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## The Individual International Criminal Liability for Violating the Protection of Civil Defense Personnel During Armed Conflicts

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### **Abstract**

*One of the most important developments that is considered a qualitative shift in international humanitarian law is the acknowledgment that the individual bears international criminal responsibility for violating the rules of international humanitarian law, after the responsibility only affected states. Therefore, he had to bear his international punishment as a result of committing acts that are considered international crimes covered by the provisions of the law. International humanitarian law, and national laws have not neglected to state the individual's criminal responsibility in their constitutional and legislative texts for the purpose of strengthening international protection for civil defense personnel during armed conflicts and to enhance self-confidence and remove the obsession with fear of the violations that they will face in the humanitarian tasks assigned to them.*

**Keywords:** *Individual international criminal responsibility, civil defense personnel, international humanitarian law, international crimes, armed conflicts.*

### **First: The Content of The Research**

Civil defense personnel provide protection for the civilian population as well as preserve public and private civilian objects to reduce losses resulting during armed conflicts. The civil defense apparatus is responsible for protecting and evacuating civilians. Civil defense personnel are divided into civilian individuals who perform civil defense tasks and military personnel who perform the same tasks and are masked. Those who provide assistance and protection to victims during armed conflicts, at the same time they need protection from targeting while providing assistance to those affected by armed conflicts, in view of the gravity of the tasks assigned to them, the rules of international humanitarian law have provided legal protection for civil defense personnel, whether they are civilians or military personnel, with the distinction of some provisions related to these two categories through the recognition of individual international criminal liability resulting from a violation of the protection established for civil defense personnel, as the Geneva Conventions of 1949 and the Additional Protocols of 1977 according to criminalization rules for violating this protection. The Statute of the Criminal Court in Rome in 1998 also established criminalization rules in cases of violations of the protection established for this category.

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## **Second: The Research Problem**

The problem of the study is based on the hypothesis that protecting civil defense personnel plays an important role in humanitarian operations during armed conflicts, especially humanitarian relief operations and the evacuation of civilians. Here the question arises about the individual international criminal responsibility to protect civil defense personnel from the violations they are exposed to during armed conflicts? And who is it imposed on, states or individuals?

## **Third: The Research Methodology**

In order to reach what we proposed in the introduction to the research, and what we will present in the folds of the study, our research requires studying the subject in accordance with the analytical approach to analyzing international texts that dealt with individual international criminal responsibility to protect civil defense personnel from the violations they are exposed to during armed conflicts in order to know the type of protection imposed on them from On the one hand, and to know the legal gaps in the international texts concerned with the study, as well as the descriptive approach to describe the protection imposed for civil defense personnel in international humanitarian law.

## **Fourth: The Research Plan**

For the purpose of shedding light on our research entitled (Individual international criminal responsibility for violating the protection of civil defense personnel during armed conflicts) in all its aspects, we will address the topic through a research plan consisting of two sections. In the first section, we address the nature of individual international criminal responsibility, and the second section deals with the effects of individual international criminal responsibility. Then we conclude our research with a conclusion that includes the conclusions we have reached with appropriate proposals.

## **The First Topic**

### **The Nature of Individual International Criminal Responsibility**

The Rome Statute of the International Criminal Court defines the international responsibility of both the state and the natural person when carrying out an act or abstaining from an act that constitutes a violation or committing a crime that conflicts with the basic values of the international community<sup>[1]</sup>. International criminal responsibility has also sparked controversy in international jurisprudence between an opposing party. Others support the fact that civil liability applies to all persons under international law, while international criminal liability applies to individuals only <sup>[2]</sup>, the rules of international humanitarian law indicate the individual international criminal responsibility that results from a violation by members of an armed conflict of the rules of international humanitarian law. For the purpose of addressing this responsibility in some detail, we will divide this topic into two requirements. In the first requirement, we address the basis of international criminal responsibility, and in the second requirement we address the scope of international criminal responsibility. Individuality.

## **The First Requirement**

### **The Basis of Individual International Criminal Responsibility**

The rules of international humanitarian law and the Statute of the International Criminal Court stipulate the individual international criminal responsibility resulting from whoever violates international instruments and conventions related to providing legal protection to civil defense personnel while they carry out humanitarian relief duties during armed conflicts. For the purpose of addressing this topic in all its aspects, we will divide this requirement. It is divided into two branches: in the first section we address the basis of individual criminal responsibility in the rules of international humanitarian law, and in the second section we address the basis of individual international criminal responsibility in the statute of the International Criminal Court.

