

RIGHT TO HEALTH IN ARMED CONFLICT- A CRITICAL LEGAL APPROACH

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INTRODUCTION

During armed conflict, civilians always pay a heavy price for their safety. They may witness daily threats of violence and death or find themselves unintentionally caught in the crossfires of conflict. United Nations, as an international organization, has protected the citizens of different countries under the shadow of International Humanitarian Law and Human Rights Law. Despite this, civilians are continuously made victims of armed violence and sometimes intentionally targeted by the belligerents. These deliberate attacks include sexual violence and encourage fear and feelings of threat within the people. Furthermore, these attacks force the civilians to move out of their houses, thereby losing their land and property. In spite of these atrocities and danger to the civilians, the state does not provide for adequate health facilities during armed conflict, though it is the prime duty of any state to do so. In the present scenario, their access to humanitarian assistance has been increasingly restricted by bureaucratic constraints, intense hostilities or violent attacks against humanitarian assets. The United Nations, international and national organizations, including Non-Governmental Organizations (NGOs) are playing an important role in protecting the civilians, whether through political and legal action, military activities or humanitarian action. However, the efforts made by these international organizations to protect the civilians in such conflict can often be inadequate, incoherent and even futile.

Civilian Protection Matters

In the matter of armed conflict, the concept of protection encompasses *“all activities ensuring full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law i.e. Human Right Law, International Humanitarian Law and Refugee Law”*.²

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²This definition was agreed upon in 1999 by a wide group of humanitarian and human-rights agencies regularly convened by the International Committee of the Red Cross (ICRC) in Geneva. It was subsequently adopted by the Inter-Agency Standing Committee (IASC). Under the leadership of the Emergency relief Coordinator, the IASC develops humanitarian policies, agrees on a clear division of responsibility for the various aspects of humanitarian assistance, identifies and addresses gaps in response, and advocates for effective application of humanitarian principles.

Civilian protection is a matter of moral perspective. Everyone has the right to not be deprived of their life and the right to not be tortured. Protection of civilians in armed conflict is a matter of legal perspective, because of specific obligations on the part of the state. This spirit is now increasing day by day and blurring the distinctions between antagonists and the state in the way they use force to achieve political goals. Future conflict will merge the lethality traditionally associated with state conflict and the fanatical and protected enthusiasm of asymmetrical warfare.³ International humanitarian law provides that civilians shall enjoy general protection and health facilities during the armed conflict. It also provides for the protection of civilians from the objects of attack and prohibits attacks which are indiscriminate. India is a staunch supporter of International Humanitarian Law and Human Rights Law and the International Criminal Courts and Tribunal.

International Obligations to Respect and Protect Civilians

In cases of armed conflict, civilians and combatants "*hors de combat*" are entitled to specific protection under international humanitarian law as they are not involved in the direct act of aggression. International humanitarian law should provide certain guidelines to protect the civilians and distinguish between the combatants and civilians. They must take constant care to spare civilians and civilian objects from the effect of hostilities. Also, civilians must not be targeted for direct attacks such as killing, torture, maiming and other forms of ill-treatment, preclusion of the provision of medical care, slavery, forced recruitment and hostage taking. In addition, international human rights law instruments may provide further protection. In times of armed conflict, states may exceptionally derogate from certain rights under strictly defined circumstances. However, a number of human rights, central to the protection agenda, can never be suspended: the right not to be arbitrarily deprived of life, the prohibition of torture or cruel inhuman or degrading treatment or punishment, the prohibition of slavery and servitude and the prohibition of the retroactive application of criminal laws.⁴

Right to Health in Armed Conflicts

The consequences of armed conflict are multifaceted and range from death, epidemic and famine to less perceptible ones including the disorganization of health services and in some cases, their total eradication. These types of effects may result in humanitarian disasters which will affect the people.

