⁴ Afreximbank, *African Trade Report 2021: Leveraging the AfCFTA amid Global Uncertainty*, (Afreximbank, 2021). <<https://www.afreximbank.com/reports/afreximbank-trade-policy-brief-a-year-in-review-2021-2/#:~:text=In%20this%20final%20Afreximbank%20Trade,adaptation%20to%20address%20climate%20change.>> accessed 22 November 2025

Dispute Settlement Mechanism (DSM) under Article 20¹⁹⁵ is modeled after the World Trade Organization (WTO) regime¹⁹⁶. However, it assumes the existence of effective state institutions that can articulate national interests in trade disputes. Such is not the case in war-torn states where governance institutions are either fragmented or incapacitated¹⁹⁷. The DSM does not provide any alternative channels for states with war-torn administrative or judicial systems, nor provides channels of transitional intervention which can facilitate recovery of post-war trade.

3.4.2 Limited Integration of Peace and Security Objectives

The broader legal and policy environment of the African Union like the AU Constitutive Act (2000) and the African Peace and Security Architecture (APSA) recognizes interdependence between peace, security, and development. The AfCFTA Agreement, however, does not operationally respond to this dependency. Poor coordination among AfCFTA institutions and AU peace and security institutions renders trade policy remaining developed in isolation from conflict prevention mechanisms¹⁹⁸. Such institutional decoupling produces a governance void. For instance, though the AU Peace and Security Council (PSC) is actively addressing mediation and post-war reconstruction, AfCFTA institutions such as the Council of Ministers and the Secretariat do not have a clear mandate

¹⁹⁵ African Union, *Agreement Establishing the African Continental Free Trade Area* (2018), entered into force 30 May 2019, Article 20

¹⁹⁶ WTO, *Dispute Settlement Understanding (DSU)*, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 15 April 1994.

¹⁹⁷ D Thurer, 'Failing States', Oxford Public International Law available at <<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1404?prd=OPIL#>> accessed 21 November 2025

¹⁹⁸ African Union Commission, *Trade and Peace Nexus in Africa: Policy Perspectives for AfCFTA Implementation*, (AU Policy Paper, 2022.) <https://au.int/sites/default/files/documents/43263-doc-AUECHO_2023_Eng.pdf> accessed 22 November 2025

to address these processes. Consequently, where there are wars, disruptions to trade are handled as economic issues rather than security, limiting the AfCFTA's scope in fragile or post-war contexts.

3.4.3 Inadequate Handling of Humanitarian Law and Economic Protection

IHL explicitly stipulates requirements for the protection of civilian assets, infrastructure, and modes of living during armed conflict¹⁹⁹. Yet, the AfCFTA framework does not incorporate IHL policies into its functional processes, though armed conflict directly affects trade infrastructure such as roads, ports, and markets. Such exclusion raises normative questions about the obligations of states both under trade and humanitarian law. For example, where trade facilities are destroyed during conflict, economic loss transcends borders, disrupting regional value chains and violating the economic interdependence principle AfCFTA seeks to promote. The lack of specific provisions that link AfCFTA's trade liberalization goals to humanitarian protections leaves a large policy and legal gap that enhances erosion in conflict-affected economies.

3.4.4 Inadequate Institutional Mechanisms for Reconstruction Following Conflicts

The Accra-based AfCFTA Secretariat was designed primarily as an agency for the administration of trade and not as a coordinating development agency²⁰⁰. It lacks an institutional framework to facilitate member states in replenishing their trade capacity and

¹⁹⁹ H Jean-Marie and DB Louise (n187) Rule 10

²⁰⁰ AD Yaw and others, 'The African Continental Free Trade Area (AfCFTA): Taking Stock and Looking Ahead For International Business Research' *Journal of International Management*, (2024) 30(2) available at <<https://www.sciencedirect.com/science/article/pii/S1075425324000012>> accessed 21 November 2025

infrastructure after conflict²⁰¹. Unlike the European Union, where post-conflict development support is integrated in its regional trade architecture, the AfCFTA does not offer an institutional outlet²⁰². Further, regional economic communities (RECs) such as ECOWAS and The Intergovernmental Authority on Development (IGAD) in Eastern Africa, with some experience in conflict mediation, are institutionally disconnected from the AfCFTA Secretariat to facilitate joint crisis management or recovery programs. This lack of synergy weakens the building of integrated trade-peace building programs that can support conflict-affected states' reintegration in continental trade networks.

3.4.5 Neglecting Informal and Cross-Border Trade within Conflict Areas

Conflict regions across Africa are more likely to undergo a shift from formal to informal trade under insecurity, weak border control, and institution failure. Informal cross-border trade across regions such as the Sahel and the Great Lakes is a vital survival mechanism for local people²⁰³. The AfCFTA's policy framework on trade does very little to tackle informal trade but emphasizes formal, regulated trade instead. This oversight creates a gap between policy formulation and economic reality. By failing to address informal trade dynamics within conflict areas, AfCFTA roll-out is bound to marginalize such communities to the policymaking fringes from which they can be re-introduced only through piecemeal incorporation. Second, it excludes a chance to use trade as a peace building tool through the

²⁰¹ ibid

²⁰² A. Adebajo, *Regional Integration and Peacebuilding in Africa: Lessons from the European Union*, (Wits University Press, 2022)

²⁰³ OECD, *Informal Cross-Border Trade and Trade Facilitation Reform in Sub-Saharan Africa*, (OECD Policy Paper, 2009.) <https://www.oecd.org/en/publications/informal-cross-border-trade-and-trade-facilitation-reform-in-sub-saharan-africa_225770164564.html> accessed 22 November 2025

formalization and protection of small-scale traders who are otherwise victims of armed conflict and predatory regulation.

CHAPTER FOUR

ROLE OF INTERNATIONAL HUMANITARIAN LAW IN TRADE PROTECTION DURING ARMED CONFLICT

4.1 Key Principles of International Humanitarian Law (IHL)

IHL, or the law of armed conflict, is the set of rules and principles governing the conduct of hostilities with the aim, out of humanitarian considerations, of limiting such conduct²⁰⁴. It protects individuals who no longer are, or never have been, actively participating in hostilities, and forbids certain tactics and weapons of war. IHL's principles are the broad standards on which all the detailed rules and duties rest, the legal and ethical foundation on which military necessity is balanced against humanitarian issues. The understanding of these principles is central to understanding how IHL may be utilized to secure trade and economic infrastructure in conflicts, particularly in the African context where conflicts have a tendency to coincide with major trade routes and markets.

4.1.1. The Principle of Distinction

The principle of distinction is one of the cornerstones of IHL and is the ethical and legal effort to minimize the evils of war by not attacking persons who are not involved in combat and civilian targets. As established in various treaties and as customary international law, this rule requires distinction between combatants and non-combatants as well as between military objectives and civilian objects. Essentially, the principle of distinction is the way through which the effects of armed conflict are restrained by safeguarding civilian populations and civilian infrastructure. The principle is strongly embedded in the Geneva

²⁰⁴ J. Crowe, and K. Weston-Scheuber, '*Principles of International Humanitarian Law.*' (Edward Elgar Publishing, 2013) 1

Conventions of 1949²⁰⁵ and their Additional Protocols²⁰⁶, which form the cornerstone of IHL.

