

Documents of Humanitarian Law and Support of Family in the Situation of Armed Conflicts

Zahra Khabbaz¹, Mohammad Roshan², Ebrahim Taghizadeh³ & Hassan Khosravi³

¹ PhD student of law, Payame Noor University, Iran

² Associate professor of law group of Shahid Beheshti University, Iran

³ Associate professor of law group of Payame Noor University, Iran

Correspondence: Zahra Khabbaz, PhD student of law, Payame Noor University, Iran. E-mail: Z_khabbaz@yahoo.com

Received: January 19, 2017

Accepted: February 13, 2017

Online Published: February 28, 2017

doi:10.5539/jpl.v10n2p178

URL: <https://doi.org/10.5539/jpl.v10n2p178>

Abstract

At current era, international humanitarian law has much importance and different dimensions while before the establishment of the United Nations Organization; merely bill conventions considered this issue. But after the formation of the United Nations Organization, Geneva rights were formed in 1949. Humanitarian law has different dimensions like family discussions that have been reflected in numerous documents of humanitarian law. For example, in quadruple Geneva conventions and two additional protocols, the cases from this view for exerting some humane supports of families can be considered. Even in some cases, according to the competence of the international penal court, some crimes against women and children have been criminalized, and massive criminal guarantees have been ordained for dealing with them. Therefore, in this article about the necessity and importance of the support of a family dynasty as the central core of human societies, numerous documents of humanitarian law have been studied and analyzed for supporting this important social element. Also, this result was obtained that in armed conflicts such as domestic or international, protection of a relation between the family members and special support of women, physically challenged persons and children in the first degree are considered as supportive priorities in Geneva conventions and supportive documents of humanitarian law.

Keywords: family, humanitarian law, armed conflicts, protection of family

1. Introduction

Humanitarian law is one of the oldest branches of public international law that in its classic definition refers to the international provisions that seek to reduce the humane pain arising from war. In other words, humanitarian law is a set of conventional international law that specifically has been customary on hostile forces in doing the non-international armed conflicts, and it is known as a branch of public international law governing on armed conflicts.

The most vulnerable persons in armed conflicts such as domestic and international are children, women and old persons. The ultimate goal of all documents related to the humanitarian law in conflicts is to support the civilians and vulnerable stratum.

In this regard, Security Council due to the numerous resolutions aligned with supporting the civilians has announced its severe concern about the violation of humanitarian law. For example, in resolutions 794 in 1992 about Somalia and also the resolution 764 in 1992 about the former Yugoslavia, Security Council wanted from the conflict parties to observe the international humanitarian law. On the other hand, with the creation of penal specialized and combinative tribunals in the international arena like a penal court of the former Yugoslavia, Rwanda, Sierra Leone and aligned with fighting with impunity for perpetrators of humanitarian law violation, the practical acts have been accomplished.

The acts of regional institutes like Africa and the Europe Union for mediation, human rights meetings and protection of peace in supporting the civilians haven't also been without effect.

In this regard, there are two main sets of international treaties that a series of them embraces more than 15 conventions which have been accepted in The Hague Peace Conference of 1899 and 1907. The second series

includes four conventions which have been concluded for supporting the war victims in 1949 and two additional protocols annexed to them were concluded in Geneva in 1977. Referring to the Geneva conventions and additional protocols as the international humanitarian law is a public method that nomination of it is according to the humanitarian motives and it forces the global society to accept them (Sharifi Tarazkouhi, 2011, 122).

Of course, it should be considered that Geneva Conventions provisions have been converted to the international custom and they have global acceptance. These conventional rules of international humanitarian law which are sometimes named as "the public" rule of international law obligate all countries and if necessary all conflict parties without the need to the national annexation.

Here we study the conventional international humanitarian law which has been presented by the International Committee of Red Cross and contains traditional international rules and is related to the domain of family and its members and support of them.

