

The Protection of People Living in Conflict: A Case Study in Yemen



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ABSTRACT. The Yemen war is a continuous conflict that first occurred in 2015. The war, known as the Yemen Civil War, involves two factions: Abdrabbuh Mansur Hadi leading the Yemen government, and the armed Houthi movement, along with their supporters and allies. Both claim to be the official government of Yemen. Iran-aligned Houthi rebels, who have controlled large parts of northern Yemen since 2014, have continued to carry out cross-border incursions into Saudi Arabia and are pressing for an offensive to seize Yemen's gas-rich Marib region. Already more than 100,000 people have died in Yemen's civil war, most of them civilians, because too many people have died in the civil war, so there is a need for legal protection. The purpose of this study is to find out how the protection of the people who are in conflict countries, especially the civil war in Yemen, is according to the perspective of international law. This study used a normative legal research method with a statute approach and a case approach to be easier to examine what is being studied, namely how to protect people living in conflicted countries from the perspective of international law. The results of this study indicate whether there is already legal protection for people who are in a conflicted country and how it is protected according to the perspective of international law.

KEYWORDS. Legal Protection, International Law, Civil War, Yemen.

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Introduction

Armed conflict is a situation that is familiar in the eyes of the international community. In the last 60 years or so after the emergence of the 1949 Geneva Conventions, mankind has experienced an enormous number of armed conflicts. Almost every country experience armed conflict. The occurrence of armed conflict begins with a conflict of interest with other nations or conflicts between groups within a nation itself. Implicitly, this can be referred to as a form of national struggle or fighting for national interests. Based on the number of armed conflicts that have occurred or are currently occurring in various countries in the world, these conflicts can be divided into international armed conflicts and non-international armed conflicts (domestic conflicts). An armed conflict is an event filled with violence and hostility between the warring parties. In the history of armed conflict, it has been proven that conflict is not only carried out fairly but also causes cruelty.¹ Certainly, armed conflict cannot avoid casualties, both on the part of the combatants and the civilian population who did not participate in the war, regardless of the old, the young, women,

¹ Alvis Rahman Bashuki, 2019, “Perang Saudara Di Yaman: Analisis Kepentingan Negara Interventif Dan Prospek Resolusi Konflik”, *Jurnal Ilmu Politik dan Komunikasi*, Vol. 9, No. 1.

and children. The consequences of armed conflict affect anyone in the conflict area.

Some of the consequences that are often caused during armed conflict include:

- 1) The occurrence of violence against a person's body or life
- 2) Hostage-taking
- 3) Disrespect, rape
- 4) The imposition and execution of a crime without a judicial process that guarantees a person's rights
- 5) Slavery and human trafficking.

Seeing the consequences as listed above, it is certainly a concern for the world if it is not addressed quickly. The United Nations, as a world organization that participates in maintaining and maintaining world security, finally does not remain silent after seeing the situation caused by armed conflict. By the United Nations, the armed conflict has been regulated in several Conventions such as the Hague Convention 1907, the Geneva Conventions of 1949, and Additional Protocols I and II 1977. These arrangements are, of course, created to prevent or provide protection to any party who is a victim of armed conflict, so that avoid acts of violence that can be fatal. However, even though there have been regulations regarding war procedures and arrangements regarding the protection of war victims, it seems that the parties to the dispute have not heeded these arrangements. Every conflict that occurs, it can be seen that there are still many victims who fall as a result of the armed conflict. This situation shows that the existence of any regulations regarding armed conflict has not yet had a positive impact.