The origin of the principle of distinction can be found in Article 22 of the 1863 Lieber Code²⁰⁷. Furthermore, the principle of distinction was recognized in the St. Petersburg Declaration from 1868²⁰⁸ and soon after in Article 1 of the 1880 Oxford Manual, which states: *“the state of war does not admit of acts of violence, save between the armed forces of belligerent States. Person not forming part of belligerent armed forces should abstain from such acts”*. The principle of distinction is outlined in Article 48 of API *“In order to ensure respect for and protection of the civilian population and civilian objects, the parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives,²⁰⁹”*.

The principal of distinction requires parties to a conflict to differentiate civilians and civilian objects from members of the military and military objects, respectively, and only the latter may be attacked²¹⁰. The principle of distinction is also detailed in Article 51 (2) of AP I²¹¹ which states that the civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread

²⁰⁵ Geneva Conventions (n201)

²⁰⁶ Additional Protocols (n202)

²⁰⁷ Instructions for the Government of Armies of the United States in the Field (Lieber Code). 24 April 1863.

²⁰⁸ Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight. Saint Petersburg, 1868.

²⁰⁹ AP I (n202), Art. 48

²¹⁰ ICRC, Study on Customary International Humanitarian Law (2005), Rules 1, 7; Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226, paras. 16, 23, 25, 156 and 179.

²¹¹ AP I (n202), Art. 51(2)

terror among the civilian population are prohibited. Again, Article 52 (2) of the AP I²¹² limits attacks to military targets alone. Simply put, the principle of distinction places a duty upon a party to a conflict, which is undertaking an attack in the course of an armed conflict, to differentiate at all times between civilians and combatants, limiting attacks exclusively to military targets and proclaiming civilians not to be the object of attack, nor civilian objects.

For the purpose of application of the principle of distinction in NIAC, the principle is furthermore codified in Article 13 (2) of the AP II. The mentioned article prohibits making civilian population, or even individual civilians, an object of attack and threats or acts of violence with the primary purpose of spreading terror amongst these²¹³. With all that said, it is obvious that the principle stands as a cornerstone of IHL and is one of the “cardinal principles constituting the fabric of humanitarian law.²¹⁴” The principle is generally considered to be customary international law²¹⁵, making it binding for the contracting parties to the AP I, but also for the non-contracting parties, some of which most notorious ones are the United States of America and Israel. The International Law Commission (ILC) considers the principle of distinction as part of *jus cogens*²¹⁶. The principle has also been imposed by international judicial bodies such as the ICJ²¹⁷ and ICTY²¹⁸.

²¹² *ibid*, Art. 52(2)

²¹³ AP 2, (n202) Art. 13(2)

²¹⁴ Legality of the Threat or Use of Nuclear Weapons, (n11) para. 78.

²¹⁵ B. Geoffrey. ‘The Restraint of War in Historical and Philosophic Perspective’. In Gerard and others (eds.). ‘Humanitarian Law of Armed Conflict – Challenges Ahead’. (Brill. 1991) p. 17

²¹⁶ International Law Commission. ‘Report of the Commission to the General Assembly on the Work of its Fifty-Third Session’. *Yearbook of the International Law Commission*, (2001) 2(2) 112.

²¹⁷ Legality of the Threat or Use of Nuclear Weapons, (n212) paras. 78-79

²¹⁸ Prosecutor v. Tihomir Blaškić. IT-95-14-T. Judgment from 3 March 2000, para. 180.

In the context of international trade, this principle assumes a critical dimension. Civilian economic infrastructure such as roads, bridges, ports, energy facilities, and communication networks are generally protected as civilian objects unless they are being used for direct military operations. Not only does such destruction violate IHL, but it also severely cripples economic activity, supply chains, and regional trade integration. The wars in Sudan, the Democratic Republic of Congo (DRC), and the Central African Republic (CAR) have demonstrated how disdain for the principle of distinction can cripple economies and reverse decades of trading gains.

4.1.2. The Principle of Proportionality

Although proportionality is a principle that occurs in ethics, mathematics, and other fields, it has one particular meaning when used within IHL. Firstly, it is notable that codification of the principle of proportionality began in the Diplomatic Conference of Geneva in 1949 for the purpose of filling gaps that were found in protecting civilians in times of war²¹⁹. As per Marco Sassòli, Antoine Bouvier, and Anne Quintin, the rule of proportionality prohibits pursuit of military attack on targets which threaten "incidental harm to civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the specific and direct military advantage expected"²²⁰. The doctrine of proportionality, therefore, endeavors to limit harm that can be suffered by military actions by putting in place stringent standards which prioritize the following formula: the impact of

²¹⁹ LB. Brown, 'The Proportionality Principle in the Humanitarian Law of Warfare: Recent Efforts at Codification' *Cornell International Law Journal*: (1976) 10(1) Art. 5

²²⁰ M Sassòli, and others, '*Fundamental Principles of International Humanitarian Law. How Does Law Protect in War?*' (International Committee of the Red Cross, 2011).

the strategies and weaponry utilized to pursue war must not be disproportionate to the military victory pursued²²¹.

The principle of proportionality is a corollary of the principle of distinction and it recognizes that in the conduct of hostilities, causing incidental harm to civilians and civilian objects is often unavoidable²²². But it does put a limit on the amount of incidental civilian harm that can be permitted whenever military objectives are attacked, by spelling out how the principles of humanity and necessity must be balanced in such situations. The principle of proportionality is additionally bolstered by some rules flowing from the principle of precautions in attack, in particular the obligation to do everything feasible to assess whether an attack may be expected to be disproportionate and to cancel or suspend an attack if it becomes apparent that it may be expected to have disproportionate effects²²³. Overall, an attack against a military objective can be lawful only if the principles of proportionality and precautions are respected-meaning the incidental civilian harm must not be excessive, and the attacker must have taken all feasible precautions to avoid this harm or at least reduce it.

In economic terms, proportionality demands that parties to a conflict carefully weigh the likely economic and humanitarian consequences of their military operations. This might include, for instance, a bridge bombed to disrupt supply routes serving both military and civilian needs, when the resulting economic disruption exceeds the foreseen military gain.

²²¹ *ibid*

²²² ICRC, 'The Principle of Proportionality in the Rules Governing the Conduct of Hostilities under IHL', 2018 (ICRC Proportionality Report), p. 8 <https://www.icrc.org/sites/default/files/document/file_list/4358_002_expert_meeting_report_web_1_0.pdf> accessed 22 November 2025

²²³ AP 1(n202), Art. 57(2)(a)(iii) and 57(2)(b); ICRC, Study on Customary International Humanitarian Law, 2005, Rules 18 and 19.

These situations are not hypothetical. In Africa, attacks in past and ongoing conflicts, such as in Ethiopia's Tigray region and northern Nigeria, have destroyed energy grids and transport corridors with devastating humanitarian and economic impact. Therefore, respect for proportionality can directly help protect trade networks crucial to sustaining civilian livelihoods.

