

PROTECTION OF CIVIL CITIZENS IN AN ARMED CONFLICT BETWEEN ISRAEL AND PALESTINE REVIEWED FROM LEGAL PERSPECTIVE HUMANITARIAN

Hanaa Septiani,
Septi Rinjani,
Dwi Aulia Aprilianti,
Charen Toisuta,
Dimas Dwi Ramadan,
Nazaruddin Lathif,
Sobar Sukmana

Faculty of Law, Pakuan University
Jl. Pakuan No. 1 Bogor 16143

Email : hanaaseptiani07@gmail.com, septiirinjanii@gmail.com, auliadwi443@gmail.com,
charentoisuta6@gmail.com, dimas.ramadan@unpak.ac.id , nazaruddin.lathif@unpak.ac.id ,
sobak.sukmana@unpak.ac.id .

Abstract

The armed conflict between Palestine and Israel is an event full of violence and animosity between the warring parties. In the history of this conflict has caused atrocities for civilians who should get protection. the the purpose of this study is to identify and understand the violations of the principles against civilians in the Israeli- Palestinian conflict in the Gaza Strip during Operation Cast Lead and the mechanism of legal protection in the event of a violation of the protection of the Geneva Convention IV of 1949. This research uses data collection techniques and focus group discussion (FGD) using literature studies with information or data collected by other people in the form of reports, books from the library, as well as group discussions. The results of the research show that: 1) Forms of violation of civil law Israeli cast lead operations in the Gaza Strip from 27 December 2008 to 2020 were carried out against Palestinians. January 2009 can be classified into 2 categories of crimes, namely crimes against humanity and categories of war crimes, 2) law enforcement mechanisms for the protection of civilians through the ICC can be resolved with reference to the United Nations Security Council.

Keywords: law enforcement, civilians and the Israeli-Palestinian conflict

INTRODUCTION

International community excited with attack bomb air and land of Israel against Palestinians on track Gaza since 27 December until January 20, 2009. this attack was designed to can stop the struggle for Harakat al-Muwaqawwamatul (HAMAS) Islam, Also known as Halwiyah, an Islamic organization. Movement This addressed For end attack rocket to country Israel and delivery tool armed from Hamas through lane hidden. Country Israel, US and European (EU) countries everything is presumptuous Hamas as group TERRORIST However parahis followers don't think so, but assume on the contrary.

Conflict armed Which happen between Israel and Palestine this is incidents of violence and conflict between split-party Which interested has proven throughout history that war is not only done involuntarily justice, but also results in cruelty towards citizens civil. Inhabitant civil is Wrong One party in war This Which must protected. In Language English term civil contained in say "civilian" civilians, according to black's law

dictionary is somebody Which No war on military. (Garner 1962: 262). Resident civil is individual Which No including into the membermilitary war often harm public civil And public civil sometimes used for military purposes inhabitant civil used as shield in various matter including civil used for military objects and as the military objectives of each side. During the conflict, civil society's human rights often ignored from onfought for And protected. Right right civilians in armed conflict must protected, Because like Which has mentioned previously important for all party For obey principle-principle base right basic man Wrong one that is right For No tortured.

Source Law humanity International Wrong only one is Law geneva Because load regulations about security for combatant international level,, For they Which No Again active in war, environment life, provision Which arranged in region resident, object civil, security inhabitant local, goods culture, and so on. Security for inhabitant local This there is in in GENEVA CONVENTION IV, also known as the General Principle (maintaining general Because in convention This arrange protection to inhabitant normal in a manner whole), as well as in The 1977 Additional Protocol, especially more precisely in part IV, on part This arrange help civil, treatment to people Which is at in power party Which conflicted as well as protection general (haryo Mataram, 1994: 30). Based on matter Which the journal This made with objective For describe problem about denial principles law humanity This in truce weapon from the state of Israel against Palestine and protection of civilians in conflict weapons between israel And palestine.

METHOD

Technique Which used For data collection namely study technique literature (libraries research). According to Zed (2004, P.3) study literature needed For answer problem study. Because of the books in library is window world And source knowledge knowledge for all person. About information and empirical data that Already arranged by person other, Good form results report, scan, study, nor report Which official, books Which saved in room library still caused by researchers library. Technique collection This data is based on library data Which covers regulation from legislation, conventions international, journal law, book along document Which used other.

