



Relevance of humanitarian law principles in modern armed conflicts

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Abstract

Modern armed conflicts have undergone significant changes both in terms of the actors involved and the technologies employed. No longer limited to wars between states, contemporary conflicts often involve non-state armed groups, militias, and transnational organizations operating outside conventional legal frameworks. At the same time, advances in military technology—such as the use of drones, cyber weapons, and autonomous weapon systems—have drastically transformed the landscape of warfare. In this context, the fundamental principles of international humanitarian law, including distinction, proportionality, and precaution, face serious challenges in their application.

This article aims to examine the relevance and effectiveness of humanitarian law principles in addressing modern forms of armed conflict. Using a normative juridical approach and literature analysis, the paper explores how these principles continue to serve as the foundation for protecting civilian victims, despite being frequently neglected or misused in practice. The study also identifies structural and institutional obstacles in the enforcement of humanitarian law and highlights the need for normative adaptation and the strengthening of international mechanisms to ensure accountability of conflict actors. Amid the growing complexity of global conflicts, humanitarian law remains an essential instrument in safeguarding human dignity and limiting the cruelty of war.

Keywords: International humanitarian law, modern armed conflict, principle of distinction, proportionality, non-state actors, military technology, civilian protection, law enforcement, accountability

Introduction

Background

International humanitarian law, also known as the law of armed conflict or the law of war, is a branch of public international law that aims to limit the impact of armed conflict, particularly by protecting those who do not or no longer take part in hostilities, as well as by restricting the means and methods of warfare employed by parties to the conflict ^[1]. The fundamental principles of humanitarian law—such as distinction (between combatants and non-combatants), proportionality (in the use of force), and precaution (in attacks)—have become the cornerstone of civilian protection during armed conflict ^[2]. However, in recent decades, the nature of armed conflict has undergone significant transformation. Conflicts are no longer limited to wars between states but increasingly involve non-state actors such as armed groups, militias, and terrorist organizations ^[3]. Moreover, advances in military technology—such as the use of drones, autonomous weapons, and cyber warfare—have expanded the battlefield into domains not explicitly regulated by conventional humanitarian law instruments. These changes pose serious challenges to the effectiveness and relevance of humanitarian law principles in contemporary practice.

Modern armed conflicts also frequently occur in densely populated urban areas, significantly increasing the risk of civilian casualties. In such situations, the application of the principle of distinction becomes highly complex, as distinguishing between combatants and non-combatants in unconventional battlefields is difficult. Furthermore, the principle of proportionality is often disregarded in attacks that cause widespread damage to civilian infrastructure and healthcare facilities ^[4]. This raises fundamental questions

about the extent to which humanitarian law can adapt to the dynamics of modern conflict and remain effective in safeguarding human dignity.

This research is therefore crucial to re-examine the relevance of humanitarian law principles in addressing the challenges of modern armed conflict. By employing a normative juridical approach and analyzing international legal instruments such as the Geneva Conventions and Additional Protocols, as well as case studies of contemporary conflicts, this thesis seeks to contribute academically to strengthening civilian protection and promoting normative reforms that are adaptive to the developments of the times.

Research Problem

To what extent is humanitarian law capable of providing effective protection for civilian victims in modern armed conflicts?

Methodology

This study employs a normative juridical method, which relies on the examination of applicable legal norms, whether contained in legislation, international conventions, doctrines, or decisions of international institutions.

Literature Review

1. Theories and Fundamental Principles of International Humanitarian Law

International humanitarian law is a branch of public international law that specifically regulates the conduct of parties in armed conflict, with the primary aim of protecting those who do not or no longer participate in hostilities and restricting the means and methods of warfare employed.

This body of law does not seek to prevent war itself, but rather to reduce human suffering during war and to ensure respect for human dignity in extreme situations ^[5].