4.1.3. The Principle of Necessity

The balance between humanity and necessity underlies and informs the entire normative framework of IHL. It shapes the context in which its rules and other principles - such as distinction, proportionality and precautions - must be interpreted²²⁴. Considerations of military necessity and humanity neither derogate from nor override the specific rules of IHL, but constitute guiding principles for the interpretation of the rights and duties of parties to armed conflicts within the parameters set by these rules. One of the great strengths of IHL is - as pointed out by the International Court of Justice - that it is designed in such ways that it applies 'to all forms of warfare and to all kinds of weapons', including 'those of the future'²²⁵. The same rules and principles - including the basic principles of humanity and military necessity - apply to all military operations, and they have to be respected at all times²²⁶.

²²⁴ ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, (ICRC DPH Guidance, 2009), 78–79. <<https://www.icrc.org/en/publication/0990-interpretive-guidance-notion-direct-participation-hostilities-under-international>> accessed 22 November 2025

²²⁵ Legality of the Threat or Use of Nuclear Weapons,(n212), para. 86.

²²⁶ ICRC, *International Humanitarian Law and Cyber Operations During Armed Conflicts*, ICRC Position paper 2019, available at < https://www.icrc.org/sites/default/files/document/file_list/icrc_ihl-and-cyber-operations-during-armed-conflicts.pdf> accessed 21 November 2025

The principle of military necessity means that a party to an armed conflict is only permitted to use those means and methods that are necessary to achieve the legitimate purpose of a conflict, i.e. 'to weaken the military forces of the enemy'²²⁷. In no case does it allow for the taking of measures forbidden by IHL²²⁸, and a rule of IHL cannot be derogated from by invoking military necessity unless this possibility is expressly provided for in the rule in question²²⁹. The principle of humanity places certain limits on the means and methods of warfare, and requires that those who have fallen into enemy hands be treated humanely at all times²³⁰. It seeks to limit suffering, injury, and destruction during armed conflict; its purpose is to protect life and health and to ensure respect for the human being. This principle precludes the assumption that anything that is not explicitly prohibited by specific IHL rules is therefore permitted²³¹. Military necessity must be understood in the light of humanity, and thus even when attacks may be justified on purely military grounds, they must not cause unnecessary suffering or disproportionate harm.

Military necessity in trade-related contexts should not be used as an excuse to destroy critical civilian economic infrastructure that may have dual-use value. The destruction of ports, airports, and major roads-which may serve both military and civilian functions-often, has devastating economic consequences for the civilian population and for neighbors who rely on regional trade routes. Interpreting "necessity" narrowly presents a challenge in

²²⁷ St. Petersburg Declaration (1868), preamble.

²²⁸ Military Tribunal at Nuremberg, Hostages case, Judgment, 1948, pp. 66–67 ('military necessity or expediency do not justify a violation of positive rules')

²²⁹ Yves Sandoz and others, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, (ICRC, 1987), para. 1389.

²³⁰ N. Melzer, '*International Humanitarian Law: A Comprehensive Introduction*', (ICRC, 2022), p. 19

²³¹ Yves Sandoz (n230) para. 55.

preventing abuse by parties to conflict, as is often seen in conflicts in the Sahel and eastern Congo in which non-state armed groups are parties.

4.1.4. The Principle of Precaution

The precautionary principle obliges parties to a conflict to take all feasible precautions to avoid, or at least minimize, incidental harm to civilians and civilian objects. Article 58 of Additional Protocol I codifies this obligation²³². This includes choosing means and methods of warfare that reduce harm to civilian life and property. Precautions are both proactive and reactive: commanders must plan attacks with care and cancel them if it becomes evident that the expected civilian harm would be disproportionate. State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts. This is a basic rule to which more content is given by the specific obligations contained in Rules 23–24²³³. Many military manuals restate the duty of parties to the conflict to take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks. This obligation is supported by official statements and reported practice. The duty to take all feasible precautions to protect the civilian population and civilian objects against the effects of attacks was included in the draft of Additional Protocol II but was dropped at the last moment as part of a package aimed at the adoption of a simplified text²³⁴. Additional Protocol II thus does not expressly require precautions against the effects of attack. Article 13(1)²³⁵ demands, however, that “the civilian population and individual civilians shall enjoy general protection against the

²³² AP (n202)1, Art. 58

²³³ ICRC, Study on Customary International Humanitarian Law, 2005, Rules 23 and 24.

²³⁴ Draft Additional Protocol II submitted by the ICRC to the International Conference leading to the adoption of the Additional Protocols, Article 24(2)

²³⁵ AP 2, (n202) Art. 13(1)

dangers arising from military operations”. This would be difficult to do without taking precautions against the effects of attack. The requirement to take precautions against the effects of attacks has, moreover, been included in more recent treaty law applicable in non-international armed conflicts, namely the Second Protocol to the Hague Convention for the Protection of Cultural Property²³⁶. In addition, this rule is contained in other instruments pertaining also to non-international armed conflicts.

In relation to trade, the precautionary principle encourages military planners to consider the economic and humanitarian consequences of operations. For example, precaution might require avoiding attacks on transport routes essential for humanitarian relief or commercial trade in food and medicine. As Sassòli²³⁷ observes, taking precautions is not merely a moral duty but a legal obligation that integrates humanitarian considerations into military strategy, thereby reinforcing economic stability even amid hostilities.

These principles are not abstract moral ideals but have concrete repercussions in terms of economic survivability and the protection of trade. When respected, they protect the civilian economy, maintain trade infrastructures, and lay the ground for post-conflict reconstruction. In the African context, where armed conflict and trade integration often occur together, strengthening adherence to the principles of IHL can help ensure that the promise of AfCFTA economic unity is not derailed by the persistence of violence and instability.

²³⁶ 1999 Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict., Art. 8

²³⁷ M. Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (Edward Elgar, 2019)

4.2 Protection of Civilian and Economic Infrastructure under IHL

4.2.1 General Guidelines

IHL does not provide a definition for “civilian infrastructure”. For the purpose of this study, civilian infrastructure refers to the physical and organizational structures and facilities which support the life of a civilian population and are essential for the functioning of society. Civilian infrastructures can also refer to roads, bridges, airports, water supply systems, electrical grids, sewage systems, health facilities, such as hospitals and clinics; institutions for education, both schools and universities; housing and residential areas; telecommunication systems, such as telephone and internet networks; and public services, such as government buildings and administrative offices.

IHL lays down specific regulations for the protection of all civilian objects and, in particular, for the protection of civilian infrastructure providing essential services. These legal provisions, intended to protect civilian infrastructure against undue damage during both international and non-international armed conflicts, come from the Geneva Conventions of 1949 and their Additional Protocols of 1977. Moreover, these rules have evolved as binding IHL customary norms to all parties to any armed conflict irrespective of the application of certain treaties to them. The obligation to protect civilian infrastructure is reflected in a number of customary rules, including the duty to distinguish civilian objects from military objectives²³⁸, the prohibition of indiscriminatory attacks²³⁹, proportionality, precautionary

²³⁸ ICRC, Study on Customary International Humanitarian Law, 2005, Rule 7.

²³⁹ *ibid*, Rule 11

measures in attacks²⁴⁰, and prohibition of attacks against objects indispensable toward the survival of the civilian population²⁴¹.