Focus Group Discussion or Group discussion is a technique form collection file with meaning to get meaning from A theme according to perspective And What Which understandable people in something gathering studies. FGD intended to avoid misunderstanding a research focused on problem Which currently studied. FGD Also is A gathering discussion And No is an interview. FGD Which used in this discussion is a tool data collection in the form of pre-research or pre-research Which addressed For find data And framework beginning about war Which happen between country Israel And Palestine, Which Then in discuss with group.

RESULTS AND DISCUSSION

A. Violation of legal principles humanity in aggression Israel to palestine

Law humanity confess principles And principles law humanitarianism which must also be taken into account on moment war. As a base law humanity including:

- a) Military Necessity or the usual Which called with interest military, Which mean that party Which involved in showdown allowed For do strength or violence To use slaughter against so that reach objective And war success.
- b) humanity or commonly referred to as humanitarian, grounded on principle humanity par party Which fight No in allow or No in please use violence which causes suffering and excess wound. Therefore required For notice And observe humanity or humanity.

c) Chivalry or principle chivalry, It means that is on moment war, Honest is matter Which main. Very prohibited For do tricks and use tools that don't properly For used.

There is addition principle law humanitarian Which must be noticed besides

Three principle tree in do war. These ideas includes:

1. Distinction principle (principle distinction) in region in something nation Which currently war, draft distinction This differentiate between fighter with inhabitant civil. Inhabitant civil is resident Which No participate active in hostility And Because That nope potentially become target war. Temporary combatants is person Which participate active in hostility.

2. Principle proportionality, draft proportionality or balance must respected by all party Which fight. Rule make an effort reach balance between problem military And danger for inhabitant civil.

3. Restriction theory, theory restrictions This relate with: 1) limit target enemy, matter This mean only enemy Which Can or Which can attacked with try deed violence Which minimum Possible. 2) restrictions region target, Which prohibit the destruction of places of worship, heirloom culture, knowledge knowledge, and unguarded areas, houses Sick, market, And etc. 3) principle limit circumstances target, which forbids do treason (betrayal) in meaning pretend- temple or trap against.

Very clear seen in war weapon Israel to Palestine Already breaking every standard already given from Law humanity as well as standard Which outlined in charter United Nations. More from 1443 inhabitant civil has dead And 5,000 wounded during war 22 day Israel oppose palestine. Draft guide humane violated by This. Human values and protection of civilians greatly known in matter subtraction victim war. There is Lots justification For impose limitation during battle, including the following This :

- of course Correct that limit war needed jarena harm people man
- Because cruelty war to man leave behind with culture man, line between war And peace must always in accordance with price self man
- There is role humanity in conflict

Inhabitant civil arranged by chapter IV additional protocol 1997 (so called as PT) person civil And inhabitant civil with clear distinguished in chapter 50 PT

1 year 1997. According to chapter 48, party- party Which dispute must make difference between civil with combatants as well as between civilian objects and military objects. As a result, they were only allowed to direct their actions towards the target military.

Israel has also violated the principle distinction This with attack without discriminate among local residents and combatants or between force targets armed And inhabitant local, Which often not the target of operations military. Until 960 person including among them most of the victims died. Israel has also demolished buildings civil society including homes, hospitals, schools, United Nations buildings, water and electricity infrastructure And even place worship. Israel use bomb phosphorus white, that is weapon Which prohibited For used in war Because can cause excessive damage on inhabitant civil, like wound burn (combustio) Which very heavy, until about And pass bone on man. Violation of human principles This between other raises wound Which excessive.

B. Arrangement International about Protection to Inhabitant Civil in conflict armed

Protection inhabitant civil in conflict weapon has long become a concern for existing countries in the world, both countries are involved in conflict and those not involved in the conflict war. get into the habit war find principle about law war Which forbid attack against unarmed civilians, or as person Which is at in outside war. They need protection which is more, because to protect yourself each of the moderate raids going on. The

Hague Convention already enter provision for defense inhabitant civil before exists Convention Geneva 1949.

