

## **Protection of Civilian Victims of Armed Conflict Based on International Law (Case Study of the Israeli and Palestinian Conflict)**

**Moody Rizqy Syailendra Putra<sup>1</sup> Amelia Abdullah Zimah<sup>2</sup> Febriany<sup>3</sup> Vennia Neshya Rusli<sup>4</sup>**

Faculty of Law, Universitas Tarumanagara, West Jakarta City, Province of DKI Jakarta, Indonesia<sup>1,2,3,4</sup>

Email: [moodys@fhunt.co.id](mailto:moodys@fhunt.co.id)<sup>1</sup> [amelia.205230109@stu.untar.ac.id](mailto:amelia.205230109@stu.untar.ac.id)<sup>2</sup>  
[febriany.205230111@stu.untar.ac.id](mailto:febriany.205230111@stu.untar.ac.id)<sup>3</sup> [vennia.205230327@stu.untar.ac.id](mailto:vennia.205230327@stu.untar.ac.id)<sup>4</sup>

### **Abstract**

International armed conflict is defined as a conflict between two or more states or between one state and another party that does not yet have state status. In the world of international law, the Geneva Conventions have been considered the right decision because the results of the convention have been agreed and signed by countries that have been recognized by the United Nations. The essence of the convention is an agreement that protects the safety of military members wounded during the war. In the application of the results of the Geneva Conventions and international human rights law is still not fully applicable. An alliance of countries that gives full support to the Israeli-Palestinian war causes legal defects. The conflict between the two countries has been going on since the early 20th century until now. The Israeli-Palestinian armed conflict is slowly attacking civilians as well. This research is a normative research, which is used to see problems related to armed conflict through legal studies. When viewed from the point of view of the basic state and the principles of the International Law of War, the Israeli-Palestinian war does not follow the existing rules. Several international rules already exist to deal with similar cases, which provide rules and protection. The United Nations here serves to maintain world peace from conflicts between countries.

**Keywords:** Israeli-Palestinian, Armed Conflict, Geneva Conventions, United Nations



This work is licensed under a [Creative Commons Attribution-NonCommercial 4.0 International License](https://creativecommons.org/licenses/by-nc/4.0/).

### **INTRODUCTION**

Conflict comes from the Latin word *configere*, which means two people or a group of people attacking each other, even taking each other's lives.<sup>1</sup> Etymologically, the word *configere* is taken from the words "con" and "figere". "con" means together and "figere" means to hit. According to Soerjono Soekanto, conflict is a social process in which individuals or groups of people try to fulfill their needs by fighting enemies involving violence or intimidation.<sup>2</sup> However, according to the KBBI, the meaning of the word conflict is dispute, disagreement and disagreement.<sup>3</sup> From this understanding, what comes to our mind is that conflict is something that is not only carried out between individuals but also in groups. The absorbed meaning of the word conflict can mean a connection with conflict and warfare such as war. War itself is the highest form of human conflict that involves the use of weapons. Armed wars themselves have occurred since the first world war, in which armed wars also occurred in various countries that were colonizing or in a state of war. Armed conflict itself has been divided into two categories, namely international and non-international. International armed conflict is defined as a conflict between two or more countries or between one country and another party that does not yet have state status. In this journal the author focuses more on discussing specifically the rules

<sup>1</sup> I Nyoman Sudira, *Resolusi Konflik dalam Perubahan Dunia*. Jurnal Politik Internasional. Vol. 19 No. 2 Tahun 2017.

<sup>2</sup> Aris, *Pengertian Konflik: Jenis-jenis, Faktor Penyebab, dan Contohnya*, (<https://www.gamedia.com/literasi/pengertian-konflik/#Apa Itu Konflik>, Diakses pada tanggal 17 April 2024)

<sup>3</sup> KBBI, "Konflik", KBBI.web.id.

regarding international armed conflict. In order to improve the prosperity of the war in the colonial era, many countries made agreements that have now developed into law. This law is currently known as international law. Previous history shows that international law itself is difficult to separate from world society. This is because international law is a norm that regulates life universally from Greek to Roman times.

