


Violations Committed by Israel in Armed Conflicts Under International Humanitarian Law

Wilshen Leatemia

Faculty of Law, Universitas Pattimura, Ambon, Indonesia.

 : wilshen7@gmail.com

Corresponding Author*



Abstract

Introduction: War has various aims and objectives, including under the pretext of self-defense to defend life, family, honor or to defend one's nation, to ideological issues. The wars that occur also often violate international humanitarian law. One of them is between Israel and Hamas.

Purposes of the Research: To find out violations of international humanitarian law committed by Israel

Methods of the Research: This research uses a normative juridical research method. Normative Juridical Research is research on Norms, Principles, Rules and Principles based on statutory regulations related to the problem being studied. The approaches used are the statutory approach, the conceptual approach, and case approach.

Results of the Research: The results of the research show that according to international humanitarian law, violations committed by Israel in armed conflict involve actions that violate the principles of protection of civilians and civilian infrastructure. Humanitarian law, as set out in the Geneva Conventions, prohibits attacks on non-combatants and requires protection of vital facilities such as hospitals and schools, as well as access to humanitarian aid.

Keywords: International Humanitarian Law; Violations; Armed Conflicts.

Submitted: 2024-08-01

Revised: 2024-10-10

Accepted: 2024-10-15

Published: 2024-10-31

How To Cite: Wilshen Leatemia. "Violations Committed by Israel in Armed Conflicts Under International Humanitarian Law." *BALOBE Law Journal* 4 no. 2 (2024): 82-88. <https://doi.org/10.47268/balobe.v4i2.2358>

Copyright © 2024 Author(s)



Creative Commons Attribution-NonCommercial 4.0 International License

INTRODUCTION

International humanitarian law is the rules governing that the parties participate and in conflicts it is not permitted to use it weapons and methods that violate provisions international humanitarian law during war.¹ Basically, the attitude of avoiding war has been widely practiced by many countries, but in reality there are still many countries involved in war both on an international and internal scale. In a war, of course, many people die as a result of conventional weapons such as rifles, grenades, missiles, and so on. These frequent armed conflicts certainly violate human rights because violence and human suffering occur which are contrary to human values.²

War causes fatal consequences that every human being does not want. Here it can be understood that there is no war that does not leave casualties or material losses. Therefore, the law of war aims to:³ 1) Protect physically and mentally, both combatants and non-combatants from unnecessary suffering; 2) Guarantee certain human rights of people who

¹ Zagoto, N. A., Wahyudi, D., Amelia, M. G., Manurung, E., & Indonesia, U. K. Hukum Humaniter Perang Terkait Agresi Israel Ke Palestina. *ADVANCES in Social Humanities Research*. Vol 1 No 7. 2024. p 922-933.

² Ambarwati dkk. Ambarwati, Denny Ramadhany, Rina Rusman. *Hukum Humaniter Internasional*. Raja Grafindo Persada. Jakarta. 2009 p 22

³ GPH Haryoniartaram. *Sekelumit Tentang Hukum Humaniter*. Sebelas Maret University Press, Surakarta. 1994. p 7

have fallen into enemy hands; 3) Allows the return of painting; 4) Limiting the power of the warring parties.

Regarding violations of international humanitarian law that occurred during the war, the prolonged dispute between Israel and Palestine has caused enormous controversy. Protection of non-combatants, including civilians and humanitarian aid facilities, is regulated by international humanitarian law. Nevertheless, a number of events that occurred during the Israeli-Palestinian conflict conflicted with basic legal rules. Problems related to violations of international humanitarian law in the Israeli-Palestinian conflict include the use of excessive military force against civilians, bombing or attacks on civilian infrastructure, and sieges that result in disproportionate human suffering.⁴

The provisions of Article 18 of Geneva Convention IV provide protection for those who are sick and hospitalized. Hospitals as civil objects should not be used as targets for parties in conflict. Article 18 of the 1949 Geneva Convention IV reads: "Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict. States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19. Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, but only if so authorized by the State. The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action. In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives".