1.1 Justificatory Principles of Respect to the Family in International Human Rights

The necessity of adhering to the family in the international documents and governments, performance at the time of domestic and international armed conflicts is as a conventional international rule. The necessity of observing the familial rights of persons in the occupied regions before this had been identified in the Brussels resolution, article 38 and Oxford instruction, article 48. This issue was also compiled in the Hague provisions, Article 46 (Henkertz and Doswald-Beck, 2008, volume 1, 577).

This duty is generalized to all civilians supported by the Fourth Convention of Geneva, as the first clause of Article 27 ordains. The persons about their rights are supported on themselves, their dignity, familial rights, religious beliefs, acts and customs. Especially women will be supported in facing with any violation of dignities such as compulsory sexual intercourse and prostitution and any mandatory transgression.

The fourth convention of Geneva also ordains in the third clause of Article 28 that as much as possible "necessary facilities should be presented to the families of prisoners to handle the familial life properly." «... The members of a family at the time of arrest, especially their parents and children will be convened in an arresting place together, the arrested persons can request from their children that have been left without relatives' supervision to be arrested with them».

In military instructions, the duty of respecting the familial rights has also been mentioned with general phrases.

However, there is a vast procedure in the form of agreements after conflict and resolutions of the United Nations Organization and other international organizations that emphasizes on the necessity of observing the respect to the familial life.

Support of family is the natural gregarious and fundamental unit of the society in an other manner (natural and basic unit of society). And this issue that the support cannot be suspended has been ordained in the international covenant on civil and political rights, international covenant on economic, social and cultural rights and also triple regional conventions of human rights.

The collected procedure indicates that support of familial life requires that the protection of the family unit, establishment of a connection between the family members and presentation of information about the family member status to be accomplished as much as possible. In international armed conflicts, international committee of Red Cross should be able to have access to all persons who are deprived of the freedom to be able to confirm their arrest conditions and establish the connection between them and their families.

The right of the International Committee of Red Cross for visiting the arrested persons in international armed conflicts has been considered in third and fourth conventions of Geneva (Henkertz and Doswald-Beck, 2008, volume 1, 634).

International covenant on civil and political rights, child rights convention and American convention of human rights guarantee the protection right for willful and illegal interventions in familial relations and abuse of these relations.

Other international documents also have considered this category, such as global manifesto of human rights in article 12 mentioned the "willful intervention". And the American manifesto about human rights and duties, due to the article 5 has proposed "transgressive invasions." European charter of fundamental rights in the article 7 has emphasized on the necessity of "observance of respect to the personal and familial life."

1.2 Establishment of Connection between the Family Members

The Fourth Convention of Geneva also ordains that "all persons present in the realm of each one of conflict

parties or present in a country which has been occupied by one of the conflict parties will have right to bring their absolute news, in the event of existence, for their family members and receive their news.

The rule 125 of the International Committee of Red Cross also ordains that the persons deprived of freedom, conditioned to observe the logical conditions about the number and censorship ordained by authorities, will have the permission to establish a relation with their families. The rule 126 of this committee says that the persons deprived of freedom should have the authorization to have visitors as much as possible.

Also, the conventional judicial procedure of human rights confirms that the right to familial life includes the captives, right in creating the relation with their family members, establishing an alive relation with them and having the visitation depends on observance of limitations related to the scheduling and censorship of letters.

Also, part D in article 17 of the international convention for support of all persons in facing with compulsory disappearing has stipulated. «Each person deprived of freedom should be permitted to have a connection and visit with family, lawyer or any preferred candidate conditioned to observe the conditions which have been determined by law...». (<http://www.unic.ir.org/hr/hr36.pdf>)

In the article 37, at least 37 standards have been ordained for behaving with prisoners:

«Prisoners should have permission, under necessary control to establish a relation with their family and friends in regular spans through a letter or verbal visit. Also, article 92 has mentioned that «the untried prisoner should be permitted to inform his/her family about his/her arrest immediately, and all reasonable facilities should be given to him/her in relation with his/her family and for accepting them in prison (<http://www.unic.ir.org/hr/hr37.pdf>).