In the world of international law, one of the famous legal products is the Geneva Convention. This convention has been considered the right decision because the results of the convention have been agreed upon and signed by countries that have been recognized by the UN. The essence of the results of the convention contains an agreement that protects the safety of injured military members during the war. Therefore, currently more than 180 countries are using the Geneva Convention as a guideline in strengthening international relations, including resolving conflicts between countries.<sup>4</sup> In essence, the Geneva Convention guarantees the safety of war participants and humane treatment in war which if implemented in armed conflicts that occur when it is signed. The Geneva Conventions have important implications because they provide for general protection of civilians which includes non-discrimination. Everything set out in the Geneva Conventions applies to all parties involved in the conflict. This is related to human rights which are also regulated by the Universal Declaration of Human Rights (UDHR). These rules, which have been translated into 503 languages, contain principles that are very influential in the development of the world of human rights. Apart from that, there is also International Humanitarian Law which is also based on the Geneva Convention which focuses more on humane protection of individuals who are not involved in war. These two documents play an important role in protecting human rights and reducing suffering during conflict.

However, in reality, the results of the Geneva Conventions and international human rights law are still not applicable. This can be seen from the conflict that is currently occurring, namely because there is an alliance of countries that provides full support for the war between Israel and Palestine, causing legal defects. It is also clear in international law regarding human rights that during conflicts and emergency situations, states must comply with human rights norms. In fact, that is what makes several aspects of international law play an important role, including its role in the Israeli-Palestinian conflict. The conflict between Israel and Palestine has occurred since the beginning of the 20th century and continues to this day. The international community became heated in responding to this problem which spread to armed conflict. This armed conflict is slowly also attacking civilians. One of the international laws, namely International Humanitarian Law (IHL), has stated clearly that there are differences that mean that civilians and civilian objects should not be attacked carelessly. In this case, civilians should actually receive protection in armed conflict. Indonesia, as a country that has implemented free and active politics for a long time, has given it importance in the context of international relations. Indonesia's free and active politics has the principle of bringing order to the world. Based on this general description, we as writers are interested in discussing and exploring further facts regarding the Israeli-Palestinian conflict which is currently a hot topic of conversation. Considering the basis of free and active politics that has been implemented, we use a relevant approach to conflict conditions that prioritizes neutrality, diplomacy, humanity and moral influence. So it is hoped that this article will provide benefits for world peace. Formulation of the problem: How does International Law regulate Armed Conflict? What is the form of protection for civilians who become victims in accordance with International Law?

---

<sup>4</sup> Verelladevanka Adryamarthanino, 12 *Negara yang Menandatangani Konvensi Jenewa*, (<https://www.kompas.com/stori/read/2023/08/23/140000579/12-negara-yang-menandatangani-konvensi-jenewa>, Diakses pada 13 Maret 2024)

## **RESEARCH METHODS**

This research is legal research that uses normative research methods. The research carried out involves analyzing library documents or secondary data to find legal rules, doctrine and legal principles. This research also uses a case approach by examining all the problems raised and discussed thoroughly in this article. The type of data collection used is literature study, by citing and studying books, journals and related laws and regulations. The technique used to analyze data uses a deductive method, where general problems are observed and specific conclusions are drawn. This research was carried out with the aim of answering the legal issues faced, bringing benefits and increasing views for readers and activists out there.

## **RESEARCH RESULTS AND DISCUSSION**

### **Definition of Armed Conflict**

Armed conflict is a condition where two or more countries participate in a war or ceasefire. The armed conflict that occurs is something that can have a bad and detrimental impact because it includes actions such as shootings, murders, even bombings. Disputes related to a country's interests, or in this case sovereignty, usually trigger armed conflicts. In this connection, both countries prioritize the interests of their country. The meaning of armed conflict is also interpreted in the Geneva Conventions Commentary, which states that the differences between these countries are armed conflict. In its regulation, humanitarian law has a relational role in every problem. There are also 3 principles that have been regulated in armed conflict, including:<sup>5</sup>

1. The principle of limitation, the principle of limitation determines the rights of the parties who take part in war, in determining the weapons used are limited. This means there are restrictions related to the type of weapon that will be used. It should be emphasized that it was used during the war.
2. The principle of proportionality, the principle of proportionality is a principle which stipulates that parties taking part in an armed conflict or war must have goals that are balanced with the actions taken. This is so that military force is used in proportion to the conflict being carried out.
3. The principle of differentiation, the principle of differentiation is a principle that establishes the demand for separation between combatants (military) and civilians. This means that in this conflict the target must be clear, what is permitted and what is not permitted.

