

STUDY OF THE PROTECTION AVAILABLE TO THE CIVILIANS IN THE INTERNATIONAL HUMANITARIAN LAW AND THE CIVILIAN LOSSES IN THE AFGHAN CONFLICT

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ABSTRACT:

The Geneva Convention IV of 1949 extensively dwells upon protection of civilians during war. The Protocol (I) Additional to the Geneva Conventions, adopted in 1977 also contains provisions for the protection of civilians from the cruelty of war. Afghanistan was attacked by US led coalition forces on 7th October 2001 in the name of "the Operation Enduring Freedom" commonly known as 'War against Terrorism'. This paper studies the various provisions of International Humanitarian Law, particularly Geneva Convention IV and Protocol I, which are more concerned with protection of civilian population, prohibit attacking civilian objectives, and insist upon the conflicting-parties to take all pre-cautionary measures to avoid civilian casualties and losses. It will study and analyze the civilian losses and casualties occurred in Afghanistan in the 'War against Terrorism'; whether the civilian losses were necessary and proportionate to achieving military objectives, whether it were unavoidable and all precautionary measures were taken by the US-led coalition forces; or the Afghan civilians suffered due to care-free, senseless and indiscriminate attacks on the part of the coalition forces. Whether the International Humanitarian Law protecting civilian population was taken into account or not?

INTRODUCTION:

Ever since the institution of war, it has been understood that war is between the armed forces of belligerent states. Civilians who do not participate in hostilities should be protected against acts of war. This has been recognized from ancient days. Every modern code reiterates protection of civilians from the rigours of war. In 1938 League of Nations resolved to spare and protect civilians from aerial bombardment (Hingorani, 1995). Protection for the civilian people at the time of war was felt very insistently by the organizations struggling for the protection and enforcement of human rights particularly International Committee of the Red Cross (ICRC) as a large number of civilian people were perished in the world war II by indiscriminate firing and heavy bombardment of the civilian population by the fighting forces. To avoid civilian casualties, in future wars/conflicts, a convention was adopted in Geneva in 1949, "Convention (IV) _ relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August, 1949". The Geneva Convention IV of 1949 extensively dwells upon protection of civilians during war. The 19th conference of Red Cross in 1957 adopted the draft rules for protection of civilians during war

(Hingorani, 1995). Resolution 2444 of the UN General Assembly in 1969 prohibits indiscriminate warfare which may endanger protection of civilian population during war (Hingorani, 1995). The Protocol (I) Additional to the Geneva Conventions, adopted in 1977 also contains provisions for the protection of civilians from the cruelty of war.

The four Geneva Conventions have received universal recognition and ratification. All partners of the coalition against terrorism including the US are parties to these conventions. The US has not ratified the Protocol but almost all rules of the Protocol I are based on the international customary laws of the war (HRW Report 2002).

This paper will study the various provisions of International Humanitarian Law, particularly Geneva Convention IV and Protocol I, which are more concerned with protection of civilian population, prohibit attacking civilian objectives, and insist upon the conflicting-parties to take all pre-cautionary measures to avoid civilian casualties and losses. It will study and analyze the civilian losses and casualties occurred in Afghanistan in "the Operation Enduring Freedom" commonly known as 'War