The respect for the principle of distinction is a basic precondition for protecting civilians and civilian objects, which is the main goal of IHL. First of all, it should be noted that civilian infrastructure is considered as civilian objects and, as such, shall not be targeted unless and for such time as they are used for military purposes which would turn them into military objectives. Moreover, for civilian infrastructure providing basic services for the civilian population, or is recognized as crucial to the survival of the civilian population, additional protection is given under IHL which explicitly prohibits “attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population”²⁴². The Ukraine conflict saw the attack on the Dnipro Hydroelectric Power Plant in March 2024, which destroyed one-third of its energy generation capacity and affected the environment, with estimated damage of US\$3.5 million. The destruction caused severe disruption to the flow of electricity and supply of water downstream, impeding the operation of civil services and local agriculture in the Zaporizhzhia region and surroundings²⁴³. If the expected civilian harm is disproportionately high compared to the anticipated military advantage of the attacked target, then the principle of proportionality has been violated. Attacks on facilities such as dams, power plants, or water distribution systems often seem to be carried out without sufficient consideration of the risks to civilian populations. IHL requires that, in the

²⁴⁰ *ibid*, Rule 14 and 15

²⁴¹ *ibid*, Rule 54

²⁴² AP I (n202), Art. 54; AP II, Art. 14

²⁴³ EA. Frahma, ‘Protection Of Civilian Infrastructure In Contemporary Armed Conflicts: A Humanitarian Law Study On Attacks Against Water And Energy Facilities In Gaza And Ukraine’, *International Journal of Economic, Technology and Social Sciences (Injects)*, (2005) 6(1), 215-221.

conduct of military operations, “constant care” be taken to spare the civilian population and civilian objects²⁴⁴. Parties to the conflict are obliged to take all feasible precautions to avoid or minimize harm caused to civilians or civilian objects during attacks²⁴⁵. Once the attacking party has verified the military objective status of a civilian infrastructure object and ensured respect for the requirements of proportionality, a set of precautionary measures to avoid or minimize harm to the civilian population and civilian objects must be implemented while planning an attack. These should include considerations of a number of factors: the object’s location, the type and timing of the attack, as well as its precise location and the choice of weapon to be used.

4.2.2 Civilian Infrastructure with Dual Use Functions

Certain civilian infrastructures serve both civilian and military purposes in the context of an armed conflict. One good example of dual-use objects includes power plants, which serve an important purpose both in civilian and military contexts. Any attack on such dual-use objects is, like any other attack, subject to the principle of distinction under IHL, which involves the fulfillment of the interconnected elements of the definition of military objective, as well as the principle of proportionality, and precaution. Although these criteria provide the legality of an attack, one should consider that the effects of the destruction of a dual-use object may have significant impact on civilian population. For example, in case of an attack against this particular category of objects - say a power plant -, that in a given situation serves both civilian and military purposes, particular care must be taken in evaluating such effects that can ripple through in the delivery of essential services, including medical care, access to

²⁴⁴ Additional Protocol I (n202), Article 57(1); Customary IHL Study (n187), Rule 15.

²⁴⁵ *ibid*

clean water, and other services essential for the survival and well-being of the civilian population in that given situation.

This view is further supported by the position of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The ICTY held that a dual-use object that constitutes a military objective due to its indispensable contribution to the adversary's combat actions would cause disproportionate damage²⁴⁶. Consequently, whether dual-purpose objects represent military objectives on the one hand or are indispensable to the survival of the civilian population on the other, is a determination that is essentially situational in nature. This means that in situations in which a population relies extensively upon the services provided by these sorts of dual use infrastructure-type objects, their destruction by attack could potentially violate the principles of proportionality and the prohibition against depriving civilians of objects indispensable to their survival.

4.2.3 Enforcement and Compliance Challenges

Despite the breadth of protections afforded by IHL, the persistent destruction of economic infrastructure in African conflicts reveals profound challenges in enforcement and compliance. One of the central problems is the proliferation of non-state armed groups, many of which operate outside formal command structures and have limited knowledge of or regard for IHL obligations. Conflicts in the Sahel, Somalia, the Lake Chad Basin, and eastern DRC indicate that such actors routinely target transport corridors, markets, energy facilities, and commercial vehicles as part of asymmetric warfare strategies. While Common Article 3

²⁴⁶ Prosecutor v. Prlic et al., IT-04-74-T, Judgment (Trial Chamber), 29 May 2013, Vol. 3, paras 1582–84.

of the Geneva Conventions²⁴⁷ and Additional Protocol II impose binding obligations on non-state actors, the absence of effective accountability mechanisms often results in widespread impunity.

Another challenge is that of state capacity, especially given the fragility or outright collapse of state institutions in some African countries, with the resultant weakening of dissemination and enforcement of IHL norms. Such national armed forces lack training on the protection of civilian objects or simply prioritize short-term military gains at the expense of long-term economic stability. Any semblance of state authority that has collapsed, as happened during the civil war in Libya and parts of the Sudanese conflict, leaves basic infrastructure open to rampant looting, sabotage, and neglect. The African Union has time and again reiterated that training on IHL needs to be increased within national armed forces, as it realizes economic recovery and regional integration depend on infrastructure being preserved.

Lastly, while IHL provides a framework for the protection of economic infrastructure, it is not targeted at regional trade integration. Instruments like the Geneva Conventions and their Additional Protocols are mainly created for humanitarian protection, not economic resilience. While IHL norms therefore indirectly protect trade-related infrastructure, they do not explicitly address the complexities of cross-border commerce, regional supply chains, or integration frameworks such as AfCFTA. This gap makes it important that AfCFTA develops conflict-sensitive mechanisms-including early-warning systems, trade corridor protection frameworks, and post-conflict reconstruction strategies-that complement the humanitarian protection provided by IHL. In sum, protection for economic infrastructure

²⁴⁷ Geneva Conventions (n201), Art. 3

under IHL is robust in principle but uneven in practice. Understanding such gaps is crucial for assessing AfCFTA's vulnerabilities across conflict-affected regions and considering reforms through which the continent can be better equipped to resist the economic consequences of war.

4.3 Responsibilities of State and Non-State Actors in Armed Conflict

International humanitarian law places binding obligations on all parties to an armed conflict, whether states or non-state armed groups. This universality is at the very heart of any effort aimed at protecting civilian populations and economic infrastructure during hostilities²⁴⁸. In Africa, where many conflicts of today involve non-state actors operating against, or in tandem with, state forces, the question of responsibility lies at the core of understanding how trade infrastructure and regional integration frameworks like the AfCFTA are impacted. The effective implementation of IHL is a question not merely of the existence of legal norms but also of the will and capacity of state and non-state actors to observe them²⁴⁹.

