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Rights of Civilian Population When Counter-Terrorism during the Armed Conflict on War in Gaza

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This paper discusses the protection of the civilian population during armed conflict as a cornerstone of International Humanitarian Law, which provides a robust framework within which civilians are protected. The Geneva Convention of August 1949 and its Additional Protocols provide for the protection of the direct environment and property, also known as civilian objects. The nature of the protection accorded to civilians under International Humanitarian Law is seen through two main lenses. Firstly, this paper focuses on the implementation by the State parties to the Geneva Convention of August 1949 and its additional protocols, likewise the enforcement of the same by the State members. Nevertheless, this paper also speaks on whether the ongoing armed conflict between Israel forces and the Hamas military group adhere to the International Humanitarian law specifically the protection of Civilian population and what might be the major problem of not adhering to the Convention. Secondly, the finding of this paper depend on the Doctrinal and non-doctrinal as the method of data collection by analysing the law specifically the Geneva Convention of August 1949 and its additional protocol and statistics from different online sources including reports from websites. Finally, in the conclusion, this paper addresses the solution to the fundamental guarantees. Among other safeguards, everyone in the power of a party to a conflict is entitled to humane treatment without adverse distinction based on such criteria as race, colour, sex, language, religion, national origin or social status.

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INTRODUCTION

International States Parties to the present Covenant recognising the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed.¹

Moreover, the States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties take appropriate steps to ensure the realisation of this right, recognising, to this effect, the essential importance of international co-operation based on free consent.²

In the context of the Law in Armed Conflict, specifically under the International Humanitarian Law, it is illustrative to the fullest that where there is armed conflict between two parties in hostilities, then the rights of the civilian population should be upheld.

The Convention ensures that daily food rations for internees are sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees³.

In the context of War in Gaza, the rights to food, clothes hygiene are being restricted by the Israel armed Forces when counter terrorism against Hamas armed group which is against the Convention Relative to the Protection of Civilian Persons of War of 12 August of 1949 which provides that every place of internment shall have an adequate infirmary, under the direction of a

qualified doctor, where internees may have the attention they require, as well as an appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases.⁴

Therefore, the focus of this study will be on the examination of the impact resulting from the absence of protection of the civilian population in Gaza as a result of the War between Israeli forces and the Hamas armed group.

Objective of the Study

General Objective

To critically examine the protection of the civilian population during counter-terrorism in the War in Gaza.

Specific Objective

Specifically, the actual study has focused on the following objective.

To assess on effectiveness of the Geneva Conventions of August 1949 and its additional protocol on the protection of the civilian population.

METHODOLOGY

Doctrinal Research /Blacks Letter

The researcher intends to use analysis of the law as the method by which he will analyse the Geneva Convention of 1949 and its additional protocols on the effectiveness and adherence during the armed conflict on War in the Gaza War.

Social-Legal Research Method or Non-Doctrinal*Interview Method*

¹ Article 11(2) of the International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 11(2)

² Article 11(1) *International Covenant on Economic, Social and Cultural Rights* (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 11(1)

³ Article 89 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287

⁴ Article 91 of the Convention Relative to the Protection of Civilian Persons of War of 12 August of 1949

The author in this paper has used interviews with the Members of the defence forces from Tanzania on how the Geneva Convention of 1949 protects the civilian population and the conduct of belligerents during the armed conflict.

SOURCE OF THE ARMED CONFLICT BETWEEN ISRAEL AND PALESTINE IN THE GAZA STRIP.

The Palestinian militant group Hamas launched an unprecedented assault on Israel on 7 October, with hundreds of gunmen infiltrating communities near the Gaza Strip.

As of **July 27, 2025**, the Ministry had recorded at least 59,821 fatalities, including over 17,400 children. The true death toll may have exceeded 70,000, especially when including trauma deaths—still not accounting for deaths from malnutrition, disease, lack of medical access, or those still buried under rubble.