³Frank G Hoffman, *Conflict in the 21st Century; The Rise of Hybrid Wars* (Potomac Institute for Policy Studies, December 2007)

⁴<<http://reliefweb.int/sites/reliefweb.int/files/resources/5D94ED87444FC78F492576F8001C924B-FCO038%20UK%20POC%20Strategy%20v2.pdf>> accessed 17 January 2011

Health services react to these situations, but the implementation of these strategies faces constraints that limit their effectiveness, especially when violence is established as war against the civilians. This diplomacy of aggression runs contrary to the humanitarian logic. Health officials are not only responsible for proposing technical solutions to determine problems, but they also must use legal means, in particular International Humanitarian Law (IHL) and International Human Rights, to efficiently protect right to health. In this regard, the role and obligations of health professionals in naming the effects of weapons with the effect of applying IHL rules on the means and methods of armed conflict is an illustration of such a role, as well as of the complication of treating health factors in the context of warfare.⁵ During armed conflict, both international humanitarian law and international human rights law offer important safeguards for providing medical aid to civilians. The various elements of this right and the applicability of legal framework involve interaction between those bodies of norms. While considering IHL, it is worth noting that protection goes beyond specific provisions related to health and health services. It also embraces norms that indirectly contribute to protecting the health of the civilians such as the principles and rules governing the means and methods of armed conflict.

Indeed, IHL rules first originated by focusing to assuage the suffering of wounded combatants on the battlefield and to ensure access by health services to those persons. This research first seeks to look at the legal bases of the right to health to provide adequate medical aid and facilities in armed conflict to show that IHL provides for a board protection. It affords a brief overview of the protection of this right to practice. Ultimately, it gives elements on the underlying humanitarian and political background to understand the contemporary progression with respect to the protection of the right of the citizens to provide adequate medical facilities to the civilians.

Legal Perspective of Right to Health

During armed conflict, proper medical aid is the inherent right of the civilian of the state and it is the obvious duty of the state to provide certain medical aid to its civilians. The right to health is understood as the right to have access to health services, though it is not an absolute right as such.⁶ The WHO defines health services as all activities intended to restore and maintain health.⁷ It defines that there should be facilities

⁵Robin Coupland, 'The Effects of Weapons and the Solferino Cycle' 319 (7214) *British Medical Journal* (1999) 864, 865.

⁶Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14 on the right to the highest attainable standard of health, 11 August 2000, UN Doc. E/C.12/2000/4, at paras. 9 and 11.

⁷<http://www.who.int/topics/health_services/en/> accessed 23 January 2011

including vaccinations, medical care, but also sanitary services and a hygienic atmosphere, as well as activities ensuring access to food and water resources. Those “underlying determinants of health”⁸ entail consideration of the right to health and proper medical facilities in broader perception, which is the basis of Article 25 of the Universal Declaration of Human Rights.⁹ The consequence of this right is the idea that states are answerable for adopting proper sanitation facilities and medical care for their population to have effective use of the health services.¹⁰ These responsibilities find mention in several legal organizations including the International Convention on Economic, Social and Cultural Rights (Articles 12, 24), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5), the Convention on the Elimination of All Forms of Discrimination Against Women (Articles 10, 12, and 14) and the Convention on the Rights of the Child (Article 24).¹¹

Although all these legal instruments are pertinent at all times, including situations of armed conflict, this paper will focus primarily on the provisions of international humanitarian law. As defined, the right to access to health care applies to all persons whether they are wounded or not. It covers situations of armed conflict, though it will address mainly medical aid for persons, be it combatants or non combatants, who are injured. Within possible limits, medicine has always reacted to the needs of injured persons and tried to limit the means and method of warfare, describing and providing expertise to better understand the effects of weapons. In his work ‘On the Physician’, Hippocrates refers to war injuries as an area of surgical specialization.¹²

On the basis of the reports of the consequence of the use of nuclear weapons on health, two physicians, a Russian and an American, expounded the idea of an association of medical doctors to prevent a nuclear war. This concept was the idea of the derivation called International Physicians for the Prevention of Nuclear War in Geneva, in 1985.

⁸CESCR, *Supra* Note 6.

⁹Article 25 of the Universal Declaration of Human Rights reads:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

¹⁰Preamble of the Constitution of the World Health Organization (WHO) (1946), available at http://www.who.int/gb/bd/PDF/bd46/e-bd46_p2.pdf.

¹¹<http://www.swisshumanrightsbook.com/SHRB/shrb_03_files/09_453_Perrin.pdf> accessed 10 February 2011

¹²Hippocrates, *On the Physician*, 14: “Surgery concerning the injuries by war weapons is related to our topic, insofar as it has to do with the extraction of arrows.”

