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Protection of Civilians During Armed Conflicts: Fundamental Principles of International Humanitarian Law and Challenges of Implementation

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Abstract. *Armed conflicts expose civilians to death, injury, displacement and the destruction of essential infrastructure, particularly in densely populated urban areas. This article examines the legal foundations of civilian protection under international humanitarian law and the main obstacles to its implementation. Using a doctrinal, descriptive and analytical method based on treaties, case law and scholarly literature, it analyses the Geneva Conventions of 1949, the Additional Protocols of 1977 and customary law, focusing on the principles of distinction, proportionality, precaution and humanity. It also reviews the special protection of women, children, the wounded and sick, displaced persons, and medical and humanitarian personnel. The article identifies key challenges: direct and indiscriminate attacks on civilians, forced displacement, obstruction of humanitarian relief, urban warfare, and the legal questions raised by drones, cyber operations and artificial intelligence. It also notes the gap between legal standards and enforcement. It concludes that effective protection requires stronger compliance mechanisms, systematic legal training, documentation of violations and consistent accountability.*

Keywords: *international humanitarian law, civilian population, armed conflict, protection of civilians, legal responsibility*

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Silahlı münaqişələr zamanı mülki əhalinin müdafiəsi: beynəlxalq humanitar hüququn əsas prinsipləri və tətbiq problemləri

Sevinc Ələkbərova

Xülasə. *Silahlı münaqişələr, xüsusilə əhalinin sıx məskunlaşdığı şəhər ərazilərində mülki əhalini ölüm, yaralanma, məcburi köçkünlük və mühüm infrastrukturun dağıdılması təhlükələri ilə üz-üzə qoyur. Məqalədə beynəlxalq humanitar hüquq çərçivəsində mülki əhalinin müdafiəsinin hüquqi əsasları və onun həyata keçirilməsinə mane olan başlıca amillər araşdırılır. Müqavilələrə, məhkəmə təcrübəsinə və elmi ədəbiyyata əsaslanan doktrinal, təsviri və analitik metodlardan istifadə edilərək 1949-cu il Cenevrə konvensiyaları, 1977-ci il Əlavə protokolları və adət hüququ fərqləndirmə, mütənasiblik, ehtiyat tədbirləri və humanizm prinsipləri baxımından təhlil olunur.*

Həmçinin qadınların, uşaqların, yaralıların və xəstələrin, məcburi köçkünlərin, tibb və humanitar yardım heyətinin xüsusi müdafiəsi nəzərdən keçirilir. Məqalədə əsas problemlər kimi mülki əhaliyə qarşı birbaşa və fərq qoymadan edilən hücumlar, məcburi köçürülmə, humanitar yardımın çatdırılmasına maneələrin yaradılması, şəhər döyüşləri, eləcə də pilotsuz uçuş aparatları, kiberəməliyyatlar və süni intellektin doğurduğu hüquqi məsələlər müəyyənləşdirilir. Hüquqi normalarla onların icrası arasındakı uyğunsuzluq da qeyd olunur. Belə nəticəyə gəlinir ki, səmərəli müdafiə hüquq normalarına əməl olunmasını təmin edən mexanizmlərin gücləndirilməsini, sistemli hüquqi hazırlığı, pozuntuların sənədləşdirilməsini və təqsirkarların ardıcıl şəkildə məsuliyyətə cəlb edilməsini tələb edir.

Açar sözlər: *beynəlxalq humanitar hüquq, mülki əhali, silahlı münaqişə, mülki əhalinin müdafiəsi, hüquqi məsuliyyət*

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1. Introduction

Armed conflicts endanger human life, and civilians bear their gravest consequences: death, injury, displacement and the destruction of homes, hospitals and schools. The risks are greatest in cities, where hostilities occur close to the places people live and work. The legal framework protecting civilians rests mainly on the four Geneva Conventions of 1949 and the Additional Protocols of 1977, yet applying these rules is difficult in densely populated areas, in conflicts involving non-State armed groups, and where responsibility for harm is hard to establish. This study analyses the relevant humanitarian law provisions, identifies the main obstacles to their implementation and explores legal and practical measures for improving compliance and strengthening the protection of civilian populations. The article proceeds from the normative framework through the principles and special protections to implementation challenges and recommendations.

Literature review

Normative architecture and customary status

Scholarship on civilian protection falls into five themes. First, the normative framework: the Geneva Conventions and Additional Protocols form its core (Kalshoven & Zegveld, 2011; Sassòli et al., 2011). The Commentary edited by Sandoz et al. (1987) clarifies the drafting and purpose of Additional Protocol I, including the rules on distinction and precautions. The customary law study of the International Committee of the Red Cross (ICRC) found that distinction, proportionality and precaution are customary rules binding all parties in international and non-international conflicts (Henckaerts & Doswald-Beck, 2005); they therefore bind States irrespective of treaty ratification. The study has nevertheless been criticised for its selection and interpretation of State practice and its treatment of opinio juris, which shows how difficult it is to separate established law from emerging practice (Wilmshurst & Breau, 2007). The International Court of Justice reinforced the fundamental status of these rules by describing the core principles of humanitarian law as intransgressible (Legality of the Threat or Use of Nuclear Weapons, 1996, para. 79).