1.3 Presentation of Information about the Family Member's Status

Governments, duty to inform the families about the person status, in the event of accessing to such information, a vast procedure exists. Intentional refusal of presenting such information in the judicial procedure of human rights has been considered as inhumane behavior. This process has been mentioned in the explanatory points that the parties involved in the conflict present any information about the fate of missed persons to their families.

Geneva conventions have anticipated the formation of information office so that the information related to the war captives and civilians belonging to each one of the parties to be concentrated in that office, the related information to be sent to that party and according to it, some investigations about the fate of missed persons to be started.

Article 19 of the second convention of Geneva mentions the establishment of information office that has been suggested by article 122 of the third convention of Geneva. Article 26 of the fourth convention of Geneva obligates the conflict parties to facilitate the acquisition of information on behalf of persons that their family members have been dispersed as the result of conflicts. In some military instructions and also laws of some countries, the necessity of searching the missed persons by conflict parties has been ordained. Human rights commission of the United Nations Organization in 2002 in resolution 2002/60 emphasized about missed persons again that each one of the conflict parties has a duty to search the persons that have been announced as the missed persons on behalf of another party of the conflict.

Twenty-sixth International Conference of Red Cross and Red Crescent in 1995 actively wanted from conflict parties to «inform the families about the fate of their relatives that have been missed in the conflict».

Therefore, governments, conflict parties, and international organizations, primarily should take action concerning the families, right for being informed of the fate of their relatives. Many resolutions of international organizations and conferences also have supported the families, right on being informed of the fate of their relatives. For example, the resolution of public assembly of the United Nations Organization approved in 1974 expresses that families, request for being informed of the fate of their relatives that have been lost in armed conflicts is a fundamental need that should be satisfied to the greatest extent.

Human rights commission of the United Nations Organization in the resolution approved in 2002 has emphasized on "the families, right for being informed of the fate of their relatives that have been announced as missed persons during the armed conflict."

Families' right for being informed of the fate of their relatives due to the resolution approved by Europe parliament has also been confirmed, and the recommendations of parliament assembly of Europe Council also have supported the mentioned right.

Human rights committee of the United Nations Organization believes that lack of being informed of the fate of missed persons is the apparent violation of the right of families that due to missing their relatives are affected by

long-term anxiety and distress.

African Charter on child's rights and welfare in the article 19 states that in the event of dispersion of the families, members as the result of governments, acts, the government has a duty to inform the children about the residence of their families, members.

Mentioned Charter in Article 25/2 (B) also ordains that in the event of separation of families as the result of domestic or external vagrancy arising from armed conflict, governments should do the necessary acts for searching the parents or relatives of children. Therefore, governments, conflict parties, and international organizations concerning the families, right for being informed of the fate of their relatives should take action. Many resolutions of international organizations and conferences also have supported the families, right on being notified of the fate of their families.

Also, article 45 has stipulated the minimum standard provisions for behaving with prisoners. 1-upon death or severe disease or serious wound of a prisoner or transmission of him to another place for curing mental disease, the prison's manager should inform the prisoner's wife or his closest relative immediately and anyway he (prison's manager) should inform any other person that has been introduced by prisoner previously. (<http://www.unic.ir.org/hr/hr27.pdf>)

2. Legal System of Protection of Family in International Conflicts

2.1 Protection of Family Unit

This duty that as much as possible, the separation of family members should be avoided has been ordained in the Fourth Convention of Geneva in the field of transmission or evacuation of civilians by an occupying force, has been mentioned in the article 49 in the third clause. «... Occupier government at the time of mentioned transmissions or evacuations should take action order. That is satisfactory regarding health, hygiene, security and nourishment and the members of a family aren't separated from each other». Therefore, it necessitates the observance of respect to the family unit in the frame of general phrases.

