

**Prohibition on the Use of Human Shields Under International Humanitarian Law:
Exploratory Study**

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ABSTRACT

In armed conflicts, the deployment of human shields has frequently been a key subject matter in international law and history. There have been several occurrences throughout the history of warfare in which non-combatants have been ruthlessly killed with the intent to be used as human shields. "The term 'human shields' is described as the method of warfare that is used to shield military objectives from attack, or to shield, favor or hold back military operations." This research aimed to investigate the legitimacy of human shields under International Humanitarian Law (IHL). Furthermore, it has examined the ethical and legal use of human shields during hostilities by exploring the principles and laws that regulate their conduct. Firstly, this paper begins by defining human shields and contrasting the differences between forced and voluntary human shields in purpose and consent and compares the evolving characteristics of contemporary armed conflicts and the possibility that non-combatants might unintentionally or voluntarily engage in hostilities. Secondly, this paper has focused on presenting an extensive conception of the complex moral issues surrounding the use of human shields by analyzing the significant elements of IHL, mainly outlined in the Additional Protocols of the Geneva Conventions. Moreover, the principles of distinction, proportionality, and necessity in the employment of human shields are analyzed. The research methodology for the paper is doctrinal. The researcher has used both the primary and secondary sources of humanitarian law, international conventions, treaties, statutes, scholarly articles, and online sources on the subject of IHL to gather data.

Keywords: Human Shield, IHL, Geneva Conventions, Additional Protocols, Non-combatants.

THEME OF RESEARCH

This study is based on the conduct and use of civilians as Human shields and their regulation within International laws. The research sources used will differ based on the headings discussed. The initial part will start by introducing the title of the paper and will be focused on explaining the historical background of the main idea. Secondly, this paper will define the idea and key concept of Human shields and will contrast and explain voluntary and involuntary shields used in modern wars. The third section will consist of International conventions, Treaty Law, and Customary Law. This will include Geneva Conventions, Additional Protocols, Rome statutes, ICRC resources in addition to military manuals emphasizing the prohibition of its use. The fourth and final part will be the conclusion on the findings of the research.

INTRODUCTION

A historical and philosophical analysis of the political and legal origins of the ideas that give violence its justification is an essential component of the analysis of violence (Benjamin, 1978). The term civilian is one of the major concepts in international humanitarian law that defines the validity and unlawfulness of violence (Kinsella, 2017). Protecting civilian life is legally carried out through establishing the differentiating between combatants and noncombatants (Hannikainen, 1988). Various humanitarian conventions outline how civilians should be safeguarded during occasions of war (Bouvier, Quintin, & Sassòli, 2011). During colonial rule, only citizens of the colonizing nations were granted civilian status.

Native fighters or non-combatants did not enjoy protection under IHL. As a result, when colonial governments murdered the native citizens, they did it without breaching international law since the colonial populace was viewed outside the scope of its potential applications (Anghie, 2007). However, around the decolonization process, the terms of combatant and civilian also expanded to the ex-colonized, who were afterward considered as protected persons under international law (Eck & Hultman, 2007). The contemporary broadening of the civilian hood has brought about new moral challenges for international law regulating combat. A new discrepancy has evolved between the desire of liberal nations to set out their law of conflict and violence within international law, on the one hand, and the other hand, the widespread destruction of civilians in modern warfare. This is exactly why this concept of human shield is becoming progressively crucial, and why its criticism is essential (Khalili, 2020).

Human shielding is the employment of people protected by international humanitarian law, such as prisoners of war or civilians, to prevent attacks against combatants or military spots. Upon initial perception, the term "human shield" seems unlikely to justify murdering, but rather criticize and devalue an unethical manner of battle.

Placing individuals on rail lines, airports, or any other place recognized to be a legitimate military target of the rival army to prevent the latter from striking is strictly forbidden under international humanitarian law. Similarly, the possible use of human shields, conducting military operations from within public areas, including schools, hospitals, religious institutions, civilian neighborhoods, and even industrial sectors, is also forbidden (Gordon & Perugini, 2016).

