

**ASYMMETRIC WARFARE:  
APPLICABILITY OF INTERNATIONAL HUMANITARIAN  
LAW IN NON-INTERNATIONAL ARMED CONFLICTS**

MAHA AMARASINGHE ARACHCHIGE  
KUSAL KAVINDA AMARASINGHE

LL.M/2019/011

Submitted in partial fulfilment of the requirements for the degree of  
Master of Laws (LL.M.)

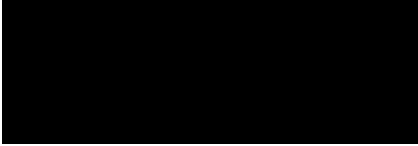
Faculty of Law  
University of Colombo  
Sri Lanka

30<sup>th</sup> September 2021



## **Declaration**

I certify that this extended essay does not incorporate without acknowledgement any material previously submitted for a Degree or Diploma in any University; and to the best of my knowledge and belief, it does not contain any material previously published or written by another person or myself except where due reference is made in the text.



MAHA AMARASINGHE ARACHCHIGE KUSAL KAVINDA AMARASINGHE

# Acknowledgement

I would like to grant my heartfelt gratitude to **Professor Wasantha Senevirathne**, Head of the Department of Public and International Laws, Faculty of Law, University of Colombo, Sri Lanka; for her valuable guidance in the formulation of the research area and methodology of my dissertation.



MAHA AMARASINGHE ARACHCHIGE KUSAL KAVINDA AMARASINGHE

This piece of academic work is dedicated  
to the name of Dr Cristopher William Wijekoon Kannangara, the father of free  
education in Sri Lanka; to the memory of the student heroes who sacrificed their  
precious lives to safeguard the free education of our generation; & For all the  
taxpayers in this country who have paid for my education.

\*\*\*\*

## **Keywords**

Armed Conflict, Asymmetric Warfare, Geneva Conventions, Guerrilla Warfare, Insurgency, International Humanitarian Law, *Jus in Bello*, Law of War, Non-International Armed Conflict, Proxy War, Urbanization of Warfare, War on Terrorism.

## List of Abbreviations

AP – I	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)
AP – II	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)
CJC	Criminal Justice Commission
EPRLF	Eelam People’s Liberation Front
EROS	Eelam Revolutionary Organization of Students
IAC	International Armed Conflict
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the Former Yugoslavia
ICRC	International Committee of Red Cross
IPKF	Indian Peace Keeping Force
JVP	<i>Janatha Vimukthi Peramuna</i> (People’s Liberation Front)
LTTE	Liberation Tigers of Tamil Eelam
NIAC	Non-International Armed Conflict
PLOTE	People’s Liberation Organization of Tamil Eelam
PoW	Prisoners of War
PRRA	People's Revolutionary Red Army
PTA	Prevention of Terrorism (Temporary Provisions) Act No 44 of 1979
RAW	India's Research and Analysis Wing
STF	Special Task Force
TELO	Tamil Eelam Liberation Organization
UN	United Nations

## **Abstract**

Today's armed conflicts are not the same as the conventional and systematic wars described in the history books. In the 21<sup>st</sup> century, the political concept of “War” has been replaced by the factual concept of “Armed Conflict.”

International Humanitarian Law is the main international legal branch that governs and regulates armed conflicts. In the simple meaning, the ‘Law of War’. However, the irregular forms of modern armed conflicts are challenging the scope of the application of International Humanitarian Law on the contemporary battlefield.

In this 4<sup>th</sup> generation of warfare, States have lost their monopolistic authority in war. Non-state actors such as guerrilla movements & terrorist groups have increased their activities. In this sense, most of today's armed conflicts can be underlined as ‘Asymmetric Armed Conflicts’ generally warring between states and non-state actors.

However, the states and respective governments are reluctant to apply International Humanitarian Law to the internal asymmetric armed uprisings. At the same time, there are difficulties in classifying contemporary asymmetric armed conflicts into the conventional classification of warfare in accordance with the criteria adopted under International Humanitarian Law. These legal ambiguities have not been well examined yet. Therefore, these matters should be addressed according to jurisprudential and political parameters.

There is a lacuna in jurisprudential studies on ‘Asymmetric warfare: applicability of International Humanitarian Law in Non-International Armed Conflicts.’ This research, therefore, primarily seeks to fill the existing knowledge and research vacuum regarding asymmetric warfare with reference to the Sri Lankan context.



# Table of Contents

<b>1. Introduction</b>	
1.1 Background of the study	1
1.2 Research Problem	2
1.3 Research Questions	2
1.4 The Objective	2
1.5 Hypothesis	3
1.6 Methodology	3
1.7 Justification of Knowledge gap	3
1.8 Scope and limitation of the study	4
<b>2. How does the law govern armed conflict?</b>	
2.1 Which law governs the war?	5
2.2 How does the law define the war?	11
<b>3. Asymmetric warfare as a modern context of warfare</b>	
3.1 The theory of asymmetric warfare	14
3.2 The forms of asymmetric warfare	16
3.3 Chapter Summary	19
<b>4. Responding to asymmetric warfare: Experiences of Sri Lanka</b>	
4.1 The civil war ( <i>Eelam War</i> )	20
4.2 The 1971 insurgency ( <i>1<sup>ST</sup> Armed Uprising of the JVP</i> )	24
4.3 The 1987-89 insurgency ( <i>2<sup>nd</sup> Armed Uprising of the JVP</i> )	28
4.4 Chapter Summary	31

<b>5. Contemporary challenges of International Humanitarian Law</b>	
5.1 Urbanization of armed conflicts	32
5.2 Proxy wars	34
5.3 Less attention on Asymmetrical NIACs	37
5.4 Chapter Summary	39
<b>6. Conclusion</b>	
6.1 Outline of the Chapters	40
6.2 Findings and Recommendations	41
<b>Appendixes</b>	44
<b>References (Bibliography)</b>	48