Like the one in Yemen, which has been dubbed the “worst humanitarian crisis” by the United Nations, the Yemen crisis has become a conflict that has caused many casualties, destruction, violence, and anarchy. Divided into two main blocks, the Saudi-led military coalition with the support of the United States and the United Arab Emirates is fighting against the Houthi rebels allegedly backed by Iran. The conflict between the Yemeni government and the Houthi rebels has actually been going on for a long time. This conflict is caused by differences in the government's treatment of Shiites in Yemen. The Houthi movement, which controls the Saad region in northern Yemen, was officially established in early 1990 with

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the official name Ansar Allah. Its founder was Hussein Badr-al Din al Houthi, who initially carried the vision of broad education and culture for the young generation of Yemen. This group adheres to the Shia Saidism ideology, which has been rooted in the region for 1000 years. The educational and cultural movement turned into an armed movement, after its founder Hussein al Houthi was killed by soldiers sent by President Ali Abdullah Saleh in 2004.

Basically, war destroys and eliminates the rights that should be obtained by children and society, namely, the right to life, the right to be with family and other communities, the right to obtain proper health, the right to develop personality, and the right to be protected. According to Article 27 of the 1949 Geneva Conventions, protected persons are entitled under all circumstances to respect for the person, respect for family rights, religious beliefs, and practices, as well as their customs and habits. Therefore, children or innocent civilians must always be treated with humanity, and must be specially protected against all acts of violence or threats of violence and against humiliation and must not be the object of public viewing without prejudice to the relevant provisions. According to their state of health, age and sex, all protected persons shall be treated in the same way by the parties to the conflict in which power they belong, without prejudicial distinction based on race, religion, or political opinion.² According to data from the United Nations, for now, the protection of civilians and children is still very worrying because it is civilians who bear the brunt of the unrest in Yemen. Therefore, the author is interested in the research entitled "Protection of People Living in Conflicted Countries from the Perspective of International Law: A Case Study of the War in Yemen" in order to see how the protection for people in conflicted countries, especially Yemen.

This paper is intended to analyze the protection and perspective of International Humanitarian Law for the Yemen people who are experiencing civil war? The objective of this study is to find out how the protection of the people who are in conflict countries, especially the civil war in Yemen, according to the perspective of international law.

Method

² *Ibid.*

In compiling this paper, the author used the normative legal writing method. This method examines law normatively by looking at the law from an internal perspective where the object of research is to use legal norms.³ This writing method also used data collection techniques through reading, reviewing, and making notes from journals, the internet, as well as books and writings related to the problem of research. The data analysis techniques used by the authors in this study were logical, systematic, and juridical analysis.⁴

How the Legal Protection in Yemen for People in Conflict?

The civil war in Yemen is an ongoing conflict that first broke out in 2015. The war involves two factions: Abdrabbuh Mansur Hadi leading the Yemeni government, and the armed Houthi movement, along with their supporters and allies. Both claims to be the official government of Yemen. Houthi forces currently in control of the capital Sana'a, allied with forces loyal to former president Ali Abdullah Saleh, have clashed with forces loyal to Aden-based Hadi⁵. The conflict that has occurred between the Yemeni government and the Houthi rebels has actually been going on for a long time, and this conflict is caused by differences in the government's treatment of Shia citizens in Yemen. The Houthi movement that controls the Saad region in northern Yemen was officially established in early 1990 with the official name Ansar Allah. Its founder was Hussein Badr-al Din al Houthi, who initially brought a broad vision of education and culture to the younger generation of Yemen. This group adheres to the Shia Saidismus, which has been rooted in the region for 1000 years. The educational and cultural movement turned into an armed movement after its founder Hussein al Houthi was killed by soldiers sent by President Ali Abdullah Saleh in

³ Soerjono Soekanto, 1985, *"Penelitian Hukum Normatif Suatu Tinjauan Singkat"*, Jakarta: CV. Rajawali, p. 15.

⁴ Yordan Gunawan, 2012, "Penegakan Hukum Terhadap Pembajakan Di Laut Melalui Yuridiksi Mahkamah Pidana Internasional", *jurnal media Hukum*, Vol. 19, No 1.

⁵ Salisbury, Peter, 2018, *"Yemen's Southern Powder Keg"*, Royal Institute of International Affairs, p.12.

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2004⁶.