This association received the Nobel Peace Prize for making people aware of the calamitous effects a nuclear conflict would involve. The evolution of IHL through the First Geneva Convention¹³ was aimed at protecting the persons injured in the war, mainly the combatants. This brought about the major turning point in the development of modern humanitarian ideas and presented a legal framework for providing support to the wounded in the wars.¹⁴ In 1863, during the American Civil War, the Lieber Code¹⁵ was an important guideline, limiting the military's means of armed conflicts. There are several assisting guidelines that were adopted to prohibit the expanding use of bullets¹⁶ biological¹⁷ and chemical weapons.¹⁸ An issue raised by the World Health Organization in the International Court of Justice on the legality of the use of nuclear weapons. The Court ruled in 1996 in its advisory opinion that this issue did not come under the ambit of the powers of WHO.¹⁹ But it does not mean that the rules are not relevant to provide protection for their health in the wars.

● *Protection of Health Care through International Humanitarian Law*

Many aspects of international humanitarian law tackle the protection of the health of the people in armed conflict; they concern the protection of the right to give care and the protection of essential services to provide medical care to the people. The 1977 Additional Protocol I states that: "... all the wounded, sick and shipwrecked, to whichever Party they belong, shall be respected and protected. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the

¹³First Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field (1864).

¹⁴The IHL rules for protecting non-combatants in armed conflicts are contained in the four Geneva Conventions of 1949 and their two Additional Protocols of 1977. International armed conflicts are those in which at least two states are opposing each other. These conflicts are ruled by a vast range of rules, among them the ones stated in the Geneva Conventions of 1949 and the additional Protocol I of 1977. In non-international armed conflicts, dissident armed forces are confronting each other on the territory of a single state, or armed groups are fighting each other. More limited rules, overall, are applicable to this type of conflict.

¹⁵Instructions for the Government of Armies of the United States in the Field (1863).

¹⁶Declaration (IV, 3) concerning Expanding Bullets (1899), available at <<http://www.icrc.org/ihl.nsf/FULL/170?>> accessed 20th February 2011

¹⁷Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (1972), available at <<http://www.icrc.org/ihl.nsf/FULL/170?>> accessed 19th February 2011

¹⁸Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (1993), available at <<http://www.icrc.org/ihl.nsf/FULL/170?>> accessed on 3 March 2011

¹⁹*Legality of the Use by a State of Nuclear Weapons in Armed Conflicts*, IC J Reports (1996), para. 31.

medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones."²⁰

Many articles in the Geneva Conventions and their Protocols safeguard hospitals and medical officials. It is forbidden to attack on hospitals and medical staff when they are performing their duties.²¹ There is also need to protect the essential services aimed at maintaining health, food, drinking water, hygienic measures and habitat. It is illegal to assault or destroy these services or to render them terminal. With respect to access to food, it is forbidden to attack food stocks, agricultural zones, harvests, cattle, and irrigation installations.²² IHL also comprises rules regarding the obligations of the parties to the conflict. For example, in case of occupied territories, the engaging power or the occupying party has the duty to ensure and maintain the hospitals and services, public health and hygiene in the occupied region in cooperation with the national authorities.²³

● ***Limitations on the Means and Methods of Armed Conflicts***

Limitations on the means and methods of armed conflicts, through specific rules covering particular weapons, are also pertinent when considering the protection of health of the citizen during armed conflict. These weapons may impact the health of soldiers including the civilians. For instance, it was forbidden to use famine as a weapon of war.²⁴ Despoiling and poisoning of water supplies is also prohibited. The rules also require one to consider medical treatment during the armed conflict and the use of harmful weapons and their effect on the civilians.

Recently, various Humanitarian Organizations²⁵ have stated that usually populations

²⁰Article 10, First Additional Protocol to the Geneva Conventions (1977).

²¹Article 12, paragraph 1, and Article 15, paragraph 1 of the First Additional Protocol to the Geneva Conventions; Article 19 of the Fourth Geneva Convention, Article 15 of the First Additional Protocol and Article 11 of the Second Additional Protocol.

²²"Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works": Article 14, Second Additional Protocol to the Geneva Conventions.

²³Article 56 of the Fourth Geneva Convention.