4.3.1 Responsibility of States

The primary responsibility for implementation and enforcement of IHL lies with States. The Geneva Conventions of 1949 and their Additional Protocols require States to respect and ensure respect for humanitarian rules in all circumstances. This imposes obligations on States to train armed forces, integrate IHL into military doctrine, and take domestic legislation

²⁴⁸ Customary IHL Study (n187)

²⁴⁹ International Committee of the Red Cross (ICRC), *What is International Humanitarian Law?* (ICRC 2016) <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/other/what_is_ihl.pdf> accessed 22 November 2025

criminalizing serious violations of IHL²⁵⁰. Poor compliance by States has been a historical factor in the significant destruction of trade infrastructure, either through direct targeting, disproportionate attacks, or neglect of a State's duty to prevent violations committed by subordinate forces. Likewise, state actors must take other precautions in attack, such as avoiding civilian objects, which include commercial facilities, transportation networks, and utilities without which economic activity would not be possible²⁵¹. These elements of distinction and proportionality have been called into doubt in several recent conflicts, including the conflicts in Ethiopia and Sudan, where government forces have conducted airstrikes and artillery bombardments that destroyed markets, bridges, airports, and warehouses, and in Libya, where the conduct of airstrikes by different parties has similarly affected civilian infrastructure. The International Court of Justice has established that states might be held internationally responsible for unlawful military conduct causing damage to civilian property and infrastructure, such as the Court's findings in the case of *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*²⁵² confirming state responsibility for conduct in violation of international obligations.

Furthermore, states are obligated to protect humanitarian relief operations and facilitate the continued functioning of essential economic services. Articles 55 and 56 of Geneva Convention IV require parties to ensure the provision of food and medical supplies to civilians and maintain essential public services; obstruction of such access may amount to a

²⁵⁰ AP I (n202), Art. 82 and 83

²⁵¹ *Ibid*, Art. 48-56 ; Customary IHL Study (n187), Rule 14

²⁵² *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* (Judgment) [2005] ICJ Rep 168.

violation of IHL²⁵³. In practice, however, state-imposed blockades, bureaucratic restrictions, and the politicization of humanitarian access have contributed to severe market disruptions in conflicts such as in Tigray and parts of the Sahel²⁵⁴. Finally, states might be held responsible not only for their own actions but even for the actions of non-state groups acting on their territory or under their control. The reasoning of the ICJ in *Bosnia and Herzegovina v. Serbia and Montenegro* clarified that a failure to prevent or punish violations committed by associated actors may engage state responsibility under international law²⁵⁵, a precept with particular resonance where militias or proxy groups operate with state toleration in parts of Africa.

4.3.2 Responsibility of Non-State Actors

Initially, international law only recognized the international rights and obligations of insurgents once they transitioned to insurgency. They were considered to have international rights and obligations with regard to those states that recognized them as having such a status²⁵⁶. According to Antonio Cassese, to be eligible for such recognition insurgents need only satisfy minimal conditions. First, rebels should prove that they have effective control over some part of the territory, and Second, civil commotion should reach a certain degree of intensity and duration²⁵⁷. Now, in the case of an insurrectional group as recognized by the relevant state, it is evident that there are certain international rights and obligations that flow

²⁵³ Geneva Convention IV (n201) Art. 55 -56, 59-63

²⁵⁴ International Crisis Group, *Ethiopia's Tigray War: A Deadly Stalemate* (Africa Briefing No 167, 2021)

²⁵⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (Judgment) [2007] ICJ Rep 43

²⁵⁶ A Clapham 'Human rights obligations of non-state actors in conflict situations', *International Review of the Red Cross*, (2006) 88, 863-492

²⁵⁷ A Cassese, '*International Law*' (Oxford University Press, 2nd edition Oxford, 2005), 125. ; A Cassese, '*International Law in a Divided World*', (Oxford University Press, Oxford, 1988), pp. 81– 5

from this status, depending on the terms of the recognition²⁵⁸. Under this traditional international law, insurgents who were recognized by the state against which they were fighting not only as insurgents but also expressly as belligerents, became assimilated to a state actor with all the attendant rights and obligations which flow from the laws of international armed conflict²⁵⁹. Today these recognition regimes have been replaced by compulsory rules of international humanitarian law which apply when the fighting reaches certain thresholds.

Where there is no recognition of insurgency or belligerency, and the group in question is not a national liberation movement that has successfully triggered the application of the rules of international armed conflict, one is left with an internal armed conflict involving rebels or what are sometimes termed “armed opposition groups”. The humanitarian law which applies during internal armed conflict gives rise to certain duties for these rebels²⁶⁰. The minimum protection provided by Common Article 3 to the four Geneva Conventions of 1949 contains obligations for “each Party to the conflict”. These obligations are to “Persons taking no active part in the hostilities” as well as to the “wounded and sick”. The actual prohibitions include murder, violence to the person, cruel treatment, the taking of hostages, humiliating and degrading treatment, and sentences or executions without judicial safeguards. Finally, the Article imposes a positive undertaking to collect and care for the sick and wounded.

²⁵⁸ EH Riedel, “Recognition of Insurgency”, in Rudolf Bernhardt (ed.), ‘Encyclopedia of Public International Law’, (Elsevier, Amsterdam, 2000), 54

²⁵⁹ *ibid*, 47-50

²⁶⁰ L Moir, *The Law of Internal Armed Conflict*, (Cambridge University Press, Cambridge, 2002); T. Meron, *Human Rights and Humanitarian Norms as Customary Law*, (Oxford, 1989); Y C.Sandoz and others (eds.), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, (ICRC/Nijhoff, Geneva/Dordrecht, 1987); T Meron, *Human Rights in Internal Strife: Their International Protection*, (Grotius, Cambridge, 1987)

The ICC has prosecuted the leaders of Non-state armed groups such as Dominic Ongwen²⁶¹ and Ahmad Al-Faqi Al-Mahdi²⁶² for war crimes involving attacks on civilians, destruction of property, and pillage. These cases confirm that non state actors and their commanders can be held individually responsible under international criminal law. As AfCFTA relies on free movement, secure trade corridors, and predictable market conditions, actions by non-state actors pose direct risks to its success. Their obstruction of transport routes, illegal taxation, and destruction of commercial infrastructure raise transaction costs and undermine continental integration. If AfCFTA is to succeed in conflict-affected states, then its framework should integrate conflict-sensitive mechanisms informed by IHL obligations applicable to them.

4.4 Potential Synergies between AfCFTA and IHL Frameworks

Although AfCFTA and the IHL framework operate within different normative domains-one centered on economic integration, the other on the conduct of hostilities-a closer examination reveals that the two regimes can interact in mutually reinforcing ways. Their common commitment to stability, predictability, and human welfare creates several conceptual and practical points of intersection. A primary synergy arises on the level of trade facilitation and humanitarian access. The AfCFTA goals of simplified customs procedures, harmonized border controls, and upgraded transport corridors²⁶³ can be seen to favorably impact humanitarian assistance in situations of armed conflict. These reforms reduce bureaucratic obstacles that often stand in the way of the delivery of relief. This aligns with IHL's

²⁶¹ *Prosecutor v Dominic Ongwen* (Judgment, 4 February 2021).