The fundamental principles of humanitarian law have been codified in various international instruments, particularly the 1949 Geneva Conventions and the 1977 Additional Protocols. Three core principles serve as the normative foundation of humanitarian law.

a. Principle of Distinction

This principle obliges parties to a conflict to always distinguish between combatants and non-combatants, as well as between military objectives and civilian objects. Attacks may only be directed against legitimate military targets, not against civilians or civilian infrastructure.

b. Principle of Proportionality

This principle prohibits attacks that may cause excessive civilian harm compared to the anticipated military advantage. Proportionality serves as both a moral and legal measure in assessing whether a military action can be justified under humanitarian law.

c. Principle of Precaution

This principle requires parties to take all feasible precautions before launching an attack, in order to minimize harm to civilians and civilian objects. This includes the choice of weapons, timing of attacks, and methods of engagement that are safest ^[6].

These three principles complement one another and form the ethical and legal framework for military operations. In the context of modern armed conflicts involving non-state actors, advanced military technology, and unconventional battlefields, their application becomes increasingly complex and demands adaptive interpretation. A deep understanding of these theories and principles is therefore essential in assessing their relevance and effectiveness in the contemporary era.

International humanitarian law principles are not merely conceptual but are explicitly enshrined in binding legal instruments. One of the key instruments is Additional Protocol I of 1977 to the 1949 Geneva Conventions, which clarifies the obligations of parties in international armed conflicts.

Article 48 of Additional Protocol I affirm the principle of distinction, requiring parties to distinguish between civilians and combatants, as well as between civilian objects and military objectives. Attacks may only be directed against legitimate military targets, not against civilians or civilian infrastructure.

[Additional Protocol I to the Geneva Conventions of 1949, Article 48.]

In modern conflicts, often involving non-state actors and urban battlefields, applying this principle is highly complex. Combatants are no longer easily identifiable, and military objectives are often concealed among civilian facilities, increasing the risk of violations.

Article 51(5)(b) of Additional Protocol I regulates the principle of proportionality, prohibiting attacks that may cause excessive civilian harm compared to the expected military advantage ^[7]. In contemporary practice, assessing proportionality is increasingly difficult because the effects of attacks are not always immediately visible, particularly with long-range weapons or cyber operations. Evaluations

of “military advantage” and “civilian harm” must also consider long-term impacts, including damage to vital infrastructure and psychological trauma among civilian populations.

Article 57 of Additional Protocol I emphasize the principle of precaution, requiring all feasible measures to minimize civilian harm before launching an attack ^[8]. In modern military technology, precautions include selecting appropriate weapons, timing attacks carefully, and ensuring accurate intelligence. However, in asymmetric conflicts or covert military operations, this principle is often neglected or cannot be optimally applied.

Beyond humanitarian law instruments, the Rome Statute of the International Criminal Court (1998) provides a legal basis for prosecuting serious violations of the laws of war. Article 8 of the Rome Statute stipulates that intentionally attacking civilians or civilian objects constitutes a war crime prosecutable before the ICC ^[9]. In modern conflicts, violations of distinction and proportionality may be categorized as war crimes. However, challenges arise in proving such violations and establishing jurisdiction, particularly when perpetrators are non-state actors or states that have not ratified the Rome Statute.

Through analysis of these provisions, it can be concluded that humanitarian law principles remain relevant as normative foundations in modern armed conflicts. However, their effectiveness depends heavily on adaptive interpretation, robust enforcement mechanisms, and political commitment by states to uphold international law. This research framework is structured using a normative juridical approach, examining applicable legal norms in international humanitarian law and assessing their relevance to the dynamics of modern armed conflict. The analysis proceeds systematically through several stages

1. **Identification of positive legal norms forming the basis of international humanitarian law:** The main instruments analyzed include the 1949 Geneva Conventions, Additional Protocols I and II of 1977, and the 1998 Rome Statute of the International Criminal Court. These instruments codify fundamental principles such as distinction, proportionality, and precaution, which underpin civilian protection and restrictions on methods of warfare.
2. **Classification of modern armed conflicts:** Contemporary conflicts are no longer limited to wars between states but involve non-state actors such as armed groups, militias, and terrorist organizations. The use of advanced military technologies—such as drones, cyber weapons, and autonomous systems—has transformed the battlefield. It is therefore crucial to determine whether such conflicts fall under the category of international or non-international armed conflicts under humanitarian law ^[10].
3. **Analysis of the application of humanitarian law principles in modern armed conflicts:** This study assesses the extent to which distinction, proportionality, and precaution are effectively applied in contemporary situations, while identifying normative and practical obstacles in their implementation ^[11].