#### **First Branch**

##### **The Basis of Individual Criminal Responsibility in The Rules of International Humanitarian Law**

The basis of individual international criminal responsibility began in customary international humanitarian law within the basic guarantees in the text of Rule (102) which stipulates that “no person may be convicted of a crime except on the basis of individual criminal responsibility”<sup>[3]</sup>, the Hague Regulations of 1907 also stipulated in the concept of a violation that “no punishment may be imposed on persons for acts for which they are not responsible.” It was also addressed in the Fourth Geneva Convention of 1949, which stipulates that “no protected person may be punished for a violation that he has not personally committed,” noting that the basis of liability is International. responsibility was a collective responsibility based on the principle of solidarity assumed by individuals who committed a harmful act. The aim of this was to collect compensation until this responsibility was abandoned and the rule of personal responsibility was adopted, which determines the penalty for individuals.

Individual responsibility is governed by several texts, including what is stipulated in the fourth paragraph of subject (75/b) of the First Additional Protocol of 1977, which states: “No person shall be convicted of a crime except on the basis of individual criminal responsibility.” The Second Additional Protocol of 1977 also addresses the text subject (6) in paragraph (2) stipulates that “no judgment may be issued or any penalty may be implemented against any person proven guilty of a crime without prior trial by a court that has the basic guarantees of independence and impartiality, and in particular,” as stated in the text of the state’s civil responsibility. subject (91) of the First Additional Protocol of 1977 stipulates that “a party to the conflict that violates the provisions of the Conventions or this Protocol shall be required to pay compensation, if necessary, and shall be responsible for all acts committed by persons who form part of its armed forces.”

#### **Second Branch**

##### **The Basis of Individual International Criminal Responsibility in the Statute of the International Criminal Court**

It is noted that subject (25) of the Statute of the International Criminal Court referred to

the responsibility of the natural person for international crimes, and that the last paragraph of this subject indicated the continuation of international civil liability against the state and its responsibility for compensation, stating that: "One of the basic rules in criminal law is the absence of impunity. The person who committed the crime is exempt from criminal liability." Consequently, it became clear that the basis for its establishment (international individual criminal responsibility) requires the initiation of an unlawful act by the parties to the armed conflict and the fulfillment of the element of the occurrence of an international crime. This is confirmed by subject (22/1) of the Statute of the International Criminal Court, which stipulates that "a person shall not be held criminally accountable." Under this Statute, unless the conduct in question, at the time of its occurrence, constitutes a crime within the jurisdiction of the Court." Subject (22/3) of the Statute also stipulates that "This subject does not affect the qualification of any conduct as criminal conduct under international law outside the framework of this Statute." "Basic" Here, the international crime with its broad scope and the general nature that accompanies it constitutes the basis for the establishment of individual international criminal responsibility.

Also, all members of the forces engaged in armed conflict and affiliated with a state are criminally liable in the event that members of their military forces commit hostile acts that would constitute a serious violation, whether the perpetrator was a planner, participant, or implementer of those acts, which are considered a violation of the rules of international humanitarian law, and their perpetrators are punished criminally. Accordingly, there are manifestations of those acts. For serious violations, the first is that governments must establish a legislative system that is appropriate to the extent of the serious violation committed by people, and the second is that all of these serious violations must be subject to a mandatory global judicial authority<sup>[4]</sup>, this is what was achieved with the establishment of the International Criminal Court in 2002 after its statute entered into force, as according to its fifth subject, it punishes the crimes of genocide, war crimes, crimes against humanity, and finally the crime of aggression.

## **The Second Requirement**

### **The Scope of Individual International Criminal Responsibility**

In addition to what we found of the recognition of the international criminal responsibility of individuals within the framework of international criminal law, there is recognition of the international criminal responsibility of individuals within the framework of international humanitarian law<sup>[5]</sup>, it is the result of committing illegal acts that constitute serious violations of the rules of international humanitarian law. It is worth mentioning that this responsibility falls within the scope of this law and includes two important scopes: the first is the physical scope and the second is the personal scope. As for the physical scope, it requires research into the types of armed conflicts covered by the application. International humanitarian law, which results in the international criminal responsibility of individuals. As for the personal scope, it requires research between the categories of individuals and their objects intended for protection, and what conditions require that must be met in order for the application of international humanitarian law to become possible on civil defense personnel in particular, and not other categories of individuals protected according to this law<sup>[6]</sup>, for the purpose of covering the subject, we will divide this requirement into two sections, the first in which we

address the objective scope and the second in which we address the personal scope.