After looking at the definition and principles, it turns out that there are still several countries that are still involved in this armed conflict. One example is Israel-Palestine, not only that, there is also Russia-Ukraine.

### **Protection of Civilians**

Armed conflict has clearly caused very clear losses for a country and its contents. In fact, in principle, Humanitarian Law has clearly stipulated the separation between military and civilians. The principle of differentiation is very important in armed conflict, where clarity regarding this distinction has been provided. The mention of the prohibition on attacks on civilians is one of the things that countries that will be involved in armed conflict should know about. Regarding civilians, the rules have even been written clearly in Humanitarian Law. Providing protection for civilians during war is considered very important. Based on

---

<sup>5</sup> Rifki Fakhudin, *Memahami Aturan Perang dan Konflik Bersenjata dalam Hukum Humaniter. Simak Ulasannya!*, (<https://heyilaw.id/blog/memahami-aturan-perang-dan-konflik-bersenjata-dalam-hukum-humaniter-simak-ulasannya>, Diakses pada 21 April 2024)

International Humanitarian Law (IHL), during an armed conflict the principles governing the protection of civilians apply, including:

1. Communities that may not be attacked, IHL explicitly states, the general public is prohibited from being used as targets in armed conflict or war. A country that continues to attack the general public has clearly committed a war crime.
2. Special Protection, IHL also seeks to provide protection for people or even groups who do not directly participate in armed conflict. Inability to fight is also included in special protection (civilians, children, elderly, medical, etc.).
3. Geneva Convention, IHL is based on the Geneva Convention which clearly states its rules for the protection of civilians during times of war.

### **Regulation of Armed Conflicts based on International Law**

An international armed conflict cannot be separated from the presence of international humanitarian law or more commonly known as "laws of war". The law of war itself is a rule for military forces that must be implemented during an armed conflict or war. This was done to maintain "military behavior" in dealing with opponents and people who did not participate in the war. However, armed conflict is considered to tarnish the image of the country's military and government in international (humanitarian) law.<sup>6</sup> In the era of globalization in the 21st century, the principle of equality before the law is increasingly emphasized. Thus, non-compliance with international humanitarian law by modern countries is considered an act that is legally flawed. People who contributed should be tried by the International Criminal Court (ICC), where the ICC was formed because of the Rome Statute in 1998 as war criminals.<sup>7</sup> Humanitarian law itself absorbs all international regulations, to ensure that everyone who suffers their human rights due to armed conflict or war is protected. These people include weak civilians, unhealthy civil servants, injured and hostages during war.<sup>8</sup> "The laws of war consist of the limits set by international law within which the force required to overpower the enemy may be used, and the principles thereunder governing the treatment of individuals in the course of war and armed conflict", J.G Starke. In essence, armed war anywhere, including the Israeli-Palestinian war, must follow the rules of war that have become an international agreement. Until now, cases of armed war between Israel and Palestine are still being monitored by the international community regarding compliance with the applicable laws of war. Based on the results of the author's research and analysis, there has been a war between Israel and Palestine which has violated the instruments of International Humanitarian Law (IHL), namely:

1. Civilians killed
2. Attacking medical personnel and hospitals
3. Attacking war victims
4. Attacking Cities and Villages

This is listed in Geneva Conventions I, II, III and IV. Apart from that, Israel was also proven to have violated the 1993 Chemical Weapons Convention regarding the prohibition of chemical weapons. According to Human Rights Watch findings, Israel used white phosphorus in Gaza.<sup>9</sup> The use of white phosphorus is prohibited in the 1980 Convention on the Prohibition or Restriction of the Use of Certain Conventional Weapons that May Cause Excessive Injuries or Have Indiscriminate Effects. Therefore, the war currently taking place has reaped many pros

<sup>6</sup> Arlina Permanasari, dkk, Pengantar Hukum Humaniter, International Committee of the Red Cross, (Jakarta: Mianita Print, 1999), hal. 4.