Using civilians as human shields during hostilities has emerged as one of the most crucial issues in modern armed conflicts. The use of human shields has substantially increased in the modern-day where citizen involvement in conflicts has been increased to a great extent. Indeed, the use of people as human shields during armed conflicts has become a major instrument for executing an innovative form of conflict that is dependent on the belligerent's compliance with international law (Rubinstein & Roznai, 2011). This concept has acquired prominence with the rise of urban warfare and new conflict zones where soldiers and civilians are in close contact. On the battlefield, the existence of civilians consistently presents an obstacle for combatants. It has been one of the most influential discussions on international humanitarian law (IHL), especially concerning how to appropriately reconcile the need for war with a sense of humanity (Van Schaack, 2016).

By placing the concept of human shields within the history of the combatants and civilians and their distinction, although the language regarding human shields is used in the interest of preserving civilians, it frequently serves the opposite objective, revolving around modern expressions of militants concerning "legitimate" targets (Nesiah, 2016).

This paper will analyze and explore the relationship between human shields whether voluntary or involuntary and how human shields interrelate with the notion of treating civilians as combatants. It will also shed light, on the language of "humanity" and "counterterrorism" which overlaps with the discussion of "human shields" to facilitate a parallel dynamic in states bearing the influence of contemporary "great power" militarization where civilians are rendered constantly vulnerable when defined as civilian victims of forces deployed as "human shields."

Historical Context

The expression "human shields" did not exist until the colonial phase of the 19th century, but its alternatives may be found in discussions within the principles of proportionality and distinction when discussing authorized targets. The subject matter regarding the dignity of human life and the reasonable use of violence highlighted the influence on "humanitarian thought" and its political and intellectual foundation (Fassin, 2012).

Although human shields have been utilized across history to uphold both military and non-military targets, it took a significant portion of the 20th century for the legal category of human shielding to crystallize into the present authoritative meaning. The Hague Conventions embody no explicit definition of human shields but Article 23 of the 1907 Convention states that "A belligerent is forbidden to compel the nationals of the

hostile party to take part in the operations of war directed against their own country" (Hague Convention IV, 1907, art. 23).

Based on military and legal historical context, the introduction of human shield provisions in the Fourth Geneva Convention and its Additional Protocol was initiated by souvenirs of the Nazi attempt of bringing civilian captives on trains carrying weapons of mass destruction with the intention to secure the tracks from aircraft strikes. (Gordon & Perugini, 2016).

The word "shield" first emerged in the Additional Protocol I of 1977 after the decolonization. Article 51(7) condemns the use of human shields while also stating that the military cannot attack locations protected by human shields. "The presence or movement of people or individual civilians should not be employed to declare particular locations or regions excluded from military actions, particularly in attempts to protect military objectives from assaults or to shield, favor, or hamper military operations. States involved in the dispute must not control the movement of the civilian population or individual civilians in an effort to secure battlefields from attacks or military operations" (Additional Protocol I, the Geneva Conventions, 1977, art. 51(7)).

In recent years, researchers have become increasingly intrigued by the concept of human shields. Gordon and Perugini's study is the most exhaustive with the publishing of the book on human shields in 2020 (Gordon & Perugini, 2020). Numerous scholars have dealt with concerns relating to the legal status of human shields, particularly voluntary and involuntary shields, as well as invaders' tasks regarding human shields. Fortunately, the content of this research is often conflicting. Several writers have additionally started to investigate concerns regarding warfare and the idea of 'proximate shields.' Overall, scientific research on human shields appears to be dispersed, disjointed, and at times conflicting (Proy, n.d.).

Concept Of Shields; Generally

The word "shield" in the general context refers to a physical barrier or covering that is used for protection or to defend against various threats. From the perspective of self-protection, a shield is an instrument that is used to protect a defender from physical dangers (al-Libi, 2008).

When defining the term shields under the notion of war we need to take a look that what it signifies within that background. In the realm of warfare, the concept of "shield" denotes a protective barrier, weapon, or equipment used to protect oneself from enemy attacks. It is an object that is built of solid components that are intended to withstand and deviate from attacks like arrows or bullets. Shields are important in battle because they are a barrier between the individual and the risk of injuries (Oh & Lee, 2020).

"Human Shields", Defined

After understanding the general sense of the word shield, we need to discover how humans are used as shields during combat situations and how and why their use is prohibited.