However, in reality violations of the provisions of international humanitarian law when armed conflict occurs still occur. This can be seen from one of the latest cases of armed conflict that occurred between Israel and Hamaz. Israel again attacks hospitals in Gaza, Palestine. This time, the largest hospital in Gaza, Al Nasser, was attacked by Israeli troops. The troops attacked after the hospital complex after briefly withdrawing their troops. The World Health Organization (WHO) reported that Al-Nasser Hospital in Khan Younis stopped functioning last week after a week-long Israeli siege followed by an invasion. Al-Nasser Hospital is the second largest hospital in the Gaza Strip. This hospital is important for health services that were paralyzed in the region due to the war. This hospital is the latest health facility to become an arena for the war between Israel and Hamas, which is now entering its fifth month. The war, which was triggered by Hamas' attack on Israel on October 7 2023, has triggered massive destruction in the Gaza Strip. The Israeli military continues to launch attacks via air, land and sea against the Palestinian enclave, resulting in many casualties. According to the latest report by the health authorities in Gaza, which is controlled by Hamas, at least 29,410 people have died as a result of a series of Israeli attacks. Most of the victims killed were women and children. Around 69,465 other people were

⁴ Muslimma, Liska, Maya Widyastuti, and Lenny Husna. "Pelanggaran Dalam Hukum Humaniter Internasional Pada Perang Israel Terhadap Palestina." *Prosiding Seminar Nasional Ilmu Sosial dan Teknologi (SNISTEK)*. Vol. 6. 2024. p 201

injured as a result of Israeli military attacks. The war forced most of the Gaza Strip's 2.3 million residents to flee their homes and reduced much of the territory to rubble.⁵

METHODS OF THE RESEARCH

This research is included in the type of normative juridical research. Normative Juridical Research is research on Norms, Principles, Rules and Principles based on statutory regulations related to the problem being studied.⁶ The approaches used are the statutory approach, the conceptual approach, and case approach. The legal materials obtained through this research are then identified and collected based on the problems formulated and classified according to the source and level structure in a complete and comprehensive manner for analysis and discussion. The legal material collection stage is carried out through literature study which includes inventory, namely the collection of legal materials according to the research object.

RESULTS AND DISCUSSION

A. Protection Of The Civilian Population In Armed Conflict

International humanitarian law requires parties to a conflict to distinguish between civilians and combatants. The term civilian includes all people with civilian status, including humanitarian volunteers. Therefore, the term civilian population includes civilians who live in areas where armed conflict is occurring, or civilians who live in occupied areas. Based on this, what is meant by civilian is anyone who is not involved or taking part in war. If there is any doubt as to whether a person is a civilian or a combatant, he or she must be considered a civilian. This protection of civilians also includes people who work as helpers or volunteers, journalists and civil defense personnel.⁷ Every armed conflict inevitably results in casualties from various parties. War victims not only come from the military (combatants) but also civilians, including children, women and people who are not involved as combatants. The civilian population is the party that should not take part in the fighting because they are unarmed and not involved in the conflict. It is precisely the civilian population that needs to be protected and receive special protection.⁸

Civilians are the most vulnerable group and are often the main victims in armed conflict situations. These are individuals who are not involved in conflict, do not wield weapons, and do not have an active role in combat. In the context of armed conflict, civilians often face various risks and negative impacts from the conflict. The protection of civilians is an important aspect of international humanitarian law. Principles such as the protection of innocent civilians, the principle of proportionality, and the principle of distinction are designed to protect them from the disproportionate and uncontrollable impacts of armed conflict. These principles are one of the basic principles in international humanitarian law, intended to provide assistance without discrimination to people injured on the battlefield, working with international and national capacities to reduce human suffering wherever these principles are found.⁹

Protection of civilians in situations of armed conflict is essential to guarantee human rights and maintain human dignity in the midst of violence. In conflicts, civilians are often