- 4. Evaluation of enforcement mechanisms:** This includes examining the role of international institutions such as the International Committee of the Red Cross (ICRC), the International Criminal Court (ICC), and the UN Security Council in upholding humanitarian law principles. The analysis also considers the contribution of national law in harmonization and enforcement, including the role of human rights courts and relevant domestic legal frameworks ^[12].
- 5. Formulation of normative implications and policy recommendations:** Based on the analysis, recommendations are proposed to strengthen international humanitarian law so that it becomes more adaptive to technological developments and changing conflict dynamics. These include reforming legal instruments, enhancing the capacity of enforcement institutions, and strengthening international cooperation in civilian protection ^[13].

Development of Modern Armed Conflicts

The development of modern armed conflicts is characterized by the involvement of non-state actors, the use of advanced military technologies, and hybrid strategies that blur the boundaries between war and civilian security. This transformation poses serious challenges to the application of international humanitarian law.

Modern armed conflicts have evolved significantly compared to conventional wars of the past. Whereas during the World Wars conflicts were largely symmetrical and involved states as the primary actors, contemporary conflicts are more often asymmetrical, involving non-state armed groups, local militias, transnational organizations, and even cyber actors who lack clear legal status under international humanitarian law ^[14].

One of the defining features of modern conflicts is the use of advanced military technologies such as armed drones, autonomous weapon systems, and cyber attacks. These technologies enable strikes to be carried out remotely without the physical presence of troops on the battlefield, thereby altering the way combatants and military objectives are identified. In this context, the principles of distinction and precaution under humanitarian law become difficult to apply effectively.

Furthermore, modern conflicts often occur in densely populated urban areas, where the line between military targets and civilian objects is blurred. Attacks on civilian infrastructure such as hospitals, schools, and water facilities frequently occur, either directly or as incidental damage. This raises serious questions about the application of the principle of proportionality and the accountability of perpetrators of violations.

Hybrid warfare strategies have also emerged as a new phenomenon in modern conflicts. These strategies combine conventional military operations with information warfare, cyber operations, economic pressure, and diplomacy. In many cases, both state and non-state actors employ digital propaganda, social media manipulation, and cyber attacks to weaken adversaries without direct engagement on the battlefield. Such strategies expand the definition of conflict and challenge the traditional boundaries of humanitarian law ^[15].

This transformation demands a reformulation of international humanitarian law approaches to make them

more adaptive to contemporary realities. Existing legal instruments, such as the Geneva Conventions and Additional Protocols, need to be revisited to accommodate new forms of armed violence and to strengthen civilian protection. In addition, stronger enforcement mechanisms and enhanced international cooperation are required to ensure accountability for violations of humanitarian law.

The changing character of modern armed conflicts has significant implications for the structure and application of international humanitarian law. Conflicts involving non-state actors, advanced military technologies, and unconventional battlefields present new challenges in upholding humanitarian principles. The legal implications can be observed in several aspects.

- 1. Tension between existing legal norms and operational realities:** Instruments such as the Geneva Conventions and Additional Protocols were designed for interstate conflicts with clear military structures. In modern conflicts, non-state actors such as armed groups or terrorist organizations do not adhere to formal military hierarchies and often disregard humanitarian law, creating gaps in civilian protection.
- 2. Use of advanced military technologies:** Armed drones, autonomous weapons, and cyber attacks raise new legal questions regarding the identification of military targets, legal responsibility, and proportionality of attacks. Remote strikes without the physical presence of troops make the principles of distinction and precaution difficult to apply accurately.
- 3. Limitations of enforcement mechanisms:** The International Criminal Court (ICC) has jurisdiction over war crimes but only for states that have ratified the Rome Statute. In conflicts involving non-party states or non-state actors, enforcement becomes weak and dependent on international cooperation, which is often politicized ^[16].
- 4. Need for reformulation and harmonization of national law:** States must strengthen domestic legislation governing humanitarian law violations, expand definitions of war crimes, and reinforce the role of national human rights courts.
- 5. Normative relevance of humanitarian law:** International humanitarian law remains relevant but requires more contextual and responsive interpretation to contemporary challenges. Core principles such as distinction, proportionality, and precaution must be re-examined within the framework of modern technology and hybrid warfare strategies to ensure the protection of human dignity amid the complexity of contemporary conflicts.