Also, it requires a procedure according to create facilities for a reunion between the separated members of the family. Article 26 of the fourth convention of Geneva ordains that "each one of conflict parties should provide the necessary facilities of searching for family members that have been separated as the result of the war with the purpose of renewal of relation and if possible visitation with each other. Each hostile government will facilitate some searches that the family members scattered from war do them for the establishment of connection with each other and if possible for being convened..."

Additional protocols 1 in Article 74 and 2 in Article 4(3)B ordain that the conflict parties should facilitate the reunion of families that have been scattered as the result of armed conflicts. «All proportional stages should become customary for facilitating the union of families that have been scattered from each other temporarily».

This obligation has also been ordained in the military instructions and domestic laws of some countries, for example, military instructions of Argentina, New Zealand, Spain, the United States, the local law of Angola, Colombia, Philippine, procedure of southern Korea (Henkertz and Doswald-Beck, 2008, volume 1, 667).

There is also another procedure about protection of the family unit at the time of deprivation from freedom. The third clause of Article 82 of the fourth convention of Geneva ordains that "in any time that is possible, the prisoners of a family should be protected beside each other and in a unit set and they should be settled separated from other detainees.

2.2 Correspondence with Relatives

Each war captive at the time of capture or during a week since the date of entering a camp should be permitted to write a letter to his family and "central agency of war captives" directly (Hejazi, 2008, 134).

Also, each war captive should be permitted to send at least two letters and four cards in a month, the limitation of receiving the post consignments (such as a letter, etc.) may be exerted only on behalf of power that captives belong to it. Captives also can send a telegram (article 70 and 71, Geneva Convention of 1949 and additional protocol of 1977).

According to the articles 82 and 83 of the convention, they will be permitted to receive the packages individually or gregariously that contain food, cloth, medical materials, religious, educational and recreational objects.

According to the articles 74, 76 and 77, all letters and packages are exempt from postage costs and relay consignments are free from the port, customs, and other tools.

Whenever the military conditions and situations cause that doing the duties of arrested power to become

impossible about carrying the post and relay consignments, International Committee of Red Cross or any other organization which has been accepted by conflict parties can undertake to deliver these shipments with proper devices.

Letters and packages may be revised, but this revision shouldn't be an excuse for delay in their delivery to the captives, the authorities of arrested power also should provide facilities for enforcement and transmission of legal documents like power of attorney and testament.

Twentieth and twenty-first international conference of Red Cross approved the resolutions that have recognized the right of arrested persons for correspondence with their relatives.

Commitment and obligation to give permission to the persons deprived of freedom in the establishment of correspondence with their families conform to the principle of respecting the familial life that this duty in both domains of international and non-international armed conflicts should be recognized.

In the field of Iran and Iraq war, the International Committee of Red Cross in a report announced that had identified 6800 persons of war captives and this issue that they have been able "to correspond with their relatives satisfactorily" (Hejazi, war captives' rights, 2008, 231).

2.3 Visitation with Relatives

Arrested civilians and the persons who have been deprived of freedom in the proceeding of non-international armed conflicts, as much as possible should be permitted to have visitation, especially with their close relatives.

The right of civilians that have been arrested about international armed conflicts for "visitation with close relatives in determined and regular and as much as possible repeated spans" has been recognized in the first clause of Article 116 of the Fourth Convention of Geneva.

The procedure expresses that the persons deprived of freedom in the event of practical possibility can have visitation with their family members. The intended method includes the rules ordained in the child's rights convention that article 37 stipulates this issue that any child that is deprived of freedom "has the right of having a connection with his/her family through visitation unless in exceptional cases."

2.4 Return of Vagrants to the Residence

Vagrants have the right to return to their house or residence in the complete security voluntarily immediately after the end of conditions that have forced them to become vagrant.