²⁴Article 14, Second Additional Protocol to the Geneva Conventions.

²⁵International Committee of the Red Cross (ICRC), Handicap International, Human Rights Watch, United Nations Mine Action Service.

are affected by the use of cluster munitions.²⁶ *Cluster Munitions are weapons that spread hundreds of tiny explosive devices over wide areas and leave hidden unexploded bomblets that keep on killing for many years. In modern wars, civilians pay a high price from the use of such weapons.*²⁷ In 2008, 107 states accepted a draft convention on cluster munitions which effectively prohibits the use of production and transfer of all existing types of cluster munitions. This draft convention ascertained important resolutions regarding assistance to victims, clearance of polluted areas and destruction of backlogs.

The adoption of the Protocol on Explosive Remnants of War in 2003 obliges the parties to the conflict to remove all explosive remnants. The purpose is to step forward for the protection of the population specially the civilians during the armed conflict. More and more governments and other associates are accepting the prohibition of such weapons which are against the principle of disparity between combatants and the civilian population.²⁸ It is preferable to adopt tactics of primary prevention, with a view to restricting the development of certain weapons right from preliminary conception, if there is a probability of violating the principles of International Humanitarian Law. This approach is helpful in banning the use of laser weapons.²⁹ The population may be exclusively safeguarded by extra protections under the 1951 Refugee Convention and its Protocol of 1967, which explains the responsibilities of states and the guiding principle on Internal Displacement, which sets out the condition vis-a-vis internally displaced persons (IDPs). According to the recommendations of the World Medical Association (hereinafter referred to as WMA), these instruments are not legally binding but are socially binding over it and they delineate the medical profession on problems such as torture³⁰ or economic embargoes³¹ which are sometimes encountered in armed conflicts. WMA addresses the position of medical officials in the case of surgical triage³² which may result in limited facility to care for certain groups of wounded. This moral

²⁶Cluster Munitions are defined as "all ammunitions or explosive charges designed to blow up at a specific moment after having been launched or ejected from a parent Cluster Munitions": 10th Session of the Group of Government Experts of the Parties to the 1980 Convention on Certain Classical Weapons, 8 March 2005.

²⁷Human Rights Watch, *Cluster Weapons: Scourge of Civilians*, 23 September 2008.

²⁸ICRC, *Cluster Munitions: Decades of Failure, Decades of Civilian Suffering* (Geneva: ICRC, 2008), available at <<http://www.icrc.org/eng/resources/documents/publication/p0946.htm>>

²⁹Protocol on Blinding Laser Weapons, Protocol IV of the 1980 Convention on Certain Conventional Weapons (1995).

³⁰Tokyo Declaration of the World Medical Association Directives for physicians concerning torture and other punishments or cruel, inhumane or debasing treatments in the context of detention or imprisonment.

³¹World Medical Association Resolution on Economic Embargoes and Health (1997).

³²World Medical Association Statement on Medical Ethics in the Event of Disasters (2006).

framework contemplates with the legal framework for the help of medical personnel "to work for the highest possible efforts of ethical behavior and care by the physicians, at all times."³³

Protection of Health during Armed Conflict

There are many considerations which are very essential. These are as follows:

- I. Integration of the right to health in the general concept of the human security.
- II. Attempt to stabilize the steadiness between the political and humanitarian management of warfare.

The political management of armed conflict and their humanitarian effects are gradually more believed to be an exercise that is to be conducted in comprehensive manner. The contemporary situation leads to tackle wars and its humanitarian consequences: "*The original concept of coherence envisioned a collective rallying of military, political, economic and humanitarian assets to support peace and security. It assumed a common understanding of the nature and dynamics of conflict between these different domains, and a shared vision of the means of resolving such conflict and of the nature of peace.*"³⁴ Generally, this global strategy was planned to ensure the protection of human beings and their health in the warfare: "*Civilians are the main casualties in conflicts. Both norms and mechanisms to protect civilians should be strengthened. This requires comprehensive and integrated strategies, linking political, military, humanitarian, and development aspects.*"³⁵ This integration has reverberations on the specific planning for protecting the health facilities and on sharing of responsibilities between the parties involved in the war. We find ourselves in a two-way flow of responsibilities between civilian organizations (NGOs, specialized UN organizations), and the military either under a UN mandate (peacekeeping forces), or acting within the framework of agreements with national authorities (for example, the United States in Iraq).