## **First Branch**

### **Physical Scope**

The criminal liability of individuals who are parties to armed conflicts may involve violations of the rules of international humanitarian law, which may include the following:

#### **1. International Armed Conflicts**

It is known that international armed conflicts occur between countries and take three legal forms. Either the armed conflict is aggression, which in itself is prohibited according to positive international law, or the armed conflict constitutes self-defense, whether individual or collective. Or in application of another concept, which is collective security, which was stated in the United Nations Charter in its seventh chapter, and that these forms are extremely important in relation to international legitimacy, which defines aggression as an international crime, and that self-defense, whether individual or collective, is a legal and legitimate matter<sup>[7]</sup>, this was referred to in Common Subject 2 of the Four Geneva Conventions of 1949, which stipulates that “In addition to the provisions that apply in peacetime, this Convention shall apply in the event of declared war or any other armed clash that breaks out between two or more of the High Contracting Parties, even if the High Contracting Parties do not recognize One of them is in a state of war, and this Convention also applies in all cases of partial or total occupation of the territory of one of the High Contracting Parties, even if this occupation does not face armed resistance” as well as wars of national liberation, which are intended according to what was stated in Subject (I/4) of the First Additional Protocol of 1977, as: “armed conflicts in which peoples struggle against colonial tyranny and foreign occupation and against racist regimes, as enshrined in the Charter of the United Nations and the Declaration on the Principles of International Law on International Relations.” “Friendship and cooperation between countries in accordance with the Charter of the United Nations”<sup>[8]</sup>.

#### **2. Internal (Non-International) Armed Conflicts**

The internal armed conflicts that occur within states between government forces and armed groups or between an armed group among themselves are often called internal armed conflicts or civil wars because they are between members of the same people and do not acquire international character. However, Subject Three Common to the four Geneva Conventions of 1949 and the Second Additional Protocol of 1977 extended its provisions to address cases of armed conflict of an internal, non-international nature that occurs in the territory of one of the contracting party states and whose victims cannot be protected, whether they are civilians or members of groups protected in accordance with international humanitarian law, especially civil defense personnel. The subject of our research is to reduce the losses or damage caused by these armed conflicts.

## **Second Branch**

### **Personal Domain**

As for the personal scope of individual criminal responsibility for violating the protection of civil defense personnel to whom the rules of international humanitarian law apply, as they are among the categories protected in accordance with this law, the victims of this category must

be dealt with with precision and care due to their humanitarian tasks assigned to them by international humanitarian law in Subject (61/a) of the First Additional Protocol of 1977 during times of peace and armed conflict<sup>[9]</sup>.

Here, international criminal responsibility pursues the individual who commits an international crime against civil defense personnel, which is a violation of international humanitarian law, which is not limited to the military only, but criminal responsibility for committing these violations extends to any civil or military government employee who carried out or ordered the implementation of an order that violates the law and is considered a crime and may be considered a crime. They are committed by civilian individuals with the motive of contributing to military personnel during the commission of these crimes. Therefore, the competent courts do not exclude them from punishment because they are non-military civilian individuals<sup>[10]</sup>, this is what the Statute of the International Criminal Court indicated regarding the fact that the status of the perpetrator of the crime is not required to be (military), but rather it specified the criteria for the establishment of individual international criminal responsibility, which is that the perpetrator of the crime be a natural person and not a legal person, as indicated by the Rome Statute of the International Criminal Court in the text of Subject (25) However, “the court shall have jurisdiction over natural persons pursuant to this law”<sup>[11]</sup>, therefore, individual criminal liability extends to all persons who commit crimes against civil defense personnel.

## **The Second Topic**

### **The Effects of Individual International Criminal Liability for Violating the Protection of Civil Defense Personnel**

Violation of the rules of international humanitarian law by members of a party to an armed conflict (the adversary) against members of the civil defense entails individual international criminal responsibility, which criminalizes these violations at the international level and at the national level. The perpetrators of these crimes, which are considered international crimes, must be prosecuted. For the purpose of addressing this topic, we will divide this The research is divided into two demands. In the first requirement, we address the criminalization of violations in accordance with the Geneva Conventions of 1949 and the Two Additional Protocols of 1977. In the second requirement, we address the criminalization of violations in accordance with the Rome Statute of 1998.