The second clause of Article 49 of the Fourth Convention of Geneva ordains that the evacuated persons should return to their residence immediately after stopping of conflicts in the related region (The Fourth Convention of Geneva, article 49, second clause).

2.5 Return of Deceased Corpse to the Family

Conflict parties are obliged to apply their efforts for facilitation in returning the remainders of deceased corpse upon the request of a party that corpse belongs to it or upon the request of deceased relatives. Their personal necessities should also be returned. An incremental tendency is observed about the insufficiency of conflict parties, duty for facilitating the returning of corpse remainders to their families that the rule which refers to return the remainders of deceased corpses is according to the contents of the Geneva conventions.

Each one of conflict parties to recognize the identity of corpses should register all achievable information about the deceased before burial, and they should earmark the place of corpse burial.

Commitment and obligation to recognize the identity of the corpses before burial were compiled for the first time by article 4 of Convention 1949 of Geneva about the improvement of conditions of wounded persons and parties of forces participant in the war.

The duty of recognizing the corpse's identity is a commitment by means, and the conflict parties shouldn't withhold from any attempt in this way, and they should utilize of all accessible facilities. The intended proper strategies are the collection of the half of identification token, dissection, registration of the dissection report, registration of the death certificate, registration of the burial of a deceased corpse, buried in an individual grave, prohibition of gregarious burial before identification of corpse's identity and proper earmark of burial places. Also disinterment with doing the forensic medical tests such as doing DNA tests as the appropriate methods for identification of the deceased corpse's identity after burial.

Commitment and obligation to determine the situation of missed persons completely conform to the rule of prevention from compulsory disappearance and the necessity of observing the respect to the familial life, this law is also confirmed with a commitment to register all accessible information before the burial of a deceased corpse.

3. Guarantees of Supporting the Family in International Conflicts

3.1 Guarantee of Lack of Dispersion and Support of Family Members and Supply of Hygiene, Health, Security and Nourishment

In the event of the population vagrancy, all possible acts should be done so that civilians to be in satisfactory conditions regarding shelter, hygiene, health, security and nourishment and the family members not to be dispersed.

Fourth Convention of Geneva stipulates that if occupier power evacuates the civilians' population to supply their safety or due to the importunate military necessity, it should provide a proper residence for the protection of supported persons to the greatest practical extent. It should be ensured that the evacuation has been satisfactory regarding hygiene, health, security and nourishment and the dispersion of the family members is prevented.

Also, articles 3 and 4 of additional protocol 2 ordain that "all necessary acts should be done for a reunion of the family members that have been dispersed temporarily."

(Visited in https://www.icrc.org/eng/assets/files/other/icrc-241_0368-summary-geneva-convention.fas.pdf).

The duty to avoid from the dispersion of family members in the meantime of transmission or evacuation of civilians by an occupying force has been anticipated by the Fourth Convention of Geneva in the article 49 as much as possible.

Prevention from the dispersion of family members of refugees and vagrants has been mentioned in other treaties such as quadruple protocol about Georgian refugees and domestic vagrants 3(1) (fundamental principles of the protection of family members' union).

Protocol about the refugees and vagrants, Dayton treaty enclosure, article 1 (the principle of the family union should be observed).

Administrative committees of the senior commissioner of the United Nations Organization in refugees' affairs has caused the governments to do all necessary acts to prevent separation of children and adolescents refugee from their families.

Also twenty-fifth international conference of Red Cross and Red Crescent, according to the resolution 9 with mention of the Geneva Conventions and their additional protocols has recommended that «all necessary acts to be done to prevent from the dispersion of family members».

3.2 Return of Vagrants to the Residence

Vagrants have the right to come back to their house or residence in complete security voluntarily and immediately after the end of conditions that have forced them to be a vagrant.

The fourth convention of Geneva, according to the article 49 ordains that evacuated persons should return to their residence immediately after stopping of conflicts in the related region.