It is difficult for humanitarian organizations to distinguish themselves from the political institutions, which are party to this planning and therefore, comply to the principle of

³³World Medical Association Mission Statement, available at <http://www.wma.net/e/about/index.htm#mission>.

³⁴Humanitarian Policy Group, 'The Politics of Coherence: Humanitarianism and Foreign Policy in the Post-Cold War Era', Briefing Paper 1, July 2000, available at <www.odi.org.uk/hpg/papers/hpgbrief1.pdf> accessed 5 March 2011

³⁵Commission on Human Security, *Human Security Now* (New York: Commission on Human Security, 2003), available at <<http://www.humansecuritychs.org/finalreport/index.html>> accessed 3 March 2011

neutrality and the parties to the conflict. Confusion may arise in the minds of a civilian with respect to the perceptions of mandates. For example, in Afghanistan, the International Security Assistance Force (ISAF)³⁶, the mission is to help Afghanistan government to maintain their security. This means there will be joint interventions between ISAF forces and the Afghanistan Police, and the Civil Military Cooperation (CIMIC)³⁷ projects concerning the education, health facilities and the improvisation of the drinking water facilities. These joint activities create some doubt relating to the perception of the mandates among the population and the authorities.

This mix of activities creates some confusion relating to the perception. *"OXFAM was forced to close its program in Kandahar in 2003 ... Communities that we work with have become confused as the lines between aid agencies and the military have become blurred in Afghanistan."*³⁸ To avoid this confusion, United Nations has to play the role of mediator with regard to the bilateral disputes. In the contemporary reforms UN has the objective to achieve coherence in the realm of Humanitarian Law.

Recommendations and Conclusion

International Humanitarian Law and International Human Rights law contain a number of rules and regulations that govern the protection of health care and its delivery in armed conflict and the other violent situations. International Humanitarian Law is clearly specific regarding wounded, sick and civilians who are indirectly engaged in the war; they should be respected and protected at all times and may never be attacked by the belligerents and they must be treated humanely and receive medical care and attention. They must be protected against ill-treatment and theft.³⁹ Everybody should be provided adequate medical facilities.⁴⁰

Maintaining adequate health care has always been one of the most important concerns of Red Cross and Red Crescent Movement, and remains so. For instance, in Resolution 8⁴¹ adopted in Seville in 1997, the council of delegates expressed the risk of Red Cross

³⁶The International Security Assistance Force (ISAF) is NATO's first mission outside the Euro- Atlantic area. ISAF operates in Afghanistan under a UN mandate and will continue to operate according to current and future UN Security Council resolutions.

³⁷Civil Military Cooperation (CIMIC) Projects are developed by NATO to reinforce cooperation between NATO and the civilian authorities of the population.

³⁸Caroline Green, OXFAM Spokesperson, Comments Reported by International Inter Press Service, August 2004.

³⁹Article 15 of GC I; Article 18 of GC II; Article 16 of GC IV; Article 8 of AP II; Rule 111 of the Customary Law Study.

and Red Crescent officials during armed conflict. In the same stratum, Resolution 3 of the 30th International conference in 2007⁴² recalled the importance of protecting medical personnel, facilities and transport, allowing them to access humanitarian relief and respecting the emblems. These are the certain recommendations that are going to be discussed in following points.

● *To Maintain Health Facilities Under the Circumstances of War*

Health care facility is the prime duty of the state to provide to their population during the war. During the periods of active war, existing health facilities are rapidly overwhelmed. Specifically in these types of circumstances, when there are high numbers of civilian victims particularly when there is fighting in populated areas. As a result, a number of persons die due to epidemics in the poor security areas. A simple but frequent example is when an overburdened health facility is unable to work due to the difficult surroundings. Basic supplies such as dressings, medicines and blood for transfusion becomes short. The hospital may have to use their valuable assets to supply food, water and shelter to hundreds of people who need help. The services of electricity and water are essentials for the health facilities. In human rights law, the right to health is understood as to necessitate a positive obligation on the part of state to ensure health care. The state should take every possible step to provide medical aid to the wounded and sick civilians. The convention on the Rights of Persons with Disabilities⁴³ clearly requires that during armed conflict and other violence, state should take necessary measures to ensure the safety of persons with disabilities.