As of the first day, combat raged across multiple Israeli border towns and military and police outposts. Initial reports cited over 100 Israeli dead, mostly civilians. News reports also showed Israeli civilians being taken back to Gaza, presumably as hostages. Israel responded with massive strikes into Gaza, while Prime Minister Netanyahu declared that Israel was in a full war, and ordered military mobilisation.

Before 1948, Britain took control of the area known as Palestine following the defeat of the Ottoman Empire, which had ruled that part of the Middle East in World War I. The land was inhabited by a Jewish minority and an Arab majority, as well as other, smaller ethnic groups. Tensions between the two peoples grew when the international community gave the United Kingdom the task of establishing a "national home" in Palestine for Jewish people.

This stemmed from the Balfour Declaration of 1917, a pledge made by the then-Foreign

Secretary Arthur Balfour to Britain's Jewish community.

The declaration was enshrined in the British mandate over Palestine and endorsed by the newly-created League of Nations - forerunner of the United Nations, in 1922. To Jews, Palestine was their ancestral home, but Palestinian Arabs also claimed the land and opposed the move.

Between the 1920s and 1940s, the number of Jews arriving there grew, with many fleeing from persecution in Europe, especially the Nazi Holocaust in World War Two.⁵ Violence between Jews and Arabs, and against British rule, also increased. In 1947, the UN voted for Palestine to be split into separate Jewish and Arab states, with Jerusalem becoming an international city.

NATURE AND ORIGIN OF THE CONFLICT ALONG THE GAZA BETWEEN ISRAEL AND PALESTINE

Gaza is a coastal strip of land that lies on ancient trading and maritime routes along the Mediterranean shore. Held by the Ottoman Empire until 1917, it passed from British to Egyptian to Israeli military rule over the last century and is now a fenced-in enclave, opens new tab inhabited by over 2 million Palestinians.⁶

As British colonial rule came to an end in Palestine in the late 1940s, violence intensified between Jews and Arabs, culminating in war between the newly created State of Israel and its Arab neighbours in May 1948. Tens of thousands of Palestinians took refuge in Gaza after fleeing or being driven from their homes. The invading Egyptian army had seized a narrow coastal strip 25 miles (40 km) long, which ran from the Sinai to just South of Ashkelon. The influx of refugees saw Gaza's population triple to around 200,000.

The United Nations set up a refugee agency, UNRWA, which today provides services for 1.6 million registered Palestinian refugees in Gaza, as

⁵ www.bbc.com/news accessed on 20 of February 2025

⁶ Andrew Clapham, Paola Gaeta and Marco Sassòli (eds), *The 1949 Geneva Conventions: A Commentary* (Oxford University Press 2018) pg.10-20

well as for Palestinians in Jordan, Lebanon, Syria, and the West Bank.

1967 - War and Israeli military occupation

Israel captured the Gaza Strip in the 1967 Middle East War. An Israeli census that year put Gaza's population at 394,000, at least 60% of them refugees

Twenty years after the 1967 war, Palestinians launched their first intifada, or uprising. It began in December 1987 after a traffic accident in which an Israeli truck crashed into a vehicle carrying Palestinian workers in Gaza's Jabaliya refugee camp, killing four. Stone-throwing protests, strikes and shutdowns followed.

Israel and the Palestinians signed a historic peace accord in 1993 that led to the creation of the Palestinian Authority. Under the interim deal, Palestinians were first given limited control in Gaza and Jericho on the West Bank. Arafat returned to Gaza after decades in exile.⁷

The 1993 and 1995 Oslo Peace Accords between Palestinian and Israeli leaders negotiated for Israel's withdrawal from Gaza and other key areas, which happened in 2005 under Prime Minister Ariel.

An Islamist political group called Hamas won elections and took control of Gaza in 2006. Since then, Hamas has occupied the strip, which has become a site for protests, bombings, land assaults and other acts of violence. Israel and the United States, as well as several other countries, consider Hamas a terrorist organisation.