The armed conflict between Israel and Palestinian armed groups in Gaza in 2023 serves as a concrete example of the complexity of applying international humanitarian law in modern conflicts. This conflict was marked by intensive military force in densely populated urban areas, the involvement of non-state actors, and the use of advanced military technologies such as drones and automated air defense systems. In this conflict, the principle of distinction

was frequently violated, particularly when airstrikes targeted civilian-populated areas on the grounds that military objectives were hidden within them. Attacks on civilian facilities such as hospitals, schools, and places of worship raised serious concerns regarding the application of proportionality and precaution. Reports from various international organizations indicated that many strikes causing civilian casualties were disproportionate to the military advantage gained, potentially amounting to violations of international humanitarian law^[17].

Moreover, the involvement of non-state armed groups that do not adhere to formal military structures complicates the legal classification of combatants and non-combatants. This affects civilian protection and creates difficulties in enforcing accountability.

Policy Recommendations

Based on case studies and analysis of humanitarian law principles, the following policy recommendations can be proposed

1. Reformulation of International Humanitarian Law Instruments

Existing instruments such as the Geneva Conventions and Additional Protocols should be updated to address modern forms of conflict, including cyber warfare, autonomous weapons, and the involvement of non-state actors.

2. Strengthening International Enforcement Mechanisms

The ICC should expand its jurisdiction and enhance cooperation with non-party states to ensure effective prosecution of humanitarian law violations.

3. Harmonization of National Law with International Humanitarian Law

States, including Indonesia, must strengthen domestic legislation on humanitarian law violations and establish independent and transparent mechanisms for investigation and adjudication.

4. Capacity Building and Humanitarian Law Education

Intensive training is needed for military personnel, law enforcement officials, and humanitarian actors on humanitarian law principles to ensure more consistent and accountable application.

5. Strengthening the Role of International and Regional Institutions

Institutions such as the ICRC, ASEAN, and the UN should play a more active role in monitoring, advocacy, and mediation of armed conflicts, while encouraging states to comply with humanitarian law standards^[18].

Discussion

a. Normative Effectiveness of Humanitarian Law in Protecting Civilian Victims

International humanitarian law (IHL), also known as the law of armed conflict, is a branch of international law that aims to limit the impact of armed conflict on those who do not or no longer participate in hostilities. Civilian protection is one of the central pillars of humanitarian law, as emphasized in

the 1949 Geneva Conventions and the 1977 Additional Protocols. Normatively, these legal instruments establish fundamental principles binding on all parties to conflict, both states and non-state actors^[19]. The principle of distinction obliges parties to a conflict to differentiate between combatants and civilians. Attacks may only be directed against military objectives, while civilians and civilian objects must be protected from direct attack^[20].

This principle is reinforced by proportionality, which prohibits attacks if the civilian harm caused would be excessive in relation to the anticipated military advantage^[21]. In addition, the principle of precaution requires parties to take preventive measures to minimize civilian harm, including the choice of weapons and tactics that do not cause unnecessary suffering^[22].

Normatively, humanitarian law also provides special protection for vulnerable groups such as children, women, and medical personnel. Article 51 of Additional Protocol I prohibit attacks against civilians in general, while Article 77 provides special protection for children in armed conflict^[23]. Similarly, medical personnel and health facilities are explicitly protected under Geneva Conventions I and IV, which stipulate that attacks on hospitals or ambulances constitute serious violations of humanitarian law. The normative effectiveness of humanitarian law is also reflected in international enforcement mechanisms. Serious violations of humanitarian law are categorized as grave breaches or war crimes, which may be prosecuted before the International Criminal Court (ICC) under the 1998 Rome Statute^[24]. Thus, normatively, humanitarian law not only establishes standards of protection but also provides accountability mechanisms for violators.