SHEILDS, also known as 'Al- Tatarrus', is an Arabic word which means 'shielding' or 'using as a shield'. The theory of al-Tatarrus, or the use of human shields, discusses the matter of civilians being killed or used as human shields by the enemy when caught during the war (Oh & Lee, 2020).

After the adjective human is linked to the word shield, the phrase human shield is formed, which raises questions regarding the meaning of violence. In general, this phrase refers to situations in which civilian bodies acquire a protective function while engaging in combat either willingly or unwillingly, these bodies are turned into an instrument of warfare in the sense that technology can be a form of human conduct (Benjamin, 1978).

Human shields appertain to the use of civilians with the intention to dissuade attacks on soldiers or military personnel as to use them as a method in warfare. This situation at hand is intrinsically linked to the rising "weaponization" of human bodies in modern conflicts (Perugini & Gordon, 2016). The perception of human shields is not merely confined to placing civilians at a military objective with the intention of protecting and shielding militant forces but also involves utilizing prisoners of war to shield military objectives by moving civilians to areas where weapons and ammunition are located and placing civilians on the front lines during combat to safeguard military units (Yousef, 2023).

The International Committee of the Red Cross (ICRC) describes human shields as: “an intentional collocation of military objectives and civilians or persons hors de combat with the specific intent of trying to prevent the targeting of those military objectives” (International Committee of the Red Cross [ICRC], 2023).

Ihl's Vision Of Human Shields

International humanitarian law explicitly outlaws the application of human shields and has sought to prevent this practice through a well-known history of international attempts comprised of the Hague Convention IV (1907), the Geneva Conventions III and IV (1949), the Additional Protocol I (1977), and, in more recent years, the Rome Statute of the International Criminal Court (1998). Despite this, both nations and non-state belligerents frequently employ human shields to achieve military benefits and prevent attacks by positioning common individuals near battlefields or hiding military targets within civilian-populated areas (Bargu, 2016).

Human shields are explicitly forbidden in multiple military manuals, many of which extend limitations to all civilians (Military Manuals of Argentina, 2023). Using human shields is a criminal violation under the laws of numerous states (Legislation of Multiple States, n.d.).

The word shield, related to the deployment of human shields, was initially used in the 1977 Additional Protocol I of the Geneva Conventions.

Article 51(7) prohibits the use of human shields and restates that it is not justifiable for militaries to attack areas protected by human shields, except in the case of applicability of the principles of proportionality and military necessity.

"The presence or movement of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favor, or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations" (Additional Protocol I Geneva Conventions, 1977, art. 51(7)).

Outside of armed conflict, no article of international human rights law precisely forbids the use of human shields. Despite this, it is evident that such a restriction would fall within the umbrella of basic fundamental rights such as the right to life or the rule against torture and other cruel, inhuman, or degrading treatment (Demiray v. Turkey, 2000). The claim is additionally supported by the psychological and physical distress caused, as well as the fact that such a person endures near-certain and immediate death. In addition, given the fact that those accused of the issue were being tried for war crimes, on which the ICTY has indicated on various occasions that the use of human shields constituted 'inhumane conduct' and 'cruel treatment' (Soering v. United Kingdom, 1989).

The Rome Statute of the International Criminal Court (ICC) states treating humans as shields involves the use of “civilian or other protected persons to render certain points, areas, or military forces immune from military operations” (Rome Statute, 1998, art. 8(2)(b)(xxiii)).

Evaluation And Comparison Between Forced and Voluntary Human Shields

Forming the classification of human shielding also depends on the straightforward distinction between involuntary and voluntary shields, expressions that arise often in the discourse around human shielding but do not find clear representation under IHL. Individuals who are held captive or chained to a component of military objectives are regarded as involuntary human shields, as are those who may be clueless that they are being used as a shield, such as when a combatant shelters within a school or hospital. The vast majority of IHL laws seem to presuppose that human shields are functioning under compulsion. (Human Shield, ICRC, 2023)

Researchers have progressively highlighted the distinction between involuntary and voluntary human shields. Although voluntary human shields comprise just a small percentage of human shields used in existing wars, they have been essential to the argument over the status of human shields. Voluntary shields indicate that the civilian diligently undertakes the function of a shield. The law is silent on the subject,

framing shields as protected people deployed by a conflicting party (Gordon & Perugini, 2021). It can be challenging to figure out whether individuals are employed as human shields against their will or voluntarily hinder insurgent operations (Norwegian Defence University College, 2013/2018).