Interpreting the principles

Second, interpretation. Dinstein (2016) treats distinction as the cornerstone of the law of hostilities; Solis (2016) examines how commanders and legal advisers apply the rules in military practice; and Schmitt (2010b) stresses the balance between military necessity and humanity. Proportionality, which weighs incidental civilian harm against anticipated military advantage under Article 51(5)(b) of Additional Protocol I, is the hardest to apply, since the two values are not easily commensurable; the ICRC Commentary stresses that commanders must apply the rule in good faith (Sandoz et al., 1987). The ICRC Interpretive Guidance on direct participation in hostilities (Melzer, 2009) sets a three-part test (threshold of harm, direct causation and belligerent nexus), but remains contested, notably as regards members of organised armed groups (Schmitt, 2010a).

Non-international conflicts and urban warfare

Third, non-international conflicts and urban warfare. Common Article 3 and Additional Protocol II offer limited rules, so customary law and case law fill gaps (Sivakumaran, 2012); Tadić confirmed that customary rules apply in internal conflicts (Prosecutor v. Tadić, 1995), and Galić confirmed the prohibition of direct attacks on civilians (Prosecutor v. Galić, 2003). The ICRC (2015) notes that urban warfare and wide-area explosive weapons cause civilian deaths and mass displacement, straining distinction and proportionality and underlining the importance of precautions and of compliance by non-State armed groups.

Emerging technologies and accountability

Fourth, technology. The Tallinn Manual 2.0 applies the core principles to cyber operations but leaves open whether civilian data is a protected object (Schmitt, 2017). Schmitt (2013) holds that autonomous weapons are not unlawful per se, whereas Sparrow (2007) warns of a responsibility gap; the ICRC (2020) insists on human control over decisions affecting life and on legal review of new means of warfare. For armed drones, the ICRC (2015) maintains that existing law applies and that the main difficulties lie in verifying targets and assessing civilian harm. Fifth, accountability: Article 8 of the Rome Statute defines war crimes, including intentionally attacking civilians and launching attacks expected to cause clearly excessive incidental harm (Rome Statute, 1998), and effectiveness depends on courts and State cooperation (Werle & Jessberger, 2020), while compliance also requires training and dissemination (Sassòli et al., 2011).

Research gap

These themes are usually studied separately. This article integrates the four principles, the special protection of vulnerable groups and the challenges of modern warfare into one framework that links legal norms to implementation problems and solutions, and proposes measures including legal training, documentation of violations and accountability.

2. Methodology

Research design and questions

The study uses a doctrinal, descriptive and analytical method based on legal documents, judicial decisions and scholarly literature; it uses no empirical data or human subjects, so no ethical approval was required. Four questions guide it: which rules protect civilians; how vulnerable groups are protected;

which legal and practical obstacles, including new technologies, hinder implementation; and which measures could improve compliance and accountability.

Sources, methods and limitations

Primary sources are the 1949 Geneva Conventions, the 1977 Additional Protocols, the 1954 Hague Convention, the 1998 Rome Statute, the 1996 ICJ opinion and the ICTY judgments in Tadić and Galić; secondary sources include ICRC commentaries and reports, the 2005 customary law study and works by recognised scholars, selected for authority, relevance, academic credibility and, for emerging technologies, recency. Methods are teleological interpretation under Articles 31 and 32 of the Vienna Convention (Vienna Convention on the Law of Treaties, 1969), conceptual analysis, thematic analysis of the literature and problem-based testing of rules against new technologies, distinguishing lex lata from lex ferenda. Where scholarly views diverge, they are presented without adopting the position of any single author. The study concerns jus in bello only, excluding jus ad bellum and addressing human rights law only where directly relevant; it draws on judicial decisions for examples rather than analysing individual conflicts, uses no casualty statistics or field evidence, and therefore cannot assess actual compliance in combat. It reflects the debates existing at the time of writing; the institutional perspective of the ICRC is balanced by academic and judicial sources.

3. Results

Legal foundations and fundamental principles

International humanitarian law (IHL) aims not to prevent fighting but to limit its human cost. Its sources are the four Geneva Conventions, of which the Fourth protects civilians, Additional Protocols I and II for international and non-international conflicts, and customary law (Henckaerts & Doswald-Beck, 2005). Because many contemporary conflicts are non-international, the customary status of the core rules is especially significant, as it extends their reach beyond the parties to the treaties. Civilians are persons who are not combatants; in case of doubt, a person is considered a civilian, and civilians lose protection against direct attack only for such time as they directly participate in hostilities (Additional Protocol I, 1977, arts. 50, 51).