However, despite the comprehensive normative framework, its effectiveness in protecting civilians depends heavily on compliance by parties to the conflict. In modern armed conflicts—often involving non-state actors, advanced military technologies, and asymmetric warfare in urban areas—the challenges of implementation are increasingly complex. Although the legal norms are clear, violations of these principles remain frequent, raising questions about the extent to which normative effectiveness can truly guarantee civilian protection^[25].

In conclusion, humanitarian law has normatively provided a strong and comprehensive legal framework for civilian protection. Fundamental principles, special protections, and international accountability mechanisms demonstrate that, in theory, humanitarian law can provide effective protection. Yet, this normative effectiveness is often reduced by political, military, and enforcement limitations in practice, leaving civilian protection facing significant challenges.

b. Challenges in Implementing Humanitarian Law in Modern Armed Conflicts

Although international humanitarian law provides a comprehensive normative framework for civilian protection, its implementation in modern armed conflicts faces highly complex challenges. Contemporary conflicts are no longer limited to wars between states but increasingly involve non-state actors, armed groups, and transnational organizations. This situation complicates compliance with humanitarian principles, as many parties lack the capacity or willingness to adhere to international norms^[26]. One major challenge is the asymmetric nature of conflicts, where weaker parties often employ guerrilla tactics, urban warfare, or even use

civilians as human shields. Such practices directly violate the principle of distinction and increase civilian risks. Conversely, stronger parties often employ advanced military technologies such as drones, precision weapons, and cyber systems, which, although designed to minimize civilian harm, still raise issues of proportionality and accountability when targeting errors occur.

Another challenge is urban warfare, which complicates the application of humanitarian law. Fighting in densely populated areas blurs the line between combatants and civilians. Attacks on civilian infrastructure such as hospitals, schools, and power grids occur frequently, whether intentionally or as collateral damage. This creates legal dilemmas regarding whether such attacks can be justified militarily or constitute violations of humanitarian law^[27]. Further challenges arise from the limitations of international enforcement mechanisms. Although the 1998 Rome Statute grants the ICC jurisdiction over war crimes, many major states have not ratified the Statute, allowing perpetrators of humanitarian law violations to escape accountability. The UN Security Council, which has the authority to refer cases to the ICC, is often hindered by political interests and the veto power of permanent members.

Beyond political obstacles, practical challenges in the field are also significant. Access to civilian victims is often blocked by military sieges, lack of humanitarian corridors, and threats to aid workers. Humanitarian organizations such as the ICRC frequently face difficulties in carrying out their mandates due to security constraints and lack of cooperation from conflicting parties^[28]. Thus, the challenges of implementing humanitarian law in modern armed conflicts can be summarized into three main dimensions

1. **Structural dimension:** the involvement of non-state actors and asymmetric conflict.
2. **Technological dimension:** the use of advanced weapons raising proportionality dilemmas.
3. **Political and practical dimension:** limitations of enforcement mechanisms and humanitarian access barriers.

These challenges demonstrate that, although humanitarian law provides clear protective norms, its effectiveness depends heavily on political commitment, institutional capacity, and the willingness of parties to respect the law. Without synergy between legal norms, enforcement mechanisms, and international political support, civilian protection will continue to face a significant gap between theory and practice.

Conclusion

Normatively, international humanitarian law has provided a comprehensive legal framework for protecting civilians in armed conflict. Fundamental principles such as distinction, proportionality, and precaution, enshrined in the 1949 Geneva Conventions and the 1977 Additional Protocols, offer a strong foundation for civilian protection. Special protections for vulnerable groups, medical personnel, and accountability mechanisms through the International Criminal Court (ICC) demonstrate that, in theory, humanitarian law can ensure effective protection.

However, this normative effectiveness is often reduced in practice. Modern armed conflicts—marked by the involvement of non-state actors, advanced military technologies, and asymmetric warfare in urban areas—pose

major challenges to the application of humanitarian law. Political obstacles, limitations of enforcement mechanisms, and difficulties in humanitarian access further widen the gap between legal norms and realities on the ground.

Therefore, it can be concluded that while humanitarian law is normatively adequate, its implementation still faces serious obstacles. Effective civilian protection can only be achieved through strong political commitment, compliance by all parties to the conflict, and international support to strengthen enforcement mechanisms and humanitarian access.

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