Voluntary Human Shields (VHS)

Voluntary human shields are civilians who choose to put themselves in harm's way to protect others or resist organized violence (Bargu, 2016). They are not legitimate objects of attack, even if they are acting voluntarily (De Belle, 2008). The use of voluntary human shielding as a means of resistance is also open to controversy. Butler in his book presents two separate contentions, one about individuality and the other concerning designation. He conceptualizes voluntary human shielding as a deliberate type of resistance that analyses the benefits of the action, acknowledges dangers and risks lives (Butler, 2015). It is also debatable whether or not regulations against shielding, in general, can be merely imposed on voluntary human shields. The act of free will distinguishes VHSs from civilians who are captured and utilized as involuntary human shields (Haas, 2005).

There might be several reasons that motivate individuals to remain near a military goal (Lyll, 2008). For example, they become VHS when they actively endure in the arena of war in order to deter the enemy's targeting assessments. This subjective purpose factor, which is implied in the act of being a VHS, ultimately hinders the application of current IHL to VHSs. As a result, the legal obligations of a belligerent faced with VHSs are complex, controversial, and, to date, remain unresolved in *lex scripta* (Haas, 2005b).

Status of VHS under IHL

To date it is not clear whether the VHSs are afforded protection under IHL due to the view of many jurists that they are willing to participate in the war and a civilian loses his protection under IHL if he is directly participating in war. The question arises here what amounts to 'direct participation' under IHL?

The phrase 'direct participation in hostilities' has been used for decades in multiple IHL treaty provisions (Goodman & Jinks, 2009). It is most frequently mentioned regarding the fact that in times of armed conflict, civilians lose their IHL protection against targeting as long as they actively participate in hostilities. In a nutshell, the phrase refers to "combat-related activities normally undertaken only by members of the armed forces" (Henckaerts & Alvermann, 2005a). According to ICRC, the civilians who need authorization to directly participate in hostilities enjoy protection under customary IHL. This principle is not only given in various military manuals, (Military Manuals of Various States, n.d.) instruments of human rights bodies reported state practices and judicial precedents but it is also adopted by those states which even are not party to AP I (Henckaerts & Alvermann, 2005b).

The subject of VHSs was brought up during the second ICRC Expert Meeting, which was organized to discuss the Interpretive Guide. Experts were divided on whether the conduct of VHSs constituted genuine engagement in hostilities (ICRC, 2004). Those in the 'yes' camp argue that VHSs, like anti-aircraft defensive systems, are 'deliberately striving to prevent an attack on an official military goal which according to them is equivalent to direct participating in warfare' (Schmitt, 2004a).

The supporters of this liberal interpretation assert this considering IHL which interprets the term 'attack' to include both offensive and protective acts, and because hostile acts do not require the use of weapons, unarmed VHSs who position themselves near military objectives with the aim of shielding these objectives from direct targeting are directly participating in hostilities (Heaton, 2005). In a nutshell, they say that VHS possesses a causal role in the military operation by his willful activities; hence his behavior must amount to active involvement in the hostilities (Schmitt, 2004b). Consequently, those having a thought states that VHSs 'who seek to take advantage of their presumed civilian status to increase the survivability of belligerents, having armed systems, control, and command facilities, and facilities that directly support an enemy state's war effort, are undoubtedly involved in combat, although not in any traditionally identified way' (Parrish, 2004).

Lyll explains in his paper that, VHSs make target decisions that are "politically complicated, but not legally tough in seeking to defend a valid target from attack, VHSs become themselves part of the defense system of the target they want to shield" (Lyll, 2008). In the context of judicial opinion, the High Court of Justice

of Israel established in the Targeted Killing case (PCATI) that if VHSs act with the intent of assisting the cause of a terrorist business, their actions qualify as direct participation in hostilities (PCATI v. Government of Israel, 2023).