Legal protection is all efforts made consciously by every person as well as government and private institutions aimed at securing, controlling, and fulfilling the welfare of life in accordance with existing human rights⁷. Satjipto Raharjo defines legal protection as providing protection for human rights that are harmed by others, and this protection is given to the community so that they can enjoy all the rights granted by law⁸. The occurrence of political instability and conflict in Yemen causes displacement, violence, and malnutrition. The conflict in Yemen is one of the most dominant conflicts and is indicated to involve foreign parties or other countries such as the United States, Saudi Arabia, and Iran. A country with a population of about 23 million people and an area of about 530,000 km², Yemen was only united in 1990 after previously splitting into two countries, namely North Yemen and South Yemen. Southern Yemenis believe that after the unification of the north and south in 1990, the north has always held power, and the rights of the south have been ignored⁹.

According to Article 27 of the 1949 Geneva Conventions, protected persons are entitled under all circumstances to respect for the person, respect for family rights, religious beliefs, and practices, as well as their customs and habits. Therefore, children or innocent civilians must always be treated with humanity, and must be specially protected against all acts of violence or threats of violence and against humiliation and must not be the object of public viewing without prejudice to the provisions relating to according to their state of health, age and sex, all protected persons shall be treated in the same way by the parties to the conflict in which power they belong, without prejudicial distinction based on race, religion or political opinion¹⁰. Sihombing explained that the protection of residents or citizens

⁶ Retno Wulandari, "Awal Mula Perang Yaman: Mengapa Terus Memburuk?", accessed <https://www.matamatapolitik.com/awal-mula-perang-yaman-mengapa-konflik-terus-memburuk-in-depth/>, on 23 June 2021 at 12.51.

⁷ Irianto, Sigit, Adolf Cornelis, and Umbu Kundji Hawula, 2020, "Reconstruction of the Roles of Vice Regional Heads in the Future", *International Conference on Law, Economics and Health (ICLEH 2020)*, Atlantis Press, p.481.

⁸ Nurmala, Leni Dwi, 2018, "Perlindungan Hukum Terhadap Tenaga Pendidik", *Gorontalo Law Review*, p.68.

⁹ Anggrayni, Wirda, and Adwani Adwani, 2017, "Perlindungan Hukum Terhadap Anak Di Yaman Pada Saat Konflik Bersenjata Non Internasional." *Jurnal Ilmiah Mahasiswa Bidang Hukum Kenegaraan*, p.17.

¹⁰ Article 27 Geneva Convention 1949.

is one of the goals of the formation of the State so that every State has the duty and obligation to protect citizens wherever they are. Adwani explained that in Additional Protocol II 1977, which distinguishes between general protection and special protection. General protection means all people who have the right to personal respect for their dignity and religious beliefs are entitled to humane treatment and are protected from acts of violence against life, health, and welfare.

The protection that should be received by civilians who are victims of a non-international armed conflict such as the one in Yemen can be found in Geneva Convention IV 1949 along with Additional Protocol II and Customary International Humanitarian Law. In Geneva Convention IV 1949, there are general arrangements regarding the protection of civilians, namely in Articles 27-39 and Articles 47, 48, 50, 55, and 58. This substance is also regulated in Articles 7, 13, 14, 17 of the Additional Protocol. II 1977. While in International Humanitarian Customary Law, it is also emphasized that the protection of civilians is contained in rules 1, 2, 5-7, 9, 10, 12, 13, 20-24, 33-35, 42, 53-55, 70-84, 86-105, and 131. War not only affects members of the armed forces but also affects the civilian population in conflict areas. The civilian population, who has always been regarded as the weak and suffering party, is very easy to be targeted by violence with various accusations.¹¹ Humanitarian law has regulated the protection of the civilian population in Convention IV 1949, the arrangement of which is better than the Hague Convention. The article explains that the conflicting parties are prohibited from taking the following actions:

- 1) Forcing both physically and spiritually to obtain information
- 2) Inflicting physical suffering
- 3) Imposing collective punishment
- 4) Conducting intimidation, terrorism, and robbery
- 5) Retaliation against the civilian population
- 6) Arresting people to hold as hostages¹².