²⁶² *Prosecutor v Ahmad Al-Faqi Al-Mahdi* (Judgment, 27 September 2016)

²⁶³ P Leon, and others *The African Continental Free Trade Agreement: A New Pathway For Africa?* Herbert Smith Freehills. November 28, 2019. <<https://hsfnotes.com/africa/2019/11/28/the-africancontinental-free-trade-agreement-a-new-pathway-for-africa/#page=1>> accessed 3rd November, 2025

requirement that parties to conflict allow and facilitate the rapid and unimpeded passage of humanitarian relief²⁶⁴. The AfCFTA measures reduce logistical frictions and can therefore indirectly strengthen compliance with these core IHL obligations.

Another synergy lies in the areas of economic resilience and conflict prevention. Empirical research shows that economic stagnation and lack of trade integration can increase the risk of civil conflict²⁶⁵. To the extent that AfCFTA increases economic opportunities, deepens interdependence, and reduces structural inequalities²⁶⁶, it has the potential to reduce conflict risks across the continent. This places AfCFTA as an upstream mechanism for stability, complementing IHL's downstream focus on mitigating human suffering once conflict has begun.

There is also meaningful convergence in the regulation of movement of certain sensitive goods. IHL places restrictions on categories of weapons and requires states to prevent transfers where they may be used in violations. For example, certain regional instruments also restrict arms transfers on humanitarian grounds and require an assessment that those arms will not be used in violation of IHL upon arrival at the importing state²⁶⁷. Meanwhile, the AfCFTA, through its regulatory cooperation frameworks, offers a platform for coordinated standards on the movement of sensitive goods. This is aided by precedents that

²⁶⁴ AP I (n202), Art. 48-56 ; Customary IHL Study (n187, Rule 14

²⁶⁵ SB Blomberg, and GD Hess, 'The Temporal Links between Conflict and Economic Activity'. *The Journal of Conflict Resolution*, (2002) 46(1), 74–90.

²⁶⁶ World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects* (World Bank 2020) 23

²⁶⁷ Article 5 of the Central African Convention for the Control of Small Arms and Light Weapons, their Ammunition and all Parts and Components that can be used for their Manufacture, Repair and Assembly UNTS Vol. 3183, No. 54327, of November 19, 2010.

already exist at the regional level-for example, in the strong norms around the control of small arms in ECOWAS²⁶⁸. Embedding similar approaches within AfCFTA implementation could strengthen states' capabilities in preventing IHL violations linked to illicit arms flows or damaging technologies.

Second, the AfCFTA's dispute settlement system, while focused on trade issues, furthers the development of a rule-of-law continental culture. International law scholars observe that states that undertake legalized dispute settlement in one area tend to demonstrate increased compliance with laws and norms in other areas as well²⁶⁹. This positive external spillover implies that engaging in AfCFTA legal processes might indirectly reinforce states' adherence to the domestic implementation and observance of IHL obligations.

Finally, both frameworks meet on a human-centered normative orientation. While AfCFTA pursues improved living standards through trade-driven development, IHL protects human dignity in the context of armed conflict. In the African context where economic exclusion and conflict are often mutually reinforcing, these goals are closely intertwined. De Waal observes that humanitarian crises on the continent are usually defined by political-economic processes²⁷⁰. Thus, embedding conflict-sensitive considerations into AfCFTA policies such as allowing for humanitarian trade corridors, exemptions for vital goods, or measures to protect vulnerable communities has the potential to better align the trade regime with the protective goals of IHL. Taken together, the following intersections demonstrate that

²⁶⁸ ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, adopted on 14 June 2006, in Abuja, Nigeria.

²⁶⁹ KW Abbott and others, 'The Concept of Legalization'. *International Organization*, (2000) 54, 3, 401–419.

²⁷⁰ A De Waal, 'The Real Politics of the Horn of Africa: Money, War and the Business of Power'. (John Wiley and Sons, 2015)

AfCFTA and IHL can be related yet separate entities, in fact potential complements. In sum, through the facilitation of trade in support of humanitarian access, structural conflict prevention, coordinated regulation of sensitive goods, increased legal culture, and shared human-centered objectives, AfCFTA can establish more favorable conditions under which IHL norms are practically realized.

CHAPTER FIVE

CONCLUSION

5.1 Summary of Findings

The study investigated the effects of armed conflict on regional trade integration in Africa, with a particular focus on how the African Continental Free Trade Area AfCFTA and International Humanitarian Law (IHL) interact in conflict-affected environments. This investigation was motivated by the recognition that Africa's pursuit of continent-wide economic integration occurs beside persistent and widespread insecurity. Indeed, many African states remain embroiled in various armed conflicts pitting state armed forces against non-state armed groups, cross-border insurgents, and criminal networks. These conflicts weaken governance institutions and disrupt trade infrastructures, creating unpredictable environments that pose a direct threat to the implementation of the AfCFTA²⁷¹. The study, therefore, sought to understand how these realities affect the functioning of the AfCFTA and how IHL can contribute to the protection of trading systems during conflict.

The first key finding is that the AfCFTA is structurally ambitious but practically vulnerable. Its objectives, namely, to liberalize intra-African trade, eliminate tariff and non-tariff barriers, and create a single continental market²⁷², rely heavily on the preconditions of stable borders, functional transport corridors, predictable customs systems, and relatively safe trading environments. The research found that such conditions often do not exist in conflict-

²⁷¹ United Nations Economic Commission for Africa (UNECA), *Transforming African Corridors: Infrastructure, Trade and Security* (UNECA 2021).

²⁷² T Hartzenberg, 'African Continental Free Trade Area: Promise and Realities' *Journal of World Trade* (2021) 55(6) 843.

affected regions such as the Sahel, Horn of Africa²⁷³, and Great Lakes Region. Trade routes are often disrupted by insecurity, extortion checkpoints, or destroyed infrastructure. Lack of state presence in specific border areas allows non-state armed groups to control or disrupt cross-border trade. Conflict-affected states are often unable to put into practice the obligations under the AfCFTA, even when they formally are parties to the Agreement.

The second finding is that armed conflict disrupts trade in both direct and indirect ways. Direct impacts include the destruction of physical infrastructure such as roads, bridges, ports, storage facilities, and markets, besides attacks on traders, transport workers, and logistics companies. Indirect impacts include increased transport costs, lengthened border delays, a decline in investor confidence, inflation of goods in conflict zones, and diversion of public finances from trade facilitation to military expenditure. These factors significantly weaken the potential gains of AfCFTA in regions significantly reliant on overland transport systems.

A third finding is that IHL provides a legally binding framework that establishes a foundation for protecting the economic life of civilian populations in times of conflict. The rules of IHL prohibit attacks on civilian objects²⁷⁴, including trade infrastructure; prohibit starvation as a method of warfare; require parties to allow and facilitate humanitarian relief²⁷⁵; and mandate the protection of goods indispensable for civilian survival. These principles apply directly to trade systems, which are vital for the transportation of food, medicine, and other supplies essential for civilian survival. However, research indicated that despite these protections

²⁷³ International Crisis Group, “*Ethiopia’s Tigray Conflict: A Deadly, Dangerous Stalemate*” (Africa Briefing No 171, 2022)

²⁷⁴ AP 1 (n202), Art. 48

²⁷⁵ Geneva Convention IV (n201) Art. 55 -56, 59-63

under IHL, compliance remains sporadic. Many non-state armed groups either are unaware of IHL or deliberately disregard it. Even states occasionally engage in conduct—such as blockades, destruction of civilian infrastructure, or diversion of humanitarian goods—that undermines economic stability.