On the contrary, others contend the activities of VHSs are not considered direct involvement in hostilities since they do not correlate properly with the conventional notion of "direct participation in hostilities." They consider it inaccurate to assume that those who take up a shielding stance in front of a lawful target are in reality participating in hostilities (Melzer, 2009). They emphasize the fact that the VHS offers no immediate threat to those who are fighting but instead passively shields a certain spot or purpose. According to Haas, "VHSs do not take a direct part in hostilities because they do not engage in acts that are likely to cause actual harm to those who are part of the enemy armed forces by their nature or purpose." Perhaps they accept that VHSs play a role indirectly by probably increasing a belligerent's abilities (**De Belle, 2008**). On top of that, rather than determining that the acts of these VHSs amount to active involvement in hostilities, they refer to the fact that nations see the presence of VHSs as a legal hindrance to their unrestricted targeting of a protected location. Instead, they use a more limited meaning of the word "direct participation in hostilities," which includes actual combat operations (Naftali & Michaeli, 2023).

Involuntary Human Shields

In contrast, voluntary involuntary human shields are civilians who are placed in danger without their consent, often by states or non-state belligerents seeking military advantages. The use of involuntary human shields is a violation of international humanitarian law, as it endangers civilians and blurs the distinction between civilians and combatants (Nesiah, 2022).

It is important to mention that Israel has a history of exploiting Palestinian people as human shields. The army would compel Palestinian people to walk in front of them or examine buildings for bomb traps, before the entrance of soldiers. In a 2005 trial, the government claimed that some Palestinians volunteered for those acts. Nonetheless, the Israeli High Court decided that this constituted a violation of IHL (The Guardian, 2005).

The predominant viewpoint presents that individuals deployed as involuntary human shields do not lose their protected status and hence losses resulting from an assault are only justified as collateral damage provided, they are not excessive when compared to the military gain expected by the strike. In contrast, one widely held viewpoint preserves that requiring the restricted party to consider involuntary human shields in the proportionality calculation at all would allow the shielding party to profit from a clear violation of the rules of war, and hence should be prohibited (Just Security, 2015).

Proximate Human Shields

Proximate shields are the most common and potentially difficult type of shield. This type of shielding encompasses citizens living in the midst of combat who serve as shields merely by remaining in their homes, schools, or workplaces. The mainstream media, as well as military and legal experts, have classified hundreds of thousands of civilians as human shields from Fallujah and Mosul in Iraq to Raqqa in Syria (Perugini & Gordon, 2017).

It is vital to emphasize the rising concept of a 'proximate shield,' which is prevalent in warfare but sometimes neglected in military manuals. Proximate shields are distinguished by their closeness to military objectives, and this proximity alone establishes their classification as human shields. "Proximate shields become human shields without doing or being forced to do anything," as opposed to voluntary or involuntary human shields (Bargu, 2016).

Regardless of the advantage that proximity might provide, there is no intention of shielding, either from the civilian or from a party to the conflict. When there is no accompanying purpose on the part of the opponent to take advantage of this proximity, shields appear to fall beyond the ambit of the law (Bargu, 2016). Considering this, Gordon and Perugini's study shows that they account for 99% of the shields mentioned in the media and the majority of those in the field. It is also significant the majority of human shields are not legally recognized. One wonders if the designation of 'human shield' is appropriate in this circumstance. It is subsequently necessary to check the state of proximal shields too (Gordon & Perugini, 2021).

Distinguishing

Though international humanitarian law (IHL) does not particularly draw differences between various kinds of human shields, it can be complex to determine whether the noncombatants are acting as human shields against their will, or whether they are doing so entirely voluntarily to restrict belligerent operations. Legal commentary often makes a distinction between involuntary, voluntary, and proximate shields (Ezzo & Guiora, 2009).

It makes complete sense to identify the basic disparity in control and authority of processes between voluntary, involuntary shields, and proximate shields. Involuntary or proximate shields are compelled to shield armed forces without their will, and frequently beyond their awareness. A significant number of cases in which people are used as human shields fall into one of these two categories. The example can be seen by Syrian rebel groups shifting captive military officers and their families to Damascus sites under attack by government air strikes by ISIL and converting two thousand civilians into shields as they returned from the city of Manbij, it cannot be assumed that these civilian captives are taking part directly in conflict considering they are incapable to express their consent (Al Jazeera, 2015).

According to the definitions, voluntary shields are people who clearly express their own choice, whereas involuntary shields are those who practically lack free will and are forced to support the aims of an active belligerent opponent. In other words, liberty exists within the voluntary shield while operating on the involuntary shield. Similarly, volunteer shields utilize their bodies in a nonviolent manner to prevent or stop violence, whereas involuntary shields are a part of the present climate of violence (Rushing, 2021).