⁵ <https://news.detik.com/internasional/d-7209087/lagi-lagi-israel-serang-rs-terbesar-di-gaza>, accessed 1 August 2024

⁶ Roni Hanitjo Soemitro, *Metodologi Penelitian Hukum dan Yurimetri*, PT. Ghalia Indonesia, Jakarta, 1980. p 12

⁷ Lona Puspita. *Perlindungan Hukum Terhadap Relawan Kemanusiaan Berdasarkan Hukum Humaniter Internasional*. *Jurnal Normative* Vol 5 No 1 2017. p 10

⁸ Levina Yustitiantingtyas. *Perekrutan Anak Sebagai Tentara Dalam Konflik Bersenjata Internasional*. *Universitas Muhammadiyah Surabaya*. 2010. p 140

⁹ Tani, Queency Chelses Femmy. "Kajian Hukum Humaniter Dan Ham Mengenai Pelanggaran Terhadap Prinsip-Prinsip Kemanusiaan Tawanan Perang." *Lex Et Societatis* Vol 7.No 3. 2019. p 28

the main victims, even though they are not directly involved in the fighting. The rules of international humanitarian law, as set out in the Geneva Conventions, strictly prohibit attacks targeting civilians or civilian infrastructure such as hospitals, schools and residences. This protection aims to minimize suffering and loss of life among non-combatants, as well as ensuring that the impact of conflict does not damage future generations. Without adequate protection, civilians will be more vulnerable to violence, rights violations, and prolonged humanitarian crises, which can result in profound physical, psychological, and social trauma. This protection is also important to encourage fairer and more humane conflict resolution.

The regulation of the civilian population in war situations is regulated in Geneva Convention IV concerning the Protection of the Civilian Population in Time of War. This Convention applies to all cases of declared war or any other armed conflict which may arise between two or more of the major contracting parties, even if the state of war is not recognized by any of the parties between them.¹⁰

B. Violations Of International Humanitarian Law Committed By Israel

War is a conflict that is something that everyone is very afraid of because of the impact it causes. War is as old as human history, where in the past, war was a massive killing between the warring parties. War is also a form of human instinct to defend themselves, both in interactions between fellow humans and in interactions between nations or countries.¹¹ In conditions of war, violations of international humanitarian law often occur, especially due to the intensity of the conflict, chaos on the battlefield, and sometimes because of deliberate neglect by the conflicting parties. Humanitarian law, as set out in the Geneva Conventions and their Additional Protocols, establishes rules aimed at protecting those not directly involved in warfare, such as civilians, medical workers, and civilian infrastructure. However, in practice, violations such as attacks on civilians, use of prohibited weapons, hostage-taking, and destruction of vital facilities such as hospitals and schools often occur. Factors such as non-compliance with international rules, the difficulty of monitoring violations, and the lack of accountability for perpetrators of war crimes exacerbate this situation.

Israeli attacks on Palestinians, especially those targeting critical infrastructure such as hospitals, have a significant impact on the civilian population. Hospitals, which are supposed to be places of refuge and healing, are often the targets of airstrikes or bombings, adding to the burden of suffering on civilian communities. These violations violate international humanitarian law, in particular the Geneva Conventions, which stipulate that medical facilities and health workers must be protected in armed conflict. The impact of this attack not only claimed lives and injured civilians, but also caused a severe humanitarian crisis. Access to health services is limited, it is difficult for injured victims to receive proper medical assistance, and more and more residents are suffering from illness or psychological trauma due to ongoing terror. Additionally, attacks on hospitals damage long-term health infrastructure, resulting in a prolonged shortage of medical facilities and health workers, thereby worsening living conditions in Palestine.

In armed conflict, hospitals that are entitled to special protection under international humanitarian law can lose their protected status if they are used for military purposes.