Palestinians in Gaza don't have an official army, but they do possess thousands of guns, rockets and other weapons. Since Israel controls the Gaza coastline, experts believe many of these weapons are smuggled into the region or provided by anti-Israeli allies in other countries, such as Iran.

Major conflicts between Israel and Hamas in Gaza since 2005 include Operation Cast Lead (2008-

2009) and Operation Pillar of Defense (2012). Both were in response to rocket fire over the Gaza-Israel border, while the kidnapping and murdering of three Israeli teenagers by two Hamas members sparked a seven-week conflict known as Operation Protective Edge in 2014.⁸

In the spring of 2018, tensions erupted when the U.S. Embassy relocated from Tel Aviv to Jerusalem. Perceiving this as a signal of American support for Jerusalem as Israel's capital, Palestinians responded with a planned protest called the "Great March of Return" at the Gaza-Israel border. As some protestors turned violent, they were met with Israeli forces, resulting in dozens of protester deaths.

In May 2021, violence between Israelis and Palestinians escalated, following clashes and demonstrations in Jerusalem, and tensions have continued to escalate. In October 2023, Hamas militants launched a coordinated assault on Israel, kidnapping and killing more than 1,000 Israelis, many of them civilians, leading Prime Minister Netanyahu to declare, "We are at war." Israel began retaliatory airstrikes in Gaza, leading to thousands of Palestinian deaths.

THE EFFECTIVENESS AND IMPLEMENTATION OF THE GENEVA CONVENTIONS OF AUGUST 1949 AND ITS ADDITIONAL PROTOCOLS IN THE PROTECTION OF HUMAN RIGHTS DURING THE ARMED CONFLICT BETWEEN ISRAELI FORCES AND THE HAMAS ARMED GROUP.

The Conventions, such as the Geneva Conventions of 12 of 1949 and its additional Protocols, as well as the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, guide the combatants during the armed conflict on how to adhere to the Human rights when fighting each other, including protection of Civilian Populations⁹. There has been minimal

⁷ <https://education.cfr.org/news> retrieved on 20th February 2025

⁸ <https://www.history.com/news> as accessed 18 day of 2025

⁹ Marco S, (2019) *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, Edward Elgar Publishing, 100-150

implementation of the above Convention, which has escalated the humanitarian catastrophe.

The humanitarian catastrophe in Gaza emphasises the devastating toll on civilians, especially children. It highlights mass casualties and displacement: over **25,000 people killed, 65,000 injured**, and **1.9 million displaced** out of a population of 2.3 million, reflecting a near-total humanitarian collapse. There are **no safe zones**, as relentless bombardment has made all areas unsafe, forcing people into repeated displacement. **Severe shortages** of food, water, and medicine have pushed living conditions to the brink. The **suffering of children** is especially profound: vivid scenes of kids scrambling for food, carrying water in jerrycans, and missing school illustrate both the psychological and physical toll on the most vulnerable¹⁰.

- **Attacks on health facilities:** The destruction of clinics and hospitals violates international humanitarian law, specifically the Geneva Convention, which mandates protection for civilians during war.

VIOLATIONS OF THE GENEVA CONVENTIONS OF AUGUST 1949 AND ITS ADDITIONAL PROTOCOLS BY OTHER STATES

Russia-Ukraine War

Today, we are witnessing numerous bombardments of civilian infrastructure and the population by Russian occupiers, explains Elvina Koroy, a lawyer at CEDEM. Such actions are a war crime according to;

- Article 51 of the Protocol relating to the Protection of Victims of International Armed Conflicts: the civilian population enjoys general protection against danger arising from hostilities and must not be attacked. Attacks

on non-military facilities are expressly prohibited¹¹;