Researchers argue that the concept of will is missing in the case of proximate shields and that as a result, proximate shields carry numerical, physical, and temporal elements that are lacking in the two other types of shielding. This makes proximate shielding a better barrier to the deployment of fatal attacks in modern armed conflict, particularly in primarily urban war environments (Rushing, 2021).

Prohibition Of Human Shields Under Ihl

In general, the practical rules restricting the use of human shields during conflict originate from IHL, which is the most adequate basis for the laws followed and implemented in circumstances of war, in both customary and professional attributes. Humanitarian law explicitly protects several groups of people, including civilians, the injured and sick, prisoners of war, and medical staff. The Rome Statute of International Criminal Court, The Fourth Convention on the Respecting the Laws and Customs of War on Land and its Annex, the Third Geneva Convention Relative to the Treatment of Prisoners of War, the Fourth Geneva Convention Relative to the Protection of Civilian Persons, the Additional Protocol I to the Geneva Conventions and customary IHL all that contain guidelines forbidding the use of civilians as human shields. Therefore, a result, directing the movement of protected individuals in order to disguise military objectives or operations is forbidden.

Key international legal instruments prohibiting the use of human shields

Geneva Conventions

Many provisions of The Geneva Conventions address the issue of human shields in international armed conflict.

Art. 23(1), in the case of prisoners of war, of the Third Geneva Convention openly addresses the question of human shields. It provides that, “the presence of a prisoner of war may not be used to render certain points or areas immune from military operations” (Third Geneva Convention, 1949, Art. 23(1)).

Article 28 of the Fourth Geneva Convention provides, “The presence of a protected person may not be used to render certain points or areas immune from military operations” (Fourth Geneva Convention, 1949, Art. 28).

Article 49 of IV GC related to Deportations, transfers, and evacuations states the following prohibitions, “Individual or group forceful transfers of protected individuals from occupied territory to the territory of the Occupying Power or any other nation occupied or not, are strictly prohibited, regardless of their intent. Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons demand. Such evacuations may not involve the

displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, which proper accommodation is provided to receive the protected persons that the removals are effected in satisfactory conditions of hygiene, health, safety, and nutrition and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place. The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons demand.

The Occupying Power shall not deport or transfer parts of its civilian population into the territory it occupies” (Fourth Geneva Convention, 1949, Art. 49).

Additional Protocols to the Geneva Conventions

The prohibition on using civilians, for this reason, was discussed and extended in **Article 51(7)** regarding the protection of civilian population Protocol I 1977:

“The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favor, or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations” (Additional Protocol I, 1977, Art. 57(1)).

Article 13 of Additional Protocol II provides that, the civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. The civilian population as such, as well as individual civilians, shall not be the object of attack” (Additional Protocol II, 1977, Art. 13).

Customary International Humanitarian Law

Rule 97 of the customary IHL states that “The use of human shields is prohibited.” (Customary IHL, Rule 97)

The majority of examples provided in military manuals or those that have been criticized were incidents when people were driven to military targets to protect them from attacks. The positioning of people in or near artillery trains is an example given in the military manuals of New Zealand and the United Kingdom (Military Manuals of NZ & UK, n.d). Many people condemned Iraq's threat to pick up and put prisoners of war and civilians in dangerous places and near military defensive posts (Customary IHL, Rule 97 Commentary). Other violations of this restriction have included collecting up people and throwing them in front of military troops during wars in the former Yugoslavia and Liberia (Customary IHL, Rule 97 Commentary)

Rome Statute of International Criminal Court

The prohibition on human shields is also reflected in the Statute of the International Criminal Court (ICC), which includes the use of a civilian or other protected person as a shield for military operations in its definition of war crimes when committed during an international armed conflict.

Article 8 2 b (xxiii) of the ICC Statute gives that, “Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations” (Rome Statute, 1998, Art. 8(2)(b)(xxiii)).

Historical Events Regarding the Use of Human Shields

After analyzing the human shields and comparing their types here are some of the historical occurrences regarding the deployment of Human shields.