¹⁰ Syahmin AK. SH, P *Hukum Internasional Humaniter Bagian Umum*, Armico, Bandung, 1985. p 65

¹¹ Evi Deliana HZ "Penegakkan Hukum Humaniter Internasional Dalam Hal Terjadinya Kejahatan Perang Berdasarkan Konvensi Jenewa 1949" Vol.3 ,No.1, Februari 2011. p 255

According to the Geneva Conventions, hospitals and medical facilities must maintain neutrality and must not be targets of attack. However, if the hospital is used to house armed forces, store weapons, or serve as a base for military operations, then the facility is deemed to deviate from its humanitarian function and may lose its protection. However, attacks on hospitals can only be carried out as a last resort and after adequate warning to the authorities, and only if such action is absolutely necessary within the framework of military operations. This can be seen in article 19 of the Geneva Convention IV which reads: *“The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded. The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy”*.

Israel also violates the principle of distinction in international humanitarian law where according to this principle civilians should be distinguished from combatants. The principle of distinction is a principle in humanitarian law that differentiates or divides the population of a country that is at war or is involved in an armed conflict into two large groups, namely combatants and civilians.¹² And civilians must not be the object of attack. This is also stated in additional Protocol I 1977 which reads: *“in order to ensure respect for and protection of the conflict shall at anytimes distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operation against military objectives”*.

Apart from that, Israel has destroyed civilian objects, including civilian houses, hospitals, schools, UN buildings, electricity and water installations, and even places of worship.¹³ Some of the violations committed by Israeli soldiers during the armed hostilities and classified according to the principles of international humanitarian law that have been violated are as follows:¹⁴ 1) The principle of military necessity. Article 57 of Additional Protocol I to the Geneva Conventions states that objects that can be attacked in an armed conflict are military objects and combatants. Targeted attacks on civilian casualties and private assets, including infrastructure and other critical assets, need to be avoided. But in reality, Israel also attacks civilian objects such as schools, hospitals, houses and electricity cables. The cessation of Palestinian electricity and damage to hospitals threatens the survival of Palestinian civilians, especially children and those injured in the attacks; 2) Humanitarian principles. Several incidents carried out by the Israeli army violated the provisions of humanitarian principles, including blocking humanitarian aid sent by various international organizations that wanted to convey sympathy to Palestinians in Gaza who were suffering from the ongoing conflict; 3) The principle of proportionality This principle means a balance between what is received and what is given in armed conflict. Here, in the case of the conflict between Palestine and Israel, there is a gap or imbalance in Israel's counteroffensive in the Gaza Strip in response to Hamas rocket attacks on Israeli territory. For days, Israeli troops bombed private areas that Hamas used as hideouts by dropping aerial bombs. Of course,

¹² KGPH Haryomataram. *Pengantar Hukum Humaniter*. Raja Grafindo Persada, Jakarta. 2005. p 73

¹³ Yuliantiningsih, Aryuni. *Agresi Israel Terhadap Palestina Perspektif Hukum Humaniter Internasional.* *Jurnal Dinamika Hukum* Vol 9. No 2. 2009. p 115

¹⁴ Ardiata, Zelda Farah, et al. *"Pandangan Hukum Humaniter Internasional Terhadap Konflik Perseteruan Bersenjata Israel-Palestina."* *Ganesha Law Review* Vol 4 No 2. 2022. p 29

the impact and casualties caused are different from the results of Hamas rocket attacks in Israeli territory.

Violations committed by Israel in the armed conflict, especially against Palestine, include a range of actions that violate international humanitarian law. Attacks on civilian infrastructure, such as hospitals, schools and residential areas, as well as the disproportionate use of military force, demonstrate a disregard for the protection of civilians set out in the Geneva Conventions. Although Israel argues that some attacks are aimed at addressing military threats from armed groups, they often result in casualties among non-combatants, including women and children. In addition, blockades and restrictions on access to humanitarian aid also exacerbate the suffering of civilians in conflict areas. These violations not only undermined regional stability but also exacerbated the humanitarian crisis, resulting in long-term trauma for the Palestinian population and sparking international condemnation of Israel's military practices.

