



Protection of Persons with Disabilities in Armed Conflict in Gaza through the Application of the Distinction Principle

Jelita Septiani Aprisal^{1✉}, Agustinus Supriyanto², Samar T.M. Alhaj³

^{1,2} Faculty of Law, Universitas Gadjah Mada, Indonesia

³ International Students of Universitas Muhammadiyah Purwokerto, Palestine

Corresponding: jelitaseptianiaprisal@mail.ugm.ac.id

Article Process

Submitted:
19-12-2024

Reviewed:
01-01-2025

Accepted:
30-01-2025

Published:
31-01-2025

Abstract

Protection for people with disabilities during armed conflict in Gaza must prioritize the application of the Distinction Principle in international humanitarian law. The Distinction Principle ensures that military attacks are directed only at legitimate military targets, not at civilians, including those with disabilities. Therefore, it is crucial to examine how protection for people with disabilities in Gaza with the application of this principle can be enhanced, and discuss the prospects of regulations governing this issue in the future. The research method employed is normative legal research, utilizing both statutory approach related to the issue and conceptual approach focusing on the Distinction Principle. People with disabilities in Gaza face significant challenges in accessing healthcare, evacuation, and humanitarian aid. Consistent and stringent implementation of the Distinction Principle is essential to ensure their protection from the adverse effects of war. Concrete steps such as improving military training, monitoring violations, and enforcing these principles are necessary to strengthen their protection. Overall, protection for people with disabilities in Gaza is a global humanitarian responsibility that requires collective commitment to ensure compliance with international law and improve the living conditions of people with disabilities amidst armed conflict.

Keywords: Disabilities, Armed Conflict, Gaza, Distinction Principle

I. Introduction

The armed conflict between Israel and Palestine is a protracted dispute over territory, security, and Human Rights in the Palestinian territories controlled by Israel, including the West Bank, Gaza Strip, and East Jerusalem.¹ This conflict involves a series of military battles, acts of terrorism, airstrikes, and ground clashes between Israeli forces and Palestinian groups, often

¹ Pratiwi, N. 2023. "Pelanggaran Prinsip-Prinsip Hukum Humaniter Internasional dalam Agresi Militer Israel ke Palestina." *Jurnal Hukum Indonesia*. Pg. 60.

triggering civil violence and severe humanitarian consequences.² This conflict has lasted for decades and has become one of the longest and most complex conflicts in the world. In fact, this armed conflict has also caused serious impacts,³ for vulnerable groups, vulnerable individuals are those who are perceived as weak and susceptible to mistreatment by other groups due to their difficulty in protecting themselves.⁴

Vulnerable groups are victims of unfavorable practices such as discrimination, and therefore require special protection to ensure they can effectively enjoy equality and the enforcement of their human rights. One such vulnerable group is persons with disabilities. The Convention on the Rights of Persons with Disabilities (CRPD), in Article 1, outlines that persons with disabilities are individuals who have long-term physical, mental, intellectual, or sensory impairments, which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others. Persons with disabilities always face specific risks and challenges during armed conflicts, regardless of the location or type of conflict.⁵ They often face difficulties in escaping, are frequently neglected, struggle to access early warnings, and encounter challenges in the evacuation process and seeking shelter. This increases their risk of direct harm and even death during combat. Those who manage to escape still face difficulties in accessing both short-term and long-term humanitarian aid and support.⁶

Meanwhile, airstrikes, blockades, and large-scale ground attacks by the Israeli government in Gaza have caused numerous casualties among Palestinian civilians with disabilities, as reported by Human Rights Watch in 2023. The serious risks faced by all civilians in Gaza due to Israeli military operations are exacerbated for people with disabilities, many of whom are unable to leave conflict zones. This inevitably places them in the dangers of war and fails to ensure that they will receive appropriate accommodations and adequate conditions.⁷ Therefore, examining the protection of civilians with disabilities in armed conflict situations between Israel and Palestine is essential, linking it to the application of the Distinction Principle and exploring the prospects of regulations related to this issue.

Referring to the previous research conducted by Farhan Azkalwafa in 2022 titled "The Role of the UNHRC in Disability Rights in Syria in 2022," it reveals that international humanitarian law, in this regard, serves as an instrument providing protection for them,⁸ this includes providing basic rights such as the right to life, freedom from inhuman treatment, and access to medical care and rehabilitation. The Geneva Conventions and the CRPD, which are based on human rights law, essentially provide a legal framework to protect civilians with disabilities, including those in armed conflict situations.⁹

Additionally, a study conducted by Danial titled "The Effectiveness of the Principle of Distinction in International Humanitarian Law as an Effort to Protect Victims in Modern Armed Conflicts" states that the Principle of Distinction is a fundamental principle in providing effective protection to victims of armed conflict. When the states involved in armed conflict commit to

² Marpaung, V. P., Sihombing, G. A., Maulida, H., Ridho, A., & Ardianto, B. 2024. "Serangan Militer Israel di Jalur Gaza: Pertanggungjawaban Pidana Berdasarkan Statuta Roma Mahkamah Pidana Internasional." *Aliansi: Jurnal Hukum, Pendidikan dan Sosial Humaniora*. Vol. 1, No. 5. Pg. 22-23.