3.3 Respect to the Special Supportive, Hygienic and Aid Needs of Women Influenced from Armed Conflicts

Subject to the general provisions of international humanitarian law, women like men and without discrimination can take part in battles as a fighter and in the event of occurrence of incidents like being wounded, death, being captive. They can utilize of equal supports that due to the quadruple conventions of Geneva and their additional protocols, it has been determined that persons in the war should use the support of international humanitarian law without any undesired distinction according to the gender, race, nationality, religion and political beliefs. Also, women also specifically need to be supported, and they need to utilize of desired facilities such as food, cloth, medical aids, and transportation.

Concerning the particular needs of women and their vulnerability, supportive laws and provisions have been anticipated for them that have been stabilized in the conventional rules related to the prevention from sexual violence, obligation for separating the women deprived of freedom from men. Also, a high place of women's rights in the human right and they have been proposed in quadruple conventions of Geneva.

The Fourth Convention of Geneva ordains that behaving with the ladies should be accomplished with an observance of all considerations related to their gender. And additional protocol, stipulates that "the women should behave with particular respect".

While article 3 common in Geneva conventions and additional protocol two don't include a general rule about respecting the particular needs of women. But with mention of particular aspects of this law, it stipulates that the humane respect and dignity of persons should be protected, and exertion of violence to the life, health and their

physical and mental tranquility should be prevented. And a disgrace to the humane greatness such as contemptuous behavior, transgression, compulsory prostitution and other kinds of improper acts should be stopped, and the arrested women should be protected separated from men. Regardless of their situation, unique needs of women should be recognized respectable in any conditions.

The women that have been deprived of freedom should be protected in the places separated from men except for families that should have been settled in the familial form, and they should be under direct control of women.

Third conventions of Geneva, articles 25, fourth clause. Article 29, second clause; Article 97, fourth clause; Article 108, second and fourth clauses; Article 76, fourth clause; Article 82, third clause. Article 81, fourth clause and Article 124, the third clause ordain that the women who have been deprived of freedom should be settled in the places separated from men.

Additional protocol 2 ordains «except the cases that arrested men and females from a family are settled with each other, women should be protected in the separated places and under the direct control of women (additional protocol 2, article 5 (2) (A)).

Therefore, a rule that according to it family members should be settled in a place is according to the necessity of observing the familial life respect.

Twenty-sixth International Conference of Red Cross and Red Crescent, also, to inviting to adopt the acts for "being ensured of this issue that the victim women of conflict utilize of medical, mental and social aids", has considered other special needs (Henkertz and Dowsald-Beck, 2008, volume 1, 634).

Also, the committee of elimination of discrimination against women in a report to the public assembly of the United Nations Organization in 1999 has requested from governments to do some activates. These are including the practical acts for being ensured of support and presentation of hygienic aids, such as mental cares and consultation for women that are especially in different conditions like involvement and blockade in armed conflict.

In the resolution of economic and social council approved in 1977, as the minimum standard provisions for behaving with prisoners, it has been mentioned in the article 23: «1-there should be a special place for all cares and cures before and after childbirth in women's prisons. Necessary acts for the birth of infants should be done in a hospital out of prison whenever it is practical. If a child is born in the prison, this issue shouldn't be mentioned in his/her birth certificate.

In a place that protection of suckling with his/her mother in the prison is permitted. For the creation of the nursery by eligible employees and this issue that where these children should be protected when they are not care, the necessary acts should be done. (<http://www.unic.ir/org/hr27.pdf>)

3.4 Prohibition of Execution Punishment about Pregnant Women and Mothers of Young Children and the Losses Arising from War

In the resolution 1984/50 of the Economic and Social Council of United Nations Organization with the suggestion of delay in enforcement of execution sentence, pregnant women have been supported versus the execution sentence and families have been supported versus breakup. In the third clause of this resolution, it has been mentioned: «... as the execution punishment shouldn't be enforced about pregnant women or those who have become mothers recently... », the purpose of this clause is to prevent from family breakup as the useful social Institute in prevention from many social adversities.