International humanitarian law requires parties to a dispute to distinguish between civilians and combatants. The term civilian population

¹¹ Sitompul, Anggie Sere, Sulaiman Hamid, and Chairul Bariah, 2017, "Perlindungan Terhadap Warga Sipil Sebagai Korban Penyanderaan Dalam Konflik Bersenjata di Filipina Menurut Hukum Humaniter Internasional." *Sumatra Journal of International Law*, p.4.

¹² *Ibid.*p.4.

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includes all persons of civil status. Based on this, what is meant by a civilian is anyone who does not join the war. If there is any doubt as to whether a person is a civilian or a combatant, then he or she should be considered a civilian. The protection of the civilian population also includes people who work as helpers, journalists and members of civil defense organizations. Civilians must be treated with humane treatment without any discriminatory differences based on sex, color, race, religion or belief, political or other views, national and social origin, wealth, ancestry and standards, or other similar distinctions. In non-international armed conflicts, the protection of the civilian population has received sufficient attention in international humanitarian law. Provisions on the protection of the civilian population have been explained in Chapter IV of Additional Protocol II of 1977¹³. Article 13 of Additional Protocol II confirms that the civilian population and civilians are entitled to receive general protection from the dangers posed by military operations. To emphasize the importance of such protection, the prohibition on targeting civilians and civilians is emphasized as it is forbidden to carry out threats of violence whose primary purpose is to spread terror among the civilian population. The civilian population and civilians are entitled to receive the existing protection guarantees, as long as they do not participate in direct actions of resistance. Additional Protocol II also prohibits other forms of forcing civilians to leave their homes for reasons related to the conflict. They are also prohibited from being relocated unless there are very urgent military reasons, provided that the safety and security aspects of the transfer process are guaranteed. The Additional Protocol II has also stipulated guarantees for the protection of objects that are indispensable for the civilian population. In this case, it is also mentioned about the prohibition of starving the civilian population as one of the war strategies. Therefore, it is prohibited to attack, damage, move or render non-functional objects necessary for the survival of the civilian population. The provisions that apply to civilians in international armed conflicts are almost no different from those that apply to non-international armed conflicts. It is based on humanitarian principles which must be applied in any type of armed conflict.

According to data from the United Nations, for now, the protection of civilians and children is still very worrying because civilians bear the brunt

¹³ Newrly, Gloria, 2021, "Pengaturan Hukum Masalah Pengungsi Akibat Terjadinya Konflik Bersenjata Menurut Kajian Hukum Humaniter Internasional", *Lex Privatum*.

of the riot, and 11.4 million people need protection, including 7.3 million children.¹⁴ A total of 20.4 million people, almost 80% of the country's population, need assistance to gain access to clean and safe drinking water. Also, at least 12.3 million people, nearly half of Yemen's population, face food insecurity.

What Is the Perspective of International Humanitarian Law for the Yemen People Who Are Experiencing Civil War?

International Humanitarian Law departs from the term law of war or law of war which is always developing until finally giving birth to the term humanitarian law. The term humanitarian law itself is taken from a foreign term that comes from the word international humanitarian law in armed conflict. Humanitarian law is also one of the branches of public international law. This is because humanitarian law actually regulates cross-border issues such as other parts of public international law, namely diplomatic law, space law, and the law of the sea.¹⁵

Under humanitarian law, there are several types of armed conflict. What is meant by armed conflict is an event which includes elements of exploitation and conflict. In fact, wars between countries have shown that conflicts between countries by means of war have resulted in inhumane atrocities. A dispute between countries by means of war is referred to as an armed conflict if in the conflict between countries there must be the involvement of armed soldiers by one country or from both countries, in armed conflicts between countries, non-states can also be parties to armed conflicts. International armed conflicts are divided into two types, armed conflicts between pure and pseudo-states. The pure international armed conflict is an armed conflict between a country and one or more countries, while pseudo international armed conflict is an armed conflict between a

¹⁴ Radityo, Muhammad Ridho, 2019, "Perlindungan Hukum Terhadap Wanita dan Anak anak dalam Peperangan Menurut Hukum Humaniter dan Hukum Islam", *Diss. Universitas Islam Negeri Raden Fatah*.