1. The Hague Convention of 1899 and Year 1907 (Convention Den Haag).

The Hague Convention 1899, which regulate laws and customs fighting on land perfected into convention Den Haag 1907. den haag convention governing combatants (current term This combatants), It means, combatant Which participate active in the enmity And with thereby surrender to law war. Whereas civil is individual Which No including to in combatants And No follow as well as in hostility. Civilians within the territory occupation must secured deed arbitrary against occupation.

Kindly general, form from protection civilians include:

- Civilians cannot be forced to give or leak announcement about strength the enemy's military, as well as its defense equipment during the conflict.
- Inhabitant civil forbidden For forced to in say oath or promised loyal against opponents more strong
- Respect rights civil And property
- Stop the looting of citizen residents civil
- Prohibition regarding tax collection in a manner arbitrary And tax similar
- Prohibition of collective punishment against inhabitant civil
- Prohibition deprivation about right owned by inhabitant civil in a manner arbitrary arbitrary

but this is still not enough Because only look after security to inhabitant local in region occupation. So from That can be said that rule about protection of civilians in convention geneva IV can considered as rule Which new.

2. Convention Geneva Year 1864.

Geneva Convention 1863 is agreement international number 1 Which give security For victim from war, esp inhabitant civil that wounded in region war, as well as member And units medical Which be equipped equipment. Besides protect inhabitant civil, convention This arrange behavior civil in battle armed. Then be formed Convention Geneva year 1949.

3. Convention geneva 1949

Change the is completion of the 1864 Geneva Convention. Geneva Conventions 1949 This divided become 4 part separated. Like Which has in mention previously, protection inhabitant local especially arranged by Convention IV. In in civil protection arrangements of this, Convention IV divides it into two category: general security as well special safeguards. Security general need protection inhabitant civil with No discriminate. Inhabitant civil that is individual who are not actively participating at all in activity battle. They have right on treasure object, freedom family, And honor personal And freedom operation religion in all circumstances. Action as mentioned in Articles 27-34 No can done to they, that is actions like:

Coercion, Good to physique nor spiritual, to obtain information;

- 1) do torture or similar actions that cause physical pain;
- 2) Do deed terror, intimidation, And suffering physique;
- 3) Do action revenge;
- 4) Prohibition For obstruct individual performs religious worship they.
- 5) do punishment in a manner group, hostage, as well as insult.
- 6) Give chance
- 7) to escape from the ground enemy.

- 8) Obtain right on drugs as well as food which adequate;
- 9) Carry out conflicting actions to residents.

Regarding the protection of civilians, The Geneva Convention requires action from zone safe, that is area which away from the battlefield, to guarantee protection in inhabitant civil which easily caught consequence from war. This that is such as sick people, pregnant women, mothers breastfeeding, newborns, and parent. Likewise, children should be treated differently. They are forbidden to engage in war. They should be assisted and treated accordingly to his age. Besides that, child which still under age (Not yet mature) which lost parents (orphans and orphans) or separate from her parents must be protected or given guarantee security. On Convention Geneva IV about Security in inhabitant Civil also regulate the person residing in region occupation, security foreigners in the occupied territories, and citizens civil the internees.

It is possible if happen conflict armed, there is inhabitant country from adversary in the territory of a state of conflict. Something country which territory there is inhabitant country enemy always own obligation for honor or protect. They even must be allowed to leave the country.

They inhabitant civil can return to their country of origin at any time, can in a manner direct or use third party. Temporary that, citizens local which domiciled in region occupation must honor HAM, including the right not to be pressured to work for ruler occupation or participate in activity armed. Authority resident must own responsibility for maintaining the facility and infrastructure general. Power position also must ensure peace and safety, such as fulfillment of nutrition, as well kind for body child. Let foreign aid poured in when resident authorities can not provide dependent the. Security base the other must be given from the parties which dispute for inhabitant local which interned is which outlined in Chapter 79 - 135 Convention Geneva 1949. Inhabitant civil currently in the interior.