The first additional protocol obliged all conflict parties not to withhold from any effort for prevention from the issuance of punishment execution sentence for pregnant women and the mothers of young children related to the armed conflict. Also, execution punishment about the crimes related to the armed conflict shouldn't be enforced about pregnant women and mothers of young children.

The prohibition of performance penalty enforcement about pregnant women has also been ordained in the international treaty of civil and political rights and also American Convention on Human rights (Zakarian, key texts of international law and relations, 2013, 166).

Also in the third clause of resolution 1948/50 of the Economic and Social Council of strategies for a guarantee of supporting the rights of sentenced persons to the execution «... the performance punishment shouldn't be enforced about the pregnant women or those who have become mothers recently... ».

Support of women versus the losses arising from war isn't limited to the above cases. In fact, with exerting sexual violence in the unprecedented and unbelievable form in the conflicts located in the former Yugoslavia and Rwanda and after them in most of the domestic conflicts, especially in African continent, the necessity of

strengthening the international supports of women was clarified. Article 7 of the constitution of international penal court «has described the rape, sexual slavery, compulsory prostitution, compulsory pregnancy, forced emasculation and any other sexual violence in this same extent as the crime against humanity. It has considered them as the crimes included in the court competence (Momtaz, Ranjbaran, 2008, 130).

Therefore, women as a mother are the axial element of family that with the elimination of them, practically breakup occurs in the family, especially if they are pregnant or have become mother recently, they will have a more incremental role. Due to it and for the protection of family stability, they need more support on behalf of social institutes.

3.5 Support of Children Influenced by Armed Conflicts

Children in the war are supported by international conventional humanitarian law, and they are considered as the group of civilians, but this vulnerable group needs to utilize of special laws related to itself. Therefore, recognition of an age range of 18-year old in the world and considering the persons younger than 18 –year-old as a child are the cases that still haven't been realized by international society. The international committees of Red Cross and Red Crescent seek to develop the support of children by exerting pressure on domestic and international authorities.

Since 1990, it was estimated that 90 percent of conflicts at the world level had caused the death of civilians that 80 percent of these persons includes children and women. For example, in Darnoor of Sudan, 2 million persons were forced to leave their country that 1 million persons of them were younger than 18 years old.

Therefore, for fighting with these incidents in the world, the international treaties should take action with the development of their provisions and criminalization of these acts by international penal tribunals 2. Of course, the duty of special support of children is observed all around the fourth convention of Geneva and the first additional protocol.

The mentioned articles control the nourishment, cloth, protection of orphans or children separated from family, the manner of behaving in the period of deprivation from freedom and distribution of relay consignments. The first additional protocol also with the general expression stipulates this issue that children should be respected especially. The supports include the support against all violence forms likes:

- Separating the children that have been deprived of freedom from adults except in the cases that they are the members of a family.
- Accessing to the education, food, and medical cares
- Evacuating from conflict regions to supply their security
- Returning the children without supervisor by the side of their families

The second clause of Article 82 in the fourth convention of Geneva stipulates that the arrested Children should be settled with their parents except when their separation from their parents has been temporary, or it is accounted necessary due to the hygiene, employment or disciplinary punishments.

Therefore, children's separation from adults is obligatory to the extent that doesn't cause to violate the right of family members' union with each other. The first additional protocol in the article 77 and bulletin of general secretary of the United Nations Organization has compiled this exception in this form that the members of a family should be settled in one place.

The child's rights convention also due to the article 27/C has mentioned this exception in this frame: "supply of the child's interests with the best way possible."

The child's rights convention has considered this protection obligation for itself that if separating the children "contradicts with a commitment to creating the possibility of establishment of children's relation with their families," there will not be an obligation for the separated protection of children. In any case, the children who are deprived of freedom should be protected in the detention home separated from adults except when they are protected as a member of the family in the residence of familial units.