Protection rests on four principles. Distinction requires parties to distinguish between civilians and combatants and between civilian objects and military objectives (Additional Protocol I, 1977, arts. 48, 51, 52). Proportionality prohibits attacks where expected incidental civilian harm would be excessive relative to the concrete and direct military advantage anticipated (arts. 51(5)(b), 57). Precaution requires verifying that targets are military objectives, choosing means that minimise civilian harm and cancelling attacks that would violate the rules (art. 57). Humanity demands respect for life and dignity and prohibits cruel treatment and torture, and underlies the protection of persons no longer taking part in hostilities. Together they form the legal framework for assessing the lawfulness of military operations; their application is especially difficult in densely populated areas. As customary rules, they bind all parties, including non-State armed groups (Henckaerts & Doswald-Beck, 2005).

Special protection of civilians

IHL gives particular attention to women, children, the wounded and sick, displaced persons, and medical and humanitarian personnel. Women are protected against violence, and children must receive care and treatment appropriate to their age (Fourth Geneva Convention, 1949, art. 27; Additional Protocol I, 1977, art. 77). The wounded and sick must receive the care they need without adverse distinction, and medical

personnel and facilities are protected (Additional Protocol I, 1977, arts. 10, 12, 15). Deportation and forcible transfer are prohibited except in limited cases (Fourth Geneva Convention, 1949, art. 49), and relief actions for the civilian population must be facilitated (Additional Protocol I, 1977, art. 70). Mass displacement is thus treated as an exceptional measure, not a lawful method of warfare. Hospitals, schools and homes may not be attacked unless they become military objectives, and cultural property is protected by the 1954 Hague Convention (Convention for the Protection of Cultural Property, 1954). Vulnerability increases, rather than diminishes, the duty of care owed by parties to a conflict; attacks on medical personnel and facilities or the denial of relief therefore weaken the protective system as a whole and expose the wounded, the displaced and children to further harm.

4. Discussion

Key challenges in implementation

Deliberate and indiscriminate attacks, unjustified forced displacement and obstruction of humanitarian relief violate Article 51 of Additional Protocol I and Articles 49 and 55 of the Fourth Geneva Convention. New technologies do not displace IHL: States using drones must still distinguish targets, minimise civilian harm and take all feasible precautions (ICRC, 2015), and the main difficulty lies less in the absence of rules than in verifying targets and assessing likely civilian harm with the information available; cyber-attacks on power grids, hospitals or communications must be assessed under the rules on civilian objects; and AI-assisted targeting raises the question of how much human control is required, so States must test whether such tools meet legal standards (ICRC, 2020).

These problems are most acute in urban warfare, where military objectives lie among homes, hospitals and schools and applying distinction and proportionality requires reliable information about the civilian presence (ICRC, 2015). Compliance by non-State armed groups, which are bound by Common Article 3 and, where its conditions of application are met, Additional Protocol II, and enforcement of their obligations remain particular difficulties (Sivakumaran, 2012).

Accountability is a further difficulty. The Rome Statute establishes individual responsibility for war crimes, but enforcement depends on cooperation and jurisdiction, and limited support for the International Criminal Court in some States widens the gap between legal standards and practice. Domestic implementation and State cooperation therefore remain essential complements to international jurisdiction (Sassòli et al., 2011; Werle & Jessberger, 2020).

Obstruction of humanitarian access compounds these problems. When relief cannot reach the wounded, the displaced and besieged populations, the harm caused by hostilities is multiplied, which is why the facilitation of relief actions and respect for medical and humanitarian personnel are treated as integral parts of civilian protection (Additional Protocol I, 1977, art. 70). Ensuring that all parties accept and apply the same rules, and hold one another accountable for violations, remains the central problem of implementation.

Directions for strengthening protection

Protection depends not on the existence of rules but on their consistent application by all parties and on mechanisms that hold violators accountable. Armed forces must distinguish, minimise harm and take all feasible precautions, supported by systematic legal training and legal advisers (International Committee of the Red Cross [ICRC], 2005; Solis, 2016), and humanitarian organisations must be able to work (ICRC, 2005). Training should be accompanied by the integration of IHL into military doctrine. Civilians'

awareness of their rights should be raised, since people who understand what they may expect and demand are better able to stay safe; new technologies require legal review, clarification of the rules and human control (ICRC, 2020); and violations must be systematically documented so that those responsible can be identified, which reduces impunity, deters misconduct and strengthens trust in the system.

5. Conclusion

Protecting civilians is a core purpose of IHL, founded on the Geneva Conventions, the Additional Protocols and customary law, and centred on distinction, proportionality, precaution and humanity. Protection depends not only on the existence of rules but on how forces apply them, on conditions for humanitarian action and on accountability. Attacks on civilians, forced displacement, restrictions on aid and the challenges posed by drones, cyber operations and artificial intelligence remain serious concerns.

The analysis therefore answers the four research questions as follows: civilians are protected by the rules and principles of treaty and customary IHL; vulnerable groups enjoy additional safeguards; implementation is hindered by unlawful conduct, new technologies and weak enforcement; and compliance can be improved through training, awareness, legal review and documentation.

Law alone cannot protect civilians; it must be matched by institutional will, professional military training and credible enforcement. Strengthening protection requires better compliance mechanisms, training of State and military institutions, favourable conditions for humanitarian operations, greater legal awareness and tighter accountability. Future research could examine how these measures operate in specific conflicts and how the law should respond to rapid technological change, and how documentation of violations can best support accountability.

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