As a result, even if one inhabitant civil exiled, he still maintain rights civil as well as civil status and capacity. Civilians who can be detained under Article 79 The Fourth Geneva Convention is (Arlina, 1999):

1. enemy civilians inside the territory party which conflicted which must be supervised in a manner be careful and strict by reason security, citizens civil opponent in area party- party in conflict which in a manner voluntarily want to be exiled or that the circumstances require they be exiled,
2. inhabitant civil enemy in region occupation if the Occupying Authority believe that they must be exiled because something reason certain coercive;
3. Local residents do crime in a manner special addressed to make a loss of Power occupation.

Besides security general which given by convention, inhabitant civil get benefit from protection special which apply for them which become member group social or humanity. in operate his job usually they usually use sign special moment do his obligations. Inhabitant local must be appreciated by being given the opportunity or allowed to do his job, and protected, that is not caught military attack, in order to run his job.

CONCLUSION

Conflict weapon between Palestine and Israel which happen since long that indirectly proves that war always used as tactics for finish between group man. Between Israel and Palestine the same aim of the seizure of territory as place stay or area they, until now a lot of efforts to delete war however no produce results. From conflict armed between Palestine with Israel this already a huge amount swallow victim good from party Palestine. nor Israel, good which involved (combatants) or no involved (resident civil). Presence Law humanitarian International of course own role which important in reach enforcement Law, because on in

fact objective Law humanitarian International is so that the effects of war are terrible No happen with he did arrangements that apply in war and honor Right basic man in war, but can not be denied that Law humanitarian International No arrange prohibition war.

Chapter 27 until 34 Convention Geneva 1949, Which Also include actions Which forbidden on period conflict, discuss about protection people on period war. Israel suspected violate principledistinction, Which request parties Which conflicted armed For differentiate object And subject military, based on all consequence Which generated. Articles 27 to 34 of the Convention Geneva, Which arrange action Which forbidden to inhabitant civil on moment conflict, also considered has violated. For example, attack That No distinguish between military personnel And civil (object), Which No often become the target of a military attack, or between civilians and combatants. Most of the the victims are civilians. Israel has too devastate building civil including residence, hospital (hospital), schools, UN buildings, water infrastructure And electricity, And even place worship. Israel use bomb phosphorus white, Which is weapon Which No allowed used in in war, together with other violations of humanitarian norms, like prohibition raises loss Which disproportionate.

SUGGESTION

sake reach peace needed normalization connection peace between Israel And Palestine. For stop victims falling from inhabitant civil Which No guilty And honor right basic man from conflict armed This of course Already should Organization United Nations and major powers make efforts to create peace between conflict second country the. United Nations And world No can let Palestine No own choice other besides accept injustice for the rest of their lives, that what Israel did against Palestine That truly colonialism And violation ham. And solution Forend conflict Israel And Palestine is give independence And sovereignty for Palestine itself. We must support Palestine For gain independence and sovereignty they.

REFERENCES

1. Mahardika, G. G. N., Mangku, D. G. S., & Yuliantini, NPR (2021). Law Enforcement Against Protection Internal Civilian Situation War According to Geneva Convention 1949 (Conflict Case Study Armed Inner Palestine Israel Operation Cast case leads 27 December 2008-20 January 2009). Community Journal Yustisia, 4(2).
2. Ho, H. (2019). Application Law humanitarian International In Conflict Armed Between Palestine And Israel. Lex et Societatis, 7(2).
3. Levina Yustitiani tyas. (2016). Protection of Civilians In Humanitarian Law International
4. Yuliantiningsih, A (2009). Aggression Israel To Palestine Perspective Law, Community Journal Yustisia, 4(2).
5. Permanasari, Arlina, et al. 1999. Introduction Law humanitarian. Jakarta: ICRC; Humanitarian International. Journal Dynamics Law, 9(2), 135- 144.
6. Famous Effendi, (2005). Development Dimensions Right Fundamental Man (HAM) And Process Preparation Law Right basic Man (PRACTICES), Jakarta: Ghalia Indonesia, p. 197
7. happy istanto, 1992, Protection Civilians In Resistance People Universe And Law International, Yogyakarta: Publisher Andi Offsets, p. 1.