<sup>7</sup> Geoffrey Robertson, Crimes Against Humanity: The Struggle For Global Justice, First Edition, (London: Penguin Book, 2000), hal. 400.

<sup>8</sup> Teguh Sulistia, "Pengaturan Perang dan Konflik Bersenjata dalam Hukum Humaniter Internasional", *Indonesian Journal of International Law*. Vol. 4 No. 3 Tahun 2021. hal. 25.

<sup>9</sup> Human Rights Watch, "Tanya Jawab Soal Penggunaan Fosfor Putih oleh Israel di Gaza dan Lebanon", hrw.org.

and cons from various countries, including Indonesia. If viewed from the perspective of state principles and the principles of International Law of War, of course the war between Israel and Palestine does not follow existing rules and Israel is considered to have committed genocide against Palestine. The United Nations (UN) also has a big role in the Israeli-Palestinian armed conflict. The UN functions here to maintain world peace from conflicts between countries, especially after the Second World War ended. Especially after the existence of the UN Charter, where in the Charter the following 5 principles were established;<sup>10</sup>

1. Principles for resolving international disputes peacefully. In this principle, the UN Charter provides direction to countries regarding the provisions that need to be obeyed by countries, whether they are members of the UN or not, if they play a role in a conflict. This principle is written in Article 2 paragraph 3 in conjunction with Chapters VI and VIII of the Charter, where the parties must carry out settlements through negotiations, questions, mediation, conciliation, arbitration, legal settlement, as well as regional arrangements.
2. The principle of not using threats or violence. This principle is stated in Article 2 paragraph 4 of the Charter which is related to UN practice. This principle has 3 important aspects, namely: first, the meaning of "threat or use of violence"; second, the restrictions referred to in "international relations"; and third, under what conditions violence can be carried out without violating the provisions in Article 2 paragraph 4.
3. Principles regarding responsibility for determining the existence of threats, This principle is written in Articles 39 and 40 of the Charter, which explain the use of sanctions for people who violate obligations, the placement of the security council as a political body, and the authority of the parties concerned.
4. Principles regarding the regulation of weapons. It is stated in Article 26 of the UN Charter which regulates the consideration of UN members regarding weapons systems which are considered to maintain world peace and security.
5. General principles regarding cooperation in the field of maintenance and international cooperation. This principle is regulated in accordance with article 11 paragraph 1 of the charter, concerning functions and powers. In accordance with its authority, the General Assembly can interpret general principles of cooperation that are useful for maintaining international peace and security, as well as principles regarding disarmament and arms regulation.

### **A form of protection for civilians who are victims of armed conflict**

Countries involved in armed conflict from the start need to be aware of their responsibilities towards civilians when war between countries occurs. International law from the beginning has demanded the protection of civilians (through humanitarian aid, medical services, clean water, and other needs). Until the protection of civilians during war has been regulated in the Geneva Convention which is a milestone for resolving armed conflicts, so they should not be affected by war. This is written in the results of the Geneva convention.

1. Geneva Convention I, contains "the rights to improvement and treatment of the condition of members of the armed forces who are wounded and sick on the battlefield"
2. Geneva Convention II, contains "rights related to improving the condition of members of the armed forces who are injured, sick and victims of shipwreck at sea"
3. Geneva Convention III, contains "the rights and treatment of prisoners of war during the conflict"
4. Geneva Convention IV, contains "the rights and protection of civilians during times of war"

---

<sup>10</sup> Sumaryo Suryokusumo, *Organisasi Internasional*, (Jakarta: Universitas Indonesia, 1987), hal. 8.