Another key finding is that even though IHL and AfCFTA are working toward different main objectives, areas of synergy might exist. The former aims to prevent human suffering and the protection of civilians during conflicts, whereas the latter seeks to advance economic integration and development. In reality, both regimes depend on safe, predictable, and accessible trading systems. Protection of supply chains, infrastructure, and humanitarian corridors under IHL can consolidate stability needed for AfCFTA implementation. On the other hand, a stable and integrated economy can help promote long-term peace by lessening the economic motives for conflict.

A further finding is that the AfCFTA has yet to adopt a conflict-sensitive approach. Its legal texts contain no provisions with regard to the realities of armed conflict, although many member states are directly affected by violence. Implementation strategies, monitoring mechanisms, and dispute resolution procedures do not reflect the special challenges posed by conflict zones. This absence creates significant vulnerability: the AfCFTA can be easily derailed by violence, and there is no structured mechanism to manage or mitigate the impact of conflict on trade. Lastly, effective integration requires institutional coordination between the AfCFTA Secretariat and African Union peace and security organs. The AU Peace and Security Council, Continental Early Warning System, and regional mechanisms possess data

and expertise related to conflict dynamics that are important for managing trade risks. However, the coordination between these systems is presently minimal. Such cooperation would enable the AfCFTA to anticipate disruptions, be responsive to crises, and shield particularly vulnerable trade corridors. Broadly, the findings show that realizing the AfCFTA goals in a conflict-prone continent will involve more than trade liberalization. This requires embedding conflict sensitivity into trade governance, drawing on the protective scope of IHL to protect civilian economic life, and deepening the linkage between economic and peacebuilding institutions. Absent these adaptations, the AfCFTA is in danger of underperforming its transformative promise.

5.2 Recommendations

Given the results of this study, it becomes clear that effective continental trade integration under the AfCFTA demands deliberate reform efforts which are cognizant of the reality of armed conflict in Africa. The following recommendations are advanced to enhance resilience, functionality, and conflict-sensitivity for AfCFTA, especially in regions where violence is continuously undermining economic stability.

1. Incorporate Conflict-Sensitive Provisions into AfCFTA Instruments

A major recommendation is that conflict-sensitive clauses should be included in the revision of the AfCFTA Agreement and its protocols. The present legal framework is premised on a peacetime administrative environment, while many member states have prolonged conflict situations. The AfCFTA should, therefore, have specific provisions that require the protection of trade infrastructure, procedures to keep open essential trade flows during

crises, and duties of state parties in facilitating humanitarian access when supply chains are disrupted. These provisions should be based on rules related to IHL regarding the protection of civilian objects and humanitarian relief. This will give a clear legal premise for ensuring continuity of operations even in conflict-affected regions.

2. Establish a Conflict-Impact Assessment Mechanism (CIAM)

In this context, the operationalization of conflict sensitivity by the AfCFTA Secretariat would be done through a Conflict-Impact Assessment Mechanism. It would evaluate the security implications of trade corridors; identify high-risk border areas; analyze activities of armed groups that could impact commercial routes; and provide real-time advisory reports to traders and governments. CIAM would, thus, act as an early warning and risk management tool, enabling member states to anticipate disruptions rather than reacting to them. This will enable customs authorities to prepare contingency plans, deploy alternative routes of trade where necessary, and coordinate logistics with humanitarian agencies. The institutionalization of conflict-impact assessments would make the AfCFTA responsive to the volatile security environment that often characterizes many intra-African trade routes.

3. Institutionalize Humanitarian Trade Corridors

Because access to essential goods is often compromised during armed conflict, the AfCFTA should establish formal Humanitarian Trade Corridors. These would provide protected routes for the movement of food, medicine, and fuel, as well as other indispensable supplies. They must be underpinned by arrangements for simplified customs procedures, the temporary suspension of tariffs on relief items, and priority clearance systems. The mapping of these

corridors must be done in consultation with the AU Peace and Security Council and humanitarian organizations to ensure that they reflect both security realities and civilian needs. Embedding such corridors into the AfCFTA framework would align trade governance with IHL obligations relating to humanitarian access and the protection of indispensable goods.

4. Enhance Cooperation with AU Peace and Security Architecture

Another important recommendation would be improved coordination between the AfCFTA Secretariat and AU peace and security institutions such as the Peace and Security Council, Continental Early Warning System, African Standby Force, and regional economic communities. Such agencies have access to high-quality intelligence and analytical work concerning the causes, patterns, and consequences of conflict. Putting in place formal cooperation frameworks, joint monitoring operations, and shared databases would contribute to improving the AfCFTA's response to disruptions. Cooperation will make trade and security institutions work together in a complementary approach, considering economic integration and peacebuilding as mutually reinforcing objectives.

5. Promote Conflict-Sensitive Infrastructure Planning

Given the pattern of destruction or targeting of trade infrastructure during armed conflict, infrastructure development under the AfCFTA should be conflict-sensitive. This means that security-risk assessments should be conducted prior to project approval, and designing alternative or redundant routes for essential trade is important, along with using climate- and conflict-resilient construction materials. This would mean that reconstruction projects after

conflict situations by member states and regional institutions should be guided by and comply with IHL standards on the protection of civilian objects. The financial mechanisms for funding infrastructure development under the AfCFTA should budget for rapid rehabilitation of damaged facilities to ensure timely restoration of trade flows in post-conflict areas.

6. Strengthen Regulation of Dual-Use Goods and Cross-Border Arms Movements

Arms trafficking and diversion of dual-use goods significantly contribute to conflict dynamics in many African regions. Therefore, the AfCFTA should integrate regulatory mechanisms for their monitoring, including enhanced customs training, information-sharing systems, and alignment with regional arms-control instruments such as the ECOWAS Convention on Small Arms. Such strengthening of controls would promote security and reduce the economic incentives sustaining armed groups, hence making routes safer and more predictable.

7. Improve trader and transport worker protection.

Traders, transport workers, and market communities often bear the brunt of conflict-related violence. Thus, AfCFTA should put in place standardized safety strategies for cross-border transport; establish an emergency communication system that works for drivers and traders operating in areas of high risk; and urge member states to establish schemes for compensation to victims of conflict-related disruptions. By better protecting these groups, there would be more inclusive participation in the AfCFTA, ensuring that economic integration reaches communities suffering from violence.

Settlement Mechanism for Conflict Situations. The current AfCFTA dispute settlement mechanism needs to be expanded, with procedures developed that specifically address conflict-related disruptions. This could include, among others, fast-track mediation in times of emergencies, the ability to adopt provisional measures to keep essential trade flowing, and flexible compliance timelines when violence impedes a state's ability to perform its duties. These changes would allow the dispute settlement mechanism to continue to function effectively when member states face conflict, adding stability and predictability to the trade regime.