## **The First Requirement**

### **Criminalizing Violations in Accordance with the Geneva Conventions of 1949 and the Additional Protocols of 1977**

The four Geneva Conventions of 1949 and their Additional Protocols of 1977 all included a set of criminal acts that are considered among the grave violations that must not be committed during armed conflicts due to their seriousness and the resulting negative consequences against humanity, especially when committed against civil defense personnel who are carrying out their humanitarian work. During armed conflicts, any person who commits them, regardless of the nature of his participation, will bear criminal responsibility and will be subject to trial and then punishment. For the purpose of addressing this, we will divide this requirement into two sections. In the first branch, we will each address the acts criminalized under the four Geneva Conventions of 1949.

## **First Branch**

## **Acts Criminalized under The Four Geneva Conventions of 1949**

The most important feature of the Geneva Conventions of 1949 is the presence of a convention specifically for civilians (the Fourth Convention), including civil defense personnel, who were also addressed in Chapter VI of the First Additional Protocol of 1977, which is a matter that had not previously been addressed in a single convention until the issuance of this Fourth Convention and the Protocol. The first additional one for the year 1977<sup>[12]</sup>, in it, these criminal acts were divided into two categories: - The first category - minor violations, and here it means every act that violates what is included in the four agreements mentioned above, that is, everything that is prohibited under them in general, which results in the obligation of states to stop them. As for the second category, it was described as serious violations due to their seriousness and effects. resulting from it, such that states are obligated to criminally suppress it through legal prosecution of its perpetrators and criminal punishment<sup>[13]</sup>, the latter, which has been identified exclusively in accordance with the joint subjects respectively (50, 51, 130, 147), including intentional killing, torture, inhuman treatment, subjecting people to experiments related to the science of life...etc., and other violations, and that any of If these violations occur against a member of the Civil Defense, they constitute a crime whose perpetrator will be held accountable before the International Criminal Court, as for the third common subject of the four Geneva Conventions of 1949, which relates to non-international armed conflict, it stated in 1949 a set of prohibited acts that must not be carried out during a non-international armed conflict, which are considered grave violations of the rules of international humanitarian law, represented by inhumane treatment. of persons not taking a direct part in hostilities. inhumane treatment of members of armed forces who have laid down their arms. inhumane treatment of persons placed hors de combat by reason of sickness, wounds, detention, or any other violations and if these acts are committed against a member of the Civil Defense, they constitute a crime whose perpetrator will be held accountable whether he is a soldier or a civilian. Based on what was mentioned above, any of the above-mentioned acts committed by a person with criminal intent will be held criminally accountable for the crime regardless of his capacity as a superior or a subordinate. Military or civilian, whether regular or irregular forces, which may be rebel parties <sup>[14]</sup>, therefore, the four Geneva Conventions of 1949 provided criminal protection for civil defense personnel, and violating the rules of this protection would expose its perpetrators to the penalties mentioned by the International Criminal Court.

## **Second Branch**

### **Criminalized Acts according to the Additional Protocols of 1977**

The Additional Protocols of 1977 are like the four Geneva Conventions of 1949, in which the criminal acts were divided into two parts, in the first part: minor violations and in the second part: serious violations, as previously mentioned, and on this basis we will try to address:

#### **1. Acts Criminalized Under Additional Protocol I 1977**

The aforementioned Additional Protocol relates to the protection of victims of international armed conflicts and includes a number of texts that define criminal acts as constituting grave violations whose perpetrators must be prevented and repressed, regardless of their capacity and the nature of their participation during conflicts, and which, if committed against members



of the civil defense, constitute a war crime.

The text included a number of prohibited acts that were designed to protect people and were described as constituting war crimes, including <sup>[15]</sup>:

- A. Any unjustified action or omission shall not prejudice the physical and mental health and integrity of persons who are in the hands of the enemy or who are detained, detained or otherwise deprived of their freedom as a result of one of the situations referred to in Subject 1 of this Additional Protocol.
- B. It is specifically prohibited for these persons to perform, even with their consent, amputations, medical or scientific experiments, or the removal of tissues or organs from them for the purpose of transplanting them, unless these actions are justified in accordance with the conditions stipulated in the first paragraph of this subject.
- C. Any intentional act or intentional act that seriously affects the health or physical or mental integrity of any civil defense personnel who is in the control of a party other than the party to which they belong and work under its authority and violates the prohibitions stipulated in paragraphs one and two or It does not comply with the requirements of paragraph three.