● *Provide Humanitarian Relief to Ensure Health Care Facilities*

International human rights law contains right to life, which must be respected and protected. It means that in violent situations the authorities may not intentionally hinder the health care facilities to prevent medical aid from reaching them. If restrictions are imposed for reasons of public security it will be imposed for the reasonable obligations. Authorities must protect the population and provide medical facilities and take all executable measures to ensure health facilities.

The warring parties must permit and ease rapid and unobstructed passage of humanitarian relief for civilians as required, which is impartial in character and the relief consignments remain subject to verification by the parties pertained.⁴⁴ This relief

⁴²Reaffirmation and Implementation of International Humanitarian Law: Preserving Human Life and Dignity in Armed Conflict.

⁴³Article 11 of the Convention on the Rights of Persons with Disabilities.

⁴⁴Rule 55 of the Customary Law Study; Article 70 of AP I; Article 18(2) of AP II.

includes health care and the parties must allow the free passage of consignments medical aid and store intended only for the civilians of any state, even if state is the enemy.⁴⁵ The channel of humanitarian relief is subject to technical conditions which are consented to by the parties but this consent may not be in operation arbitrarily.⁴⁶ Relief officials must be respected and protected and the parties to conflict must authorize humanitarian relief officials for the freedom of movement essential to their work.

● *Embargo of Attacks on the Medial Officials and Facilities*

During wars there are direct and deliberate attacks on the hospitals or other medical care facilities. These attacks are common in the fight against the innocent persons. This is the worst thing that can happen because according to the belligerent's view, the medical staff helping the opponents and wounded make them vulnerable to further attacks. These incidents are of extreme concern to the movement, particularly since their staff and officials sometimes become the victims. Attacks on the medical officials pursuing their entirely humanitarian task or patients who are civilians or combatants *hors de combat* are illegal.

Medical care officials should not be attacked unless they commit acts outside the ambit of humanitarian purpose acts harmful to the enemy and must be respected and protected in all circumstances.⁴⁷ All health care facilities and transports, for instance hospitals, first aid, blood transfusion centers, preventive medicine centers, pharmaceutical stores and maternity clinics must be protected from attacks.⁴⁸ These are the particular rules which are applicable to medical officials, units and transport from the basic rules of International Humanitarian Law on the conduct of aggression which require that belligerents at all times distinguish between civilians and combatants and between civilians and military objects. They must never be haphazard when they strike military objectives or civilian object without distinction.⁴⁹

⁴⁵Article 23(1) of GC IV.

⁴⁶Article 23(2-4) of GC IV.

⁴⁷Rule 25 of the Customary Law Study; Articles 24-26 of GC I; Article 36 of GC II; Article 20 of GC IV; Article 15 of AP I; Article 9 of AP II; and general rules protecting civilians against attack (Rule 1 of the Customary Law Study; Article 51(3) of AP I; Article 13(3) of AP II).

⁴⁸Rules 28, 29 of the Customary Law Study; Articles 19(1) and 35(1) of GC I; Article 23 of GC II; Article 18 and 21 of GC IV; Articles 12(1) and 21 of AP I; Article 11(1) of AP II, and general protection of civilians against attack (Rule 7 of the Customary Law Study, Article 51(3) of AP I and Article 13(3) of AP II).

⁴⁹Rules 11-13 of the Customary Law Study; Article 51(4) of AP I.

With respect of this study we conclude that protection of right to health in armed conflict requires reliance on a legal framework that discerns the many facets of this right. Whereas IHL incorporates specific circumstances, striking a balance between humanitarian considerations and military necessity and Human Rights Law relevant to the complementary IHL in order to fill the probable blocks. The current and future development of wars and their impact on health is no longer a matter of thought in terms of managing the humanitarian consequences of war on the health care facilities that is no longer with medical corps. Practically, the purpose of health care facilities during armed conflict is still not to be so effective in respect to the innocent people, there will be still need of some efficient laws which will be implement for the future perspective and it is the deemed responsibility of every state to provide adequate health care facilities to their population during the armed conflicts.