The Geneva Convention itself has gone through two stages of change in order to save civilians who are injured, sick or become victims during war. The two stages of the Geneva Convention are:

1. The 1949 Geneva Conventions (Geneva Conventions), contain the main agreement and also additional agreements, namely;
  - a. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
  - b. Geneva Convention for the Amelioration of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
  - c. Geneva Convention relative to the Treatment of Prisoners of War;
  - d. Geneva Convention relative to the Protection of Civilian Persons in War.
2. In 1977, additional agreements were made (Additional Protocol 1977), these additions were:
  - a. Additional Protocol to the Geneva Convention of 12 August 1949 and relating to the Protections of Victims of International Armed Conflict (Protocol I);
  - b. Additional Protocol to the Geneva Convention of 12 August 1949 and relating to the Protection of Victims of Non International Armed Conflict (Protocol II).

Since its inception, the Geneva Convention has been a guide (rule of game) for a country engaging in armed conflict. So it can avoid disproportionate use of weapons against civilians and also does not discriminate. The Geneva Conventions, which are included in Humanitarian Law, clearly differentiate the status of civilians in armed conflict, making civilians the party who must be protected. Humanitarian law and the Geneva Conventions have regulated the conduct of war for all soldiers so that they do not use weapons incorrectly. Despite the fact, every armed conflict will still cause major problems for living creatures.

## **CONCLUSIONS**

Armed conflicts and wars between countries are problems that continue to exist today. Several international rules already exist to handle similar cases, where these rules provide guidance and protection. The principle of equality before the law is used to distance every country from legally flawed attitudes. The United Nations Organization also continues to speak out about world peace. The Geneva Conventions regulate the attitudes of countries involved in armed conflict, from guidelines on the use of weapons to prohibitions on attacks on civilians. Seeing that this problem is truly complex and important. In connection with human rights, it is not just about countries and countries but countries and their contents. These violations certainly give rise to more concrete problems.

## **Recommendations**

Keterkaitan dengan konflik senjata hingga perang sejatinya telah diatur bahkan mulai dari panduan (rules). Seluruh negara seharusnya lebih memperhatikan kembali hal tersebut. Seperti Konvensi Jenewa yang telah mengatur larangan penyerangan terhadap warga sipil, seharusnya Israel dapat lebih memperhatikan aturan-aturan tersebut. Pelanggaran yang telah dilakukan juga perlu disikapi agar tidak terjadi hal-hal yang justru lebih buruk.

## **BIBLIOGRAPHY**

- Adryamarthanino, Verelladevanka. "12 Negara yang Menandatangani Konvensi Jenewa", Kompas.com, 23 Agustus 2023.
- Aris, "Pengertian Konflik: Jenis-jenis, Faktor Penyebab, dan Contohnya", Gramedia.com.



- Human Rights Watch, "Tanya Jawab Soal Penggunaan Fosfor Putih oleh Israel di Gaza dan Lebanon", Hrw.org.
- KBBI, "Konflik", KBBI.web.id.
- Permanasari, Arlina, dkk. Pengantar Hukum Humaniter, International Committee of the Red Cross. (Jakarta: Mianiiita Print, 1999).
- Rifki Fakhudin, "Memahami Aturan Perang dan Konflik Bersenjata dalam Hukum Humaniter. Simak Ulasannya!", HeyLaw.id, 21 April 2024.
- Robertson, Geoffrey. Crimes Against Humanity: The Struggle For Global Justice. Edisi pertama. (London: Penguin Book, 2000).
- Sudira, I. Nyoman. "Resolusi Konflik dalam Perubahan Dunia", Jurnal Politik Internasional, Vol. 19 No. 2 Tahun 2017.
- Sulistia, Teguh. "Pengaturan Perang dan Konflik Bersenjata dalam Hukum Humaniter Internasional", Indonesian Journal of International Law. Vol. 4 No. 3 Tahun 2021.
- Suryokusumo, Sumaryo. Organisasi Internasional. (Jakarta: Universitas Indonesia, 1987).
- Turel, Anastasya Y. "Perlindungan Penduduk Sipil dalam Situasi Perang Menurut Konvensi Jenewa Tahun 1949". Jurnal Lex Crimen. Vol. 6 No. 2 Tahun 2017.