We add the provisions contained in the second paragraph of Subject (75) of the First Additional Protocol of 1977 regarding the prohibition of certain acts that may be considered grave violations that persons, including civil defense personnel, may be exposed to while they are in the custody of one of the parties to the conflict, which is represented in the prohibition of racial discrimination in the treatment of... Those in their control, according to what was included in the first paragraph thereof <sup>[16]</sup>, and the second paragraph touched on a number of acts that are considered crimes that could be committed against this protected group, which stated: "The following acts are prohibited immediately and in the future at any time and place unless they are committed by authorized civilians or military personnel, which is the practice of violence against the lives, health or safety of individuals." Physical or mental, in particular, such as murder, torture in various forms, corporal punishment, mutilation, and violations in particular that target personal dignity through humiliating treatment of individuals, degrading their ability, and forcing them to fulfill the desires of opposing members through acts that offend modesty, as well as the taking of hostages, collective punishment, and threats to commit any of the aforementioned acts. In addition, Subject (85) of the First Additional Protocol of 1977 relating to the suppression of grave violations of this Protocol stipulates a list<sup>[17]</sup>, of crimes that are considered grave violations of the rules of international humanitarian law, including: actions that are classified as grave violations of the previously mentioned agreements are considered grave violations, likewise, with regard to these two Additional Protocols, if they are committed against persons who are in the control of the adversary and are protected by Subjects 44, 45 and 73 of this aforementioned Protocol, or if those criminal acts are committed against the wounded, sick, or shipwrecked at sea who belong to the adversary and are protected by this Protocol, or if they are committed against Medical personnel, including civil defense personnel or religious bodies, or against medical units or medical transports controlled by the adversary and protected by this Additional Protocol of 1977.

## **2. Offenses Criminalized Under Additional Protocol II of 1977**

The texts of the Second Additional Protocol relating to the protection of victims of non-international armed conflicts of 1977, although it did not explicitly stipulate criminal acts that constitute a grave violation of civil defense personnel, but merely described them as basic guarantees and prohibited acts that are prohibited from being committed. However, if we



compare them with the above It was mentioned above regarding the crimes stipulated in the four Geneva Conventions of 1949, and As well as the First Protocol of 1977, we find that it can be described as a grave violation due to the similarity that exists between them in defining the crimes that must be avoided and punishing any person who commits them due to their seriousness and seriousness. Accordingly, the criminal acts under the Second Additional Protocol of 1977 are stipulated in the Protocol. Subjects of the Protocol Which is represented in the following <sup>[18]</sup>:

- A. All persons who do not participate directly or who cease to participate in hostilities, whether their freedom is restricted or not, have the right to have their person, belief, honor, and religious rituals respected, and they must be treated in all stages of detention or occupation as Humane, without any unfair discrimination, and it is prohibited to order that no one be kept alive.
- B. The following acts directed against the persons referred to in the first paragraph are prohibited now and then and in every place and time, without prejudice to the nature of comprehensiveness that characterizes the previous provisions, which are attacks on the life, health, and physical or mental integrity of individuals, especially murder and cruel treatment such as torture, mutilation, or any form of torture. Forms of corporal punishment, as well as hostage-taking, acts of terrorism, etc., are other criminal acts that can affect civil defense personnel, and therefore everyone who commits these criminal acts against them can be held accountable in accordance with international humanitarian law and before the International Criminal Court.

## **The Second Requirement**

### **Criminalizing Violations in Accordance with the Rome Statute of 1998**

In addition to what some international humanitarian law agreements included in defining a number of acts described as constituting serious violations of the rules of international humanitarian law, as previously mentioned above, the Rome Statute of 1998 came to define for us, perhaps accurately, those criminal acts that could occur against members of the civil defense. Which constitute war crimes because they occur during international or non-international armed conflicts<sup>[19]</sup>. Accordingly, we will divide this requirement into two branches: the first section is war crimes during international armed conflicts, and the second section is war crimes during armed conflicts that are not of an international nature.