CONCLUSION

According to international humanitarian law, violations committed by Israel in armed conflict involve actions that violate the principles of protection of civilians and civilian infrastructure. Humanitarian law, as set out in the Geneva Conventions, prohibits attacks on non-combatants and requires protection of vital facilities such as hospitals and schools, as well as access to humanitarian aid. However, in many cases, Israeli military operations in the Palestinian territories, including attacks on densely populated areas, excessive use of force, and humanitarian blockades, often result in significant civilian casualties and destroy civilian infrastructure. These actions are often considered a violation of the principles of proportionality and the distinction between military and civilian targets. Although Israel claims that such measures are necessary to fight armed groups, in international humanitarian law there remain strict limits on the use of force that places civilians in danger. These violations have not only caused great suffering to the civilian population, but also exacerbated the humanitarian crisis in the region.

REFERENCES

Journal Article

- Ardiata, Zeldi Farah, et al. "Pandangan Hukum Humaniter Internasional Terhadap Konflik Perseteruan Bersenjata Israel-Palestina." *Ganesha Law Review* Vol 4 No 2. 2022.
- Evi Deliana HZ "Penegakkan Hukum Humaniter Internasional Dalam Hal Terjadinya Kejahatan Perang Berdasarkan Konvensi Jenewa 1949" Vol.3 ,No.1, Februari 2011.
- Lona Puspita. Perlindungan Hukum Terhadap Relawan Kemanusiaan Berdasarkan Hukum Humaniter Internasional. *Jurnal Normative* Vol 5 No 1 2017.
- Muslimma, Liska, Maya Widyastuti, and Lenny Husna. "Pelanggaran Dalam Hukum Humaniter Internasional Pada Perang Israel Terhadap Palestina." *Prosiding Seminar Nasional Ilmu Sosial dan Teknologi (SNISTEK)*. Vol. 6. 2024.
- Tani, Queency Chelses Femmy. "Kajian Hukum Humaniter Dan Ham Mengenai Pelanggaran Terhadap Prinsip-Prinsip Kemanusiaan Tawanan Perang." *Lex Et Societatis* Vol 7.No 3. 2019.

Yuliantiningsih, Aryuni. Agresi Israel Terhadap Palestina Perspektif Hukum Humaniter Internasional." *Jurnal Dinamika Hukum* Vol 9. No 2. 2009.

Zagoto, N. A., Wahyudi, D., Amelia, M. G., Manurung, E., & Indonesia, U. K. Hukum Humaniter Perang Terkait Agresi Israel Ke Palestina. *ADVANCES in Social Humanities Research*. Vol 1 No 7. 2024. p 922-933.

Book

Ambarwati dkk. Ambarwati, Denny Ramadhany, Rina Rusman. *Hukum Humaniter Internasional*. Raja Grafindo Persada. Jakarta. 2009.

GPH Haryoniataram. *Sekelumit Tentang Hukum Humaniter*. Sebelas Maret University Press, Surakarta. 1994.

KGPH Haryomataram. *Pengantar Hukum Humaniter*. Raja Grafindo Persada, Jakarta. 2005.

Roni Hanitjo Soemitro, *Metodologi Penelitian Hukum dan Yurimetri*, Ghalia Indonesia, Jakarta, 1980.

Syahmin AK. SH, P *Hukum Internasional Humaniter Bagian Umum*, Armico, Bandung, 1985.

Thesis, Online/World Wide Web and Others

<https://news.detik.com/internasional/d-7209087/lagi-lagi-israel-serang-rs-terbesar-di-gaza>

Levina Yustitiantingtyas. Perekrutan Anak Sebagai Tentara Dalam Konflik Bersenjata Internasional. *Universitas Muhammadiyah Surabaya*. 2010.

Conflict of Interest Statement: The author(s) declares that research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

Copyright: © AUTHOR. This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License. (CC-BY NC), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

BALOBEL Law Journal is an open access and peer-reviewed journal published by Faculty of Law, Universitas Pattimura, Ambon, Indonesia.