- Article 52 of the Protocol relating to the Protection of Victims of International Armed Conflicts. This article concerns civilian objects, i.e., all objects which are not military objectives, stating that such objects cannot be attacked.
- Article 3 of the Convention relative to the Protection of Civilian Persons in Time of War states that persons taking no active part in the hostilities must be treated humanely, without any adverse distinction;
- Article 32 of the Convention relative to the Protection of Civilian Persons in Time of War prohibits taking any measure to cause physical suffering or extermination.¹²

The above articles concern the prohibition of bombardments of civilian infrastructure and the population. Yet Russia is insidiously committing other war crimes. Attacking and seizing nuclear infrastructure – the Chernobyl Nuclear Power Plant (ChNPP) on February 24, 2022, and the Zaporizhian Nuclear Power Plant (ZNPP) on March 4, 2022, was in direct violation of Article 56 of Protocol (I) to the 1949 Geneva Conventions, i.e., protection of works and installations containing dangerous forces.¹³

EFFECTS OR CONSEQUENCES OF THE WAR IN GAZA ON THE CIVILIAN POPULATIONS.

The war in Gaza has seen widespread overlooking of civilian rights through indiscriminate attacks, blockades, restricted aid, displacement, and destruction of civilian life and infrastructure. These practices contravene international humanitarian and human rights law designed to protect civilians during conflict.¹⁴ Moreover, the

¹⁰ *Gaza Health Ministry*, quoted in multiple reports, including: United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *"Occupied Palestinian Territory: Hostilities in Gaza Strip and Israel"*

¹¹ *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)* (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3

¹² *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287

¹³ <https://voxukraine.org/en/the-geneva-conventions>, accused from 20th February 2025

¹⁴ <https://www.ohchr.org> as accessed on 8 d July 2025

economic downturn in Egypt, Jordan & Lebanon, UNDP & ESCWA rapid assessment (Dec 2023) projects: A 2–3-year regression in human development in Egypt, Jordan, and Lebanon. An estimated US\$10.3 billion ($\approx 2.3\%$) GDP loss across the three by the end of 2023, potentially doubling with prolonged conflict.

CONCLUDING REMARKS

The crux of this paper was to examine the rights of civilians during counter-terrorism in the armed conflict in the War in Gaza. The paper concentrated on the effectiveness and implementation of the Geneva Convention of August 1949 and its additional protocols and the International Covenant on Civil and Political Rights. The Conventions discuss the modality and conduct of belligerents in the armed field and prohibit some acts against the Civilian Populations. For instance, while fighting on the battlefield, the conduct of hostilities should refrain from destroying civilian properties, including houses, medical facilities, crops and social facilities.

Moreover, the Conventions gives details of the rights of individuals, which include rights to life, right to equal treatment, Right to freedom of movement, provision of better hygiene, free from torture. The violation of the above Conventions renders the infringement of human rights and inefficiency of the Geneva agreement, hence ineffective.

The State Parties to the Conventions should uphold the agreement to the conventions without any condition for the effective implementation of the code, so as to avoid the occurrence of massive loss of human lives.

REFERENCES

International Instruments

Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI

Geneva Convention I (wounded and sick in armed forces in the field):

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 31

Geneva Convention II (wounded, sick and shipwrecked at sea):
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 85

Geneva Convention III (prisoners of war):
Geneva Convention Relative to the Treatment of Prisoners of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 135

Geneva Convention IV (civilians):
Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287

International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III))

Books, Journals and Articles

Emily Crawford and Alison Pert, *International Humanitarian Law* (2nd edn, Cambridge University Press 2020)

Marco S, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (Edward Elgar Publishing 2019)

Nicholas Ts and Alasdair M, *International Humanitarian Law: Cases, Materials and Commentary*, Cambridge University Press

Andrew Clapham, Paola Gaeta and Marco Sassòli
(eds), *The 1949 Geneva Conventions: A
Commentary* (Oxford University Press 2018)

Ben Saul and Dapo Akande (eds), *The Oxford
Guide to International Humanitarian Law*
(Oxford University Press 2020)