In 1995, the International Criminal Tribunal for the former Yugoslavia brought the Karadi and Mladi case against the defendants, who were accused of war crimes for using UN peacekeepers as human shields. This accusation was upheld by the Tribunal during its review of the accusations (ICTY, Karadžić and Mladić, n.d.).

During NATO's Kosovo campaign in 1999, Serbian citizens arranged themselves as human shields on Belgrade's bridges to protect bridges from being targeted and destroyed (Bouchié de Belle, 2008, p. 884). Following an appeal issued on Hamas radio, Palestinian women entered a mosque in Beit Hanoun, where Palestinian militants had been restrained by Israeli forces. The militants were dressed as females and used as human shields to aid their escape (BBC News, 2006; Schmitt, 2008–2009, p. 315).

To prevent a coming Israeli attack, Palestinian citizens gathered around Yasser Arafat's offices in Ramallah in 2003 (Bouchié de Belle, 2008, p. 884).

The Goldstone Report is the most prominent depiction of human shielding. The following paper clarifies the diplomatic background of the use of human shields: amid the Gaza War, 1,400 Gazans and 13 Israelis lost their lives. Israel labeled it Operation Cast Lead, whilst Hamas called it the Battle of al-Furqan (الفرقان معركة). Israel and the Palestinians in the Gaza Strip fought with each other for three weeks, starting on December 27, 2008, and ending on January 18, 2009, after there was a unilateral cease-fire (STRATCOMCOE, 2023).

Evidence of the use of human shields may be found reaching back to the American Civil War and World War II. The practice was also reported throughout the Korean War and the Vietnam War (ICRC Commentary, 1958). Peacekeeping forces from the United Nations (U.N.) have also faced strikes from weapon systems stationed within civilian areas or hostile forces that exploited people as human shields, as seen in Beirut in the early 1980s and Somalia in the early 1990s (Burk, 1999).

In the 2016 military campaign to recapture Mosul from ISIS militants, over two hundred boys and men were used as human shields in the Iraqi city. The Islamic State drove hundreds of civilians into Mosul, using them as human shields. ISIS militants were reported to be using "tens of thousands" of civilians as human shields in Mosul (Gordon & Perugini, 2016).

CONCLUSION

Due to its long history and, more prominently due to the massive deployment of the Human Shields in contemporary warfare this has become a serious issue. Interpreting the settled International Laws which are the Provisions of the Geneva Conventions and its additional protocols, Humanitarian law, International Criminal Law and the Rome Statute of the International Criminal Court provides the rules and statutes given to the civilians present during the war which must be taken into account by the states declaring the war so as there should be a limit on the cause of casualties on part of civilians or non-combatants. In this paper, the researcher sought to determine the meaning and concept of Human shields within the context of International humanitarian law and has also drawn a comparison between various types of human shields which are commonly seen in practice of the wars and their legal status granted to them under the realm of IHL. The examination of the prohibition on the use of human shields under international humanitarian law emphasizes the crucial need to protect civilians' dignity and lives during armed conflicts. This study sheds light on the numerous legal provisions and regulations that form the basis for preventing the heinous practice of employing people as human shields during combat.

In context, this exploratory study is a significant resource for international humanitarian law scholars and practitioners. It emphasizes the importance of raising awareness, developing compliance measures, and ultimately making those who breach the prohibition on using human shields responsible for their acts. The protection of civilians during armed conflicts is a moral obligation, and the ongoing study and implementation of international humanitarian law is critical to accomplishing this dignified endeavor.

In accordance with the findings of the study, international humanitarian law explicitly prohibits the use of human shields and emphasizes the obligation of all parties participating in armed conflicts to treat with dignity and protect civilian populations. This restriction is based on the fundamental values of humanity, difference, proportionality, and necessity that constitute the rules that regulate armed conflicts.

However, in the complex and developing landscape of modern warfare, issues exist in enforcing and upholding compliance with these constraints.

Lastly, the paper provides examples highlighting the challenges faced by civilians in historic wars due to the unreasonable and unjustified use of civilians as human shields and violating the norms of the war should

be stopped under the framework of IHL and ICL. The author argues that the laws are present but no applicability can be seen under general circumstances of the conduct of warfare throughout history. The prohibition on using human shields is more than simply a legal concept; it is a critical pillar in the development of a more understanding and just world, even in the midst of the most heinous wars.

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