¹⁵ Rubiyanto, 2016, "Perkembangan Hukum Humaniter Dalam Konflik Militer Internasional" *jurnal ilmiah Untag Semarang*, No. 2, p. 59-60

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State and a non-State.

In one or both countries, in armed conflicts between countries, non-states can also be parties to armed conflicts. Similarly, international armed conflicts are divided into armed conflicts between pure and pseudo-states. Accordingly, pure international armed conflict is an armed conflict between a country and one or more countries. In contrast, pseudo international armed conflict is an armed conflict between a State and a non-State.

The result of the most harmed in this case is the people in Yemen. Hundreds of people became victims, including innocent civilians, women, and children, which all of these victims should have been protected under international humanitarian law as *ius in bello*, which is the rule of international law in terms of setting the law of war which has already begun. Article 51 paragraph 7 of Additional Protocol I explains that "The presence or movement of the civilian population or civilians may not be used to make certain places or areas free from military operations, especially in efforts to protect military objectives from attack or to protect, support, or hinder military operations, the parties to the conflict are prohibited from directing the movement of the civilian population or individual civilians for the purpose of protecting military objectives from attack or to protect military operations". There are violations that have been carried out by the government of Saudi Arabia in its actions, by violating the provisions in article 51, paragraph 7 of Additional Protocol I. In that article, it is clearly stated that civilians are prohibited from being the object of military attacks. In addition, in Geneva Convention IV concerning the protection of civilians in times of war in article 38 states that "protected persons who are in cover pending prosecution or who are serving sentences which include deprivation of liberty, must be treated with humanity during the closure"¹⁶. This means that someone who is in prison and is declared a civilian prisoner is protected in the provisions of article 38 of the Geneva Convention IV concerning the protection of civilians in the event of a war. From this information, it is very clear that the civil war in Yemen is very violating. From the point of view of international humanitarian law, this action is against the rules because there are so many victims in it, especially the Yemeni people and children, as it is contrary to what has been regulated in

¹⁶ Boer Mauna, 2010, "*Hukum Internasional Pengertian Peranan dan Fungsi Dalam Era Dinamika Global*" Bandung: PT. Alumni.

humanitarian law. From the explanation of several arrangements related to war, it can be seen that there are norms in these rules in conflict.

Conclusion

From the discussion above, it can be concluded that the protection that should be received by civilians who are victims of non-international armed conflicts such as what happened in Yemen can be found in Geneva Convention IV 1949 along with Additional Protocol II and Customary International Humanitarian Law. In Geneva Convention IV 1949, there are general arrangements regarding the protection of the civilian population, namely in Articles 27-39 and Articles 47, 48, 50, 55, and 58. This substance is also regulated in Articles 7, 13, 14, 17. It has been determined that the protection of civilians and the public has also been stipulated. There are also provisions made by humanitarian law that the civilian population must be differentiated and must be protected. Then there is an additional protocol that has been set for civilians, which stipulates that the civilian population and the civilian population are entitled to general protection from the dangers of military operations. According to data from the United Nations, for now, the protection of civilians and children is still very worrying because civilians bear the brunt of the riot, and 11.4 million people need protection assistance, including 7.3 million children. A total of 20.4 million people, almost 80% of the country's population, need assistance to gain access to clean and safe drinking water. At least 12.3 million people, nearly half of Yemen's population, face food insecurity. A war that is legitimate according to humanitarian law is a war that pays attention to all actions regulated in the Convention governing the law of war, as regulated in the Geneva Conventions and international humanitarian law. Based on the conclusions above, every country needs to pay attention to international legal instruments. It is very much needed as a preventive effort so that a country still respects the rules of international law, one of which is the instrument of international law of war.

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