### **First Branch**

#### **War Crimes During International Armed Conflicts**

A war crime is defined as: “Unlawful acts committed by natural persons that constitute a grave violation of the laws and customs of war<sup>[20]</sup>, and Subject Eight of the Rome Statute of the Permanent International Criminal Court includes a list of criminal acts that are considered war crimes<sup>[21]</sup>, which states:

1. The court shall have jurisdiction with regard to war crimes, especially when they are committed within the framework of a plan or general policy or within the framework of a large-scale commission of these crimes.
2. For the purpose of this Statute, “war crimes” means:

**A.** Serious violations of the four Geneva Conventions of 1949, which are any of the following acts against persons or property protected by the provisions of the relevant convention:

- In human treatment, such as torture and biological experiments.
- Causing serious harm to the body and exposing it to severe suffering.
- Inflicting widespread destruction on civil defense property without any justification for using military necessity in frivolous ways.
- Forcing protected persons during captivity to serve in the ranks of the forces of a hostile country.
- Intentionally depriving any prisoner during an armed conflict or any protected person of his right to a fair and regular trial.
- Using civilian individuals as hostages, including civil defense personnel.
- Illegal transfer or deportation of civil defense personnel or their illegal detention.
- Intentional killing of protected individuals, especially civil defense personnel.

**B.** Other serious violations of the laws and customs applicable to international armed conflicts within the established scope of international law are any of the following acts:

- Intentionally directing attacks and strikes against the civilian population as such or against individual civilians of all categories who are not directly participating in the hostilities.
- Intentionally directing attacks and strikes against civilian sites that do not constitute military objectives.
- Intentionally directing attacks and strikes against personnel, facilities, units or civil defense means used to perform a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations as long as they use the protection provided to civilians or civilian sites under international humanitarian law.
- Intentionally directing attacks and strikes against buildings designated for educational, technical, or scientific purposes, or hospital buildings in which the sick and wounded are placed, provided that they are not military targets.
- The occupying state, directly or indirectly, transferring parts of its civilian population to the territory it occupies, or forcing the deportation or transfer of the population of the occupied territory and deporting them from it <sup>[23]</sup>.

## **Second Branch**

### **War Crimes During Armed Conflicts that Are Not of an International Character**

Common Subject 3 of the Geneva Conventions stipulates: “In the event of an armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be obligated to apply, as a minimum, to persons not actively participating in hostilities, including members of the armed forces who are rendered hors de combat by illness, injury, detention, or any other reason, lay down their arms:

- Prohibition of attacks on a person’s dignity, especially humiliating and degrading treatment.
- Prohibiting the use of violence against people, especially killing of all kinds, such as mutilation, torture, and cruel treatment.
- Prohibition of taking hostages.
- Prohibition of issuing sentences and carrying out executions without a previous ruling

issued by a regularly constituted court that guarantees all professional judicial guarantees in general as indispensable”<sup>124</sup>.

Paragraph (2/c) of Subject (8) also applies to armed conflicts that are not of an international character and therefore does not apply to cases of internal disturbances and tensions such as acts of violence, isolated or sporadic riots, and other acts of a similar nature, as well as other serious violations of laws and customs. Applicable to armed conflicts not of an international character within the established scope of international law include any of the following acts: directing attacks and strikes against the civilian population as such or against individual civilians not taking a direct part in hostilities and as well as directing attacks and strikes against buildings, materials, medical units, means of transport and individuals bearing the distinctive emblems set forth in the Geneva Conventions in accordance with international law, as well as deliberately launching attacks and strikes against employees employed, facilities, materials, units or vehicles that were used while performing tasks in providing humanitarian aid or preserving... Peace in accordance with the Charter of the United Nations as long as they deserve the protection afforded to civilians or civilian sites under the international law of armed conflict...etc. Other violations that may affect civil defense personnel are considered criminal acts according to international humanitarian law, and therefore their perpetrators can be held accountable before the International Criminal Court<sup>125</sup>, thus, it is not possible to provide protection to civil defense personnel during armed conflicts that are not of an international nature, and this is a guarantee that civil defense personnel will not be exposed. Any of the previous violations.