3.6 Respect to the Old and Physically Challenged Persons

Respect to the old individuals and exceptional support of them in the field of evacuating them from a region and the manner of behaving with the persons deprived of freedom have been anticipated in different parts. It includes Such as articles 45, 44, 16, 49 of the third convention of Geneva and articles 17, 27, 85 and 119 of the Fourth Convention of Geneva.

Support for physically challenged persons and special respect for them have been identified in the contents of

third and fourth conventions of Geneva in articles 16, 30, 44, 45, 49 and 110 of the third convention of Geneva. Also, they have been identified in articles 16, 17, 119, 85, 27, 22, 21 and 127 of the fourth convention of Geneva in the field of behaving with physically challenged persons at the time of evacuation from their country.

The Fourth Convention of Geneva stipulates that physically challenged persons should be supported and respected especially. Support of physically challenged of them may be different from the conditions in which are placed, for example, the fourth convention of Geneva presents the creation of security region and conclusion of a protocol for evacuating the physically challenged persons from besieged points as some ways for the observance of respect to this commitment.

Giving priority to the liberation and extraditing the wounded and ill arrested persons are considered as another way for the celebration of compliance with this commitment that the articles 109-117 of the third convention of Geneva and article 122 of the fourth convention of Geneva mention it.

About physically challenged persons, article 8 of first additional protocol ordains that the support and protection which are done for wounded and ill persons should be supplied for physically challenged individuals and "other persons who need immediate medical care and aid" (like disabled persons... and also those who abstain from doing any hostile Act). Therefore, due to the unique conditions and vulnerability of old characters, physically challenged persons influenced from their armed conflict merit for being respected and supported especially.

4. Conclusion

The study of international documents expresses this issue that familial life should be respected as much as possible and the governments; procedure knows that this rule as a conventional rule of international law can be exerted in both fields of international and non-international conflicts.

Therefore, the protection of the family unit, establishment of a connection between the household members and presentation of information about the family member's status should be accomplished as much as possible. In international conflicts, international committee of Red Cross should be able to access to all persons who are deprived of the freedom to be able to confirm their arrest conditions and establish the connection between them and their families.

In non-international armed conflicts, international committee of Red Cross can present its services to the conflict parties with the purpose of visitation with all persons that due to the conflicts have been deprived of freedom and also confirmation of their arrest conditions and establishment of a connection between them and their families.

Therefore, the governments, conflict parties, and international organizations should act primarily about the parents, right for being informed of the fate of their relatives. Many resolutions of international organizations and conferences also have supported the families, right for being aware of their parent's fate. For example, resolution of public assembly of the United Nations Organization approved in 1974 expresses that the families, request for being informed of the fate of their relatives that have been lost in armed conflicts are a fundamental need which should be satisfied to the greatest extent possible.

In these documents, lack of dispersion and support of family members and supply of hygiene, health, security, and nourishment have also been considered especially. So that in the event of population vagrancy, all possible acts should be done that civilians to be in satisfactory conditions regarding shelter, hygiene, health, security and nourishment and the members and family not to be dispersed.

As it was observed in the international documents, different categories have been considered and supported explicitly about protection of the family unit, familial connection and exceptional support of family members, and as the obligatory rules, they have provided some duties for governments.

References

- Hejazi, M. (2008). war captives, rights, legal foundation of Mizan.
- Henkertz, J.-M., Doswald-Beck, L., Hosseinn Nezhad, K., & Asgari, P. (2008). *conventional international humanitarian law* (Vol. 1). Majd publication, pages 27, 634-678.
- Momtaz, R., & Jamshid, A. (2008). *international humanitarian law of domestic armed conflicts*. Mizan publication.
- Sharifi Tarazkouhi, H. (2011). *international humanitarian law* (1st ed.). Mizan publication. page 122.
- The Geneva Convention of 1949 and additional protocol of 1977.
- Zakerian, M. (2013). *key texts of international law and relations*. Tisa publication.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).