5.3 Contributions to Knowledge

This essay makes a number of important contributions to the rapidly growing scholarship on regional economic integration, IHL, and conflict studies in the African context. First, it deepens the understanding of how armed conflict functions as a structural impediment to effective implementation of continental trade agreements, especially the AfCFTA. Although there is substantial literature on the economic prospects of the AfCFTA, few studies have made systematic inquiry into how conflict-related disruptions—such as infrastructure destruction, territorial fragmentation, and governance breakdown—directly undermine the Agreement's practical enforceability. The study bridges this gap by extending academic discourse from purely economic analyses to encompass legal, humanitarian, and security dimensions of integration.

The study provides a holistic framework of conflict-sensitive trade governance, an area that is generally underdeveloped in recent African economic policy. It goes beyond mere theoretical

commentary to propose practical reforms, like creating emergency trade corridors, conflict impact assessments, and integrated mechanisms for compliance with IHL, to advance actionable pathways toward strengthening AfCFTA's resilience. Such recommendations can thus help inform institutional reforms at the African Union level, guiding member states in developing national strategies cognizant of insecurity.

In addition, the regional case studies in Chapter Three add empirical depth to the existing literature on the subject. They underline the trends of conflict-specific trade disruption in regions like the Sahel, Horn of Africa, and Great Lakes, while comparing how different conflict dynamics yield similar outcomes for the governance of trade. This empirical grounding gives credence to the study's general theoretical assertions, as it provides a useful reference for further research. Finally, the research contributes to African legal scholarship by locating continental trade integration within a broader paradigm of humanitarian protection and peacebuilding. The book challenges the traditional divide between economic development and conflict regulation by demonstrating how sustainable integration can hardly occur in the absence of effective legal protection of civilians and infrastructure in situations of conflict. This adds nuance to debates on Africa's regional integration agenda, and gives a conceptual foundation upon which future studies can build.

5.4 Areas for Further Studies

Although this study has provided significant understanding of the interface that exists among AfCFTA, armed conflict, and IHL, numerous avenues are still left for scholarly inquiry. First, empirical field-based research in selected conflict-affected states could be done by future studies to collect primary data on the experiences of traders, transport operators, border officials, and communities that bear the direct brunt of conflict-related trade

disruptions. These would indeed provide context-specific evidence in granular detail that may enhance policymaking and complement the doctrinal analysis carried out in this work. Secondly, detailed quantitative estimates of the economic costs of armed conflict are needed within an AfCFTA context. This study outlined general economic impacts that result from armed conflict; however, this research did not involve econometric modeling or cost-benefit analyses. Researchers could engage with the measurable indicators, including reductions in the volume of trade, transport delays, losses in tariff revenue, and price inflation in conflict regions that would give a more precise understanding of what the economic implications of insecurity are on integration.

Thirdly, there is a need for further research on AfCFTA dispute settlement in the context of armed conflict. Not much is presently known on how trade-related disputes arising out of conditions of conflict-such as border closures, seizures of supply chains, or destruction of goods-would be adjudicated under the AfCFTA Dispute Settlement Protocol. Scholars can examine whether the existing mechanisms would suffice or if specialized procedures for conflict-related claims should be developed. Fourth, research might investigate how regional economic communities (RECs) can contribute to the dampening of disruptions caused by conflicts. Since the AfCFTA is running parallel to already existing REC trade frameworks, conflicts often simultaneously affect both systems. Further research might therefore investigate how RECs like ECOWAS, EAC, and SADC presently handle trade disruptions, as well as their potential role in supporting conflict-sensitive reforms under the AfCFTA.

Fifth, the role of non-state armed groups in economic governance remains little explored. Many such groups control roads, impose informal taxation, or regulate market activity. Further research might map the legal, economic, and humanitarian implications of such

control, considering how trade frameworks might engage with or circumvent these actors while respecting international law. Finally, other studies may discuss the digital dimensions of conflict-sensitive trade, especially with the AfCFTA heading towards a digital single market. The threats of cyber-insecurity, communications blackouts, and attacks on digital infrastructure are novel forms of conflict-related disruption that need further research. As the African economies increasingly digitize and integrate, understanding their implications will assume greater significance.

5.5 Conclusion

This research has explored the relationship between Africa's ambition for continental economic integration and the persistent reality of armed conflict across several regions of the continent. At a deeper level, this study shows that AfCFTA is not just a trade agreement but a development project which will only be achieved depending on the stability of the environment in which it is implemented. This stability is disrupted by armed conflict, not just because of the basic damage to infrastructure, but also because conflict reshapes political priorities, circumscribes governmental capacity, and changes the behavior of economic actors who must operate in uncertainty. Beyond these pragmatic disruptions, however, the study has brought into sharper focus an underlying tension between the two: the AfCFTA was an economic tool designed within a political landscape where humanitarian law continues to govern and constrain behavior in theaters of armed conflict. These two regimes are rarely discussed together. The dissertation therefore bridges the gap to show how trade integration and humanitarian protection are not only compatible but indeed essential complements in conflict-prone regions.

A key take away from this research is that economic integration cannot be insulated from conflict dynamics. African trade corridors pass through some of the most volatile regions of the world, and many states that are parties to the AfCFTA either experience or neighbour states experiencing armed conflict. The Agreement, in its current form, proceeds on the assumption of a functional and predictable security environment-an assumption which, as the analysis shows, does not hold uniformly across the continent. This creates a structural vulnerability: a continent-wide project rests partly on the stability of regions where instability is chronic. IHL, by contrast, was never intended to foster trade, but it nonetheless extends indirect yet significant protection to the very structures on which trade relies. By protecting civilian objects, restraining strikes against key infrastructure, and placing responsibilities on state and non-state actors alike, IHL creates a normative setting whereby the economic consequences of conflict may be mitigated. Hence, the research has so far revealed that humanitarian protection and economic integration can work together in a reinforcing manner, even though the relevant legal frameworks operate in separate spheres.

What emerges from this research is not a simple prescription but rather a call for conceptual expansion. Economic integration in Africa must grow beyond tariff schedules and market access commitments to include mechanisms of resilience that take into account the fact of armed conflict. On the other hand, the application of humanitarian law should increasingly consider economic systems as integral to civilian survival, not as an issue of commerce, per se, but of human welfare and social continuity. The research also shows that Africa stands at an inflection point. While the AfCFTA offers a vision of shared prosperity, the continent's conflict landscape threatens to constrict the Agreement's transformative potential. For

AfCFTA to fulfill its promise, it needs to recognize conflict not as an exogenous shock but as a core variable shaping economic behavior and institutional performance. Integrating conflict sensitivity-through reforms, institutional linkages, and protective mechanisms-can help bridge this gap and offer traders, communities, and governments greater security during times of instability.

This research ultimately concludes that the future of the AfCFTA significantly depends on the ability of the continent to harmonize economic aspirations with humanitarian obligations. The Agreement has the potential to serve not only as a tool for economic transformation but also as a stabilising force that strengthens resilience in conflict-prone regions. If aligned with IHL, the AfCFTA could indeed protect trade, support civilian populations, and indirectly contribute to peace building efforts. Thus, the research concludes on a forward-looking note: Africa's march towards integration must be matched with an equally deliberate effort to safeguard the systems that sustain trade during conflict. This twin commitment-to economic cooperation and to humanitarian protection-offers the most realistic pathway towards a more peaceful, prosperous, and interconnected continent.

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