And in Iraq, civil defense personnel were exposed to many dangers, and Appendix No. 10 shows the numbers of martyrs and wounded of Iraqi civil defense personnel from 2003 until 2023. Serious violations continue against civilians, especially grave violations against civil defense personnel during indiscriminate military attacks from Before the Israeli occupation of the Gaza Strip, for example, on 10/16/2023, Palestinian Civil Defense personnel were targeted, leading to the death of six of them and the injury of seven others during an Israeli bombing that targeted their crew at the Civil Defense Center, likewise, the indiscriminate military targeting of the Al-Andalus Center staff in Rafah, south of the Gaza Strip, is repeated during the Israeli bombing, which targeted them while performing their humanitarian tasks. The Israeli occupation continues to target medical and first aid crews belonging to the Palestinian Civil Defense personnel, so that the loss of Palestinian human lives is as large as possible. All of this calls for accountability. The perpetrators of these crimes are brought before the International Criminal Court.

## Conclusions

1. Civil defense personnel and their agencies should not be deprived of international protection, even if their formation is military-style or engagement is under the supervision of the military authority. This is confirmed by Paragraph (4) of the text of Subject (65) of the First Additional Protocol of 1977.
2. The First Additional Protocol of 1977 gave the authority to the competent authority to determine the identification card for civil defense personnel in order to protect them.
3. The difficulty of proving, for example, the physical violations that civil defense personnel are exposed to during armed conflicts due to the development of the weapons used, as well as when civil defense personnel and others are arrested by the party to the armed

conflict, since the latter is the one with the controlling authority over the national territory of these individuals.

4. The four Geneva Conventions of 1949 did not refer directly to civil defense personnel, and it is noted that they are mentioned directly in the First Additional Protocol of 1977.
5. Individual criminal liability is one of the most important guarantees for the protection of civil defense personnel in the event of violation of the protection assigned to them.

## **Recommendations**

Based on the above-mentioned conclusions reached by the research, we recommend the following:

1. Reconsidering the legal status of civil defense personnel and providing protection for all civilian and military personnel, whether permanent or temporary contract holders.
2. The necessity of creating legal guarantees for civil defense personnel during the period of international and non-international armed conflicts and during the period of occupation, due to the nature of the humanitarian tasks carried out by the individuals.
3. Strengthening protection for civil defense personnel during armed conflicts and establishing severe penalties against anyone who commits serious violations against them.
4. Reconsidering military necessity, since its use during armed conflicts may lead to adverse results at the expense of the lives of civilian victims, as well as civil defense personnel while performing their humanitarian duties. This principle must be codified to ensure that arbitrary personal actions are not carried out against civilians.

## **Footnotes**

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- 14) Muhammad Maher, *The Crime of Genocide in the International Criminal Court, Constitutional and Legislative Adaptations*, Publications of the International Committee of the Red Cross, Cairo, without year, p. 75.
- 15) See the text of Subject (11) of the First Additional Protocol of 1977.
- 16) Subject (75), paragraph (1) of the First Additional Protocol of 1977 in the field of fundamental guarantees stipulates: "In all circumstances, persons who are in the power of one of the parties to the conflict and who do not enjoy better treatment under the Conventions or this Protocol shall be treated humanely within the scope of their influence." In one of the situations referred to in Subject 1 of this Protocol, these persons shall enjoy, as a minimum, the protection guaranteed to them by this Subject without any unfair discrimination based on race, colour, sex, language, religion, creed, political or other opinions, or any other status based on the basis for any other similar standards, and all parties must respect all these persons in their person, honor, beliefs, and religious rituals.
- 17) See the text of Subject (85) of the First Additional Protocol of 1977, the purpose of which was to prepare a list that includes a number of acts considered grave violations of the rules of international humanitarian law, and in order for states to work to determine the appropriate criminal penalties for them.
- 18) See the text of paragraphs (first and second) of Subject (4) of the Second Additional Protocol of 1977.
- 19) Montaser Saeed Hamouda, *International Protection for Members of Medical Corps during Armed Conflicts*, Dar Al-Fikr Al-Jami'i, first edition, Alexandria, 2013, p. 242.
- 20) Montaser Saeed Hamouda, same source, p. 244.
- 21) See the text of Subject (8), paragraph (c) of the Rome Statute of 1998.
- 22) Consider Resolution No. 3452 of December 9, 1975 issued by the United Nations General Assembly.
- 23) See Dr. Abu Al-Khair Ahmed Attia Omar, *The Theory of Preemptive Military Strikes (Preventive Defense) in Light of the Rules of Contemporary International Law*, Dar Al-Nahda Al-Arabiya, Cairo, 2005, p. 111.
- 24) See the text of Subject (3), paragraph (c) of the Rome Statute of 1998.
- 25) See the text of Subject (2) Paragraph (C) of the Rome Statute of 1998.
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