

## Evacuation Of Civilians From The Battlefield

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**Abstract.** Article 17 of the Fourth Geneva Convention states that "the conflicting parties seek to immediately evacuate non-combatants from the area of conflict and its surroundings so that the word "attempts" clearly indicates that the evacuation of the population is not mandatory, but on the other hand, a deliberate act that can harm civilians or attacking civilians or civilian agencies is a violation of the laws of war". The purpose of this study is to review and ensure the description in the form of a mandate from Protocol II so that the civilians who are "affected" by non-international conflicts will enjoy general protection against the dangers arising from military operations in the form of non-international armed conflicts, except for when they were directly involved in the war. This qualitative research used a descriptive approach to collect data systematically, factually, and quickly according to the description when the research was carried out. The results of this study indicated that the Civilian Evacuation Process According to the Law of War, the role of a commander is very decisive, both for victory during war and victory after war.

**Keywords:** Evacuation, Armed Conflict, Law of War, International Law, Military

### INTRODUCTION

*The battlefield is not a place that people want, no human wants to be on the battlefield. Soldiers are on the Battlefield because of their mission and duty.*

The existence of civilians on the battlefield is usually due to coincidence (unintentional and involuntarily), some are forced to be used as living shields by the warring parties. In several war events, some civilians deliberately come to the Fort Defense not to fight but to seek protection, but according to the laws of War whatever the reasons for the civilian population both on the Battlefield and in the Fort Defense they are not legal targets to be used as military targets. On the Battlefield, Soldiers have to sort out whether all humans on the battlefield are legitimate military targets. When in fact there are civilians on the battlefield, there must be an effort to separate them but if the civilians still choose to remain in the war zone, the civilian population will become military targets and even if they get caught, the civilians can be brought to court as illegal combatants.

## **RESEARCH METHODOLOGY**

This research was conducted using a normative juridical research method by conducting a comprehensive study based on legislation and empirical juridical research, namely conducting an assessment based on observations of the handling of respect and protection of human dignity in emergencies, especially during armed conflicts.

This research was legal research that uses several approaches to answer the research problems, namely: 1) the statutory approach, 2) the conceptual approach, 3) the comparative approach, and 4) historical and philosophical approaches.

Data processing was done qualitatively. The written legal materials that had been collected were then systematized according to the research problems. Furthermore, the legal material was studied and described by the problem using the relevant theoretical basis. To answer the problem, the legal material that had been systematized was then assessed so that it can correctly answer the meaning, position, and implications of international law (formed by the international community consisting of states) related to armed conflict in all situations to always be able to distinguish between combatants and its military targets as well as civilians and civilian objects, to ensure the implementation of the evacuation of the civilian population.

## **RESULT AND DISCUSSION**

Civilian Immunity in the practice of the law of war is known as the principle of Privilege, which is a technical term in the law of armed conflict which is intended to protect civilians and civilian objects.

Under this principle, parties involved in armed conflict must always distinguish between civilians and civilian objects, combatants and military targets as provided for in Additional Protocol I of 1977. Additional Protocol I of 1977 prohibits acts aimed at indiscriminate attacks, thereby obliging each party to an armed conflict in all circumstances to always be able to distinguish between combatants and their military targets and civilians and civilian objects. Examples of indiscriminate targets include carpet bombing or an attack that could result in consequential damage to civilians and objects "which becomes excessive in light of the anticipated direct and integrated military advantage".

## **There is No Standard Provision that Requires Military Commanders to Evacuate Civilians**

Some international law experts believe that the general law principle of privilege applies to all domestic armed conflicts, but the black letter law is a bit more explicit than an international conflict. As mandated by Protocol II, the civilians such as people “affected” by non-international conflicts, “will enjoy general protection against harm arising from military operations” in the form of non-international armed conflicts “except when they are directly involved in the war”. This Protocol, which is intended exclusively for non-international armed conflicts, does not explicitly distinguish between the civilians and combatants and does not even mention the term combatant. However, it is prohibited to attack civilians or to carry out acts or threats of violence to spread terror among the civilians as the main objective. The prohibition on indiscriminate attacks has another regulation. For example, the Iraqi bombing of cities in Israel with guided missiles during the Gulf War was an indiscriminate attack because the missiles’ destructive capability cannot be exactly directed at specific military targets. On the other hand, the Iraq attack by firing the same types of missiles at Kurdish towns in northern Iraq could not simply be categorized as an unlawful indiscriminate attack because Iraq admitted to directing the bullets at the insurgents.

Another example is the operation of grapes of wrath by Israel into the Lebanese region that killed thousands of civilians. Although it was preceded by a warning from the Israeli army, Amnesty International views the warning as part of the war because the warning was intended to threaten the civilians and was not accompanied by the process of evacuating the civilians. The Process of Evacuating Civilians according to the Law of War stated that the role of a commander is very decisive, both for victory during war and victory after war. In some war events, after a country wins a battle, the Commander is sometimes prosecuted and sent to the International Court of Justice for violating the Law of War and must be responsible for the actions of his subordinates during the war. Several Troop Commanders have been submitted to an International Court of Justice based on the responsibility of the Command. Therefore, a commander must have complete data and information about the target before starting an attack, such as the information on civilians in a war area, and the obligations should be imposed on the commander on whether the commander should evacuate the civilians or not.

## **Efforts of the Conflicting Parties to Evacuate Non-Combatants Immediately from the Conflict Area and Its Surrounding**

There is no standard provision that requires the Commander to evacuate the civilians, however, any intentional act that can harm or attack civilians or institutions is a violation of the laws of war. To avoid legal problems in the future, the Commander usually issues a warning by distributing leaflets or making announcements via loudspeakers or radio. This practice may apparently seem unworkable or even too far-fetched. However, the civilians move closer to their troops in war for the third parties' interest. If such conditions occur, the forces will be burdened with logistical problems and hinder troop movement (impeded tactical movement). The Law of War mandates the Commander to be responsible for protecting civilians and invading forces are not allowed with the military. It can be categorized as a great warning for the Commander. But the sudden attacks where it is not possible to issue announcements or leaflets still need a regulation.

### **CONCLUSION**

In addition to avoiding court for a commander, the separation or evacuation of the civilian population offers various advantages. Firstly, the commander who gave the warning showed that he had put efforts to prevent civilians from being in danger. Secondly, for military purposes, a warning to civilians is intended that they immediately leave an area; otherwise, the troops will experience difficulties in dealing with enemy attacks. It is prohibited to deliberately target civilians and for defending troops to use civilians as living shields to face attacks. For example, there are non-combatant civilians in a siege area, as happened in Sarajevo during the Bosnian war. It can be referred to as Article 17 of the Fourth Geneva Convention which states that "the conflicting parties try to immediately evacuate non-combatants from the area of conflict and its surroundings".

The word "try" clearly indicates that the evacuation of the population is not mandatory. In fact, commanders in besieged areas usually tended to expel civilians from there because they had depleted the commanders' provisions and shares. At the same time and for the same reason, the commander of the siege forces would defend those who depleted the enemy's supplies and forbid them to leave. It doesn't matter whether an agreement is reached or not/with or without an agreement, civilians should never be targeted. During the siege of Sarajevo, snipers massacred people who were ordinary

citizens (school-aged children, the elderly, the sick, etc.). In this Sarajevo murder case, war crimes have occurred – it is not because civilians were not evacuated, but civilians were targeted.

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