³ Chandra, H. 2024. "Agresi Israel terhadap Palestina: Perspektif Hukum Humaniter Internasional." *Jurnal Pendidikan Dasar dan Sosial Humaniora*. Vol. 3, No. 3. Pg. 207.

⁴ Tommy Patrio Sorongan, 2023, Sejarah Konflik Israel-Palestina, Perang hingga Akhir Zaman?, <https://www.cnbcindonesia.com/news/20231224103055-4-500024/sejarah-konflik-israel-palestina-perang-hingga-akhir-zaman>, diakses pada tanggal 20 Mei 2024.

⁵ Pasal 1, *Convention on The Right of Persons with Disabilities* (CRPD).

⁶ Human Rights Watch, 2023, Serangan Israel Dan Blockade Membahayakan Penyandang Disabilitas, <https://www.hrw.org/id/news/2023/11/13/Gaza-israeli-attacks-blockade-devastating-people-disabilities>, diakses pada tanggal 20 Mei 2024.

⁷ *Ibid.*

⁸ Jumhana, E. 2024. "Peran Organisasi Internasional pada Pelanggaran Hukum Internasional yang Dilakukan oleh Zionis Israel terhadap Konflik dengan Palestina." *Jurnal Res Justitia: Jurnal Ilmu Hukum Program Studi Hukum Fakultas Hukum Universitas Bina Bangsa*. Vol. 4, No. 1. Pg. 154.

⁹ Farhan Azkalwafa, Skripsi : *Peran UNHRC terhadap Hak Disabilitas di Suriah Tahun 2022*, (Jakarta, Universitas Nasional, 2023). pg. 85.

respecting the Principle of Distinction, the principle of proportionality, and the principle of humanity simultaneously, it ensures better protection for those affected,¹⁰ this can provide better protection for the victims of conflict.¹¹

Therefore, based on the previous research conducted, it is crucial for the states involved in the conflict to continuously strive to understand and effectively implement one of the principles, namely the Principle of Distinction, in order to ensure that all parties involved in armed conflict adhere to high humanitarian standards and to protect the rights of conflict victims effectively. The Principle of Distinction is deemed appropriate in analyzing the protection of civilians with disabilities in armed conflict situations in Gaza. Additionally, cooperation from UN member states and other international organizations is essential to continue advocating for human rights protection and improving the conditions of persons with disabilities in Gaza, to achieve optimal and better protection in armed conflict situations.¹²

II. Research Problems

Based on the previous background, the research questions to be discussed in this study are:

1. How can legal protection for the rights of persons with disabilities in the armed conflict area in Gaza be provided through the application of the Distinction Principle?
2. What are the prospects for international regulations to more effectively implement the Distinction Principle in providing protection for persons with disabilities in conflict zones in Gaza?

III. Research Methods

The type of research used, in accordance with the formulation of the research problems, is a normative legal study, which is considered appropriate to address the issues at hand. This approach aims to analyze and identify laws or norms through legal sources such as regulations and legal literature that are still applicable within the legal system or society.¹³ This type of research can be used to answer issues where the object of normative legal research is purely normative law. Its purpose is to study the prescriptive nature of law and provide a theoretical framework for legal practice, including the analysis of legal structure, systematization of legal phenomena, interpretation of legal texts, legal evaluation, and the provision of theoretical models for legal practice.¹⁴

Based on the type of research, the statute approach is used. This approach involves the analysis of all laws and regulations related to the legal issue being investigated.¹⁵ Such as the Convention on the Rights of Persons with Disabilities (CRPD), the Geneva Conventions of 1949, and the Universal Declaration of Human Rights (UDHR). In addition, a conceptual approach is used, which draws on the views and doctrines developed in legal science to address the legal issue under investigation.¹⁶ Such as the application of the distinction principle. The type of data used in this study is secondary data, which is not directly obtained from the field but rather from secondary legal sources such as textbooks written by legal experts, legal journals, and the opinions of scholars. Therefore, in accordance with the direction of the research, once all the data is collected, it will be processed in a descriptive qualitative manner, which is a method in which

¹⁰ Mohammad Abdullah Bawazir, "The Effectiveness of International Humanitarian Law in the Israel-Palestine Conflict 2014," *Mediasi Journal of International Relation*, Vol. 2, No. 1, 2019.

¹¹ Danial, 2016. "Efektifitas Konsep Prinsip Pembedaan Hukum Humaniter Internasional Sebagai Upaya Perlindungan Korban dalam Konflik Bersenjata Modern," *Jurnal Media Hukum*. Vol. 23. Nomor 2. hlm, 207.

¹² I Putu Adi Darmawan, Skripsi : *Penerapan Prinsip Pembedaan (Distinction Principle) Dalam Konflik Bersenjata Antara Israel Dan Palestina*, (Yogyakarta, Universitas Ama Jaya Yogyakarta, 2020), Pg. 9.

¹³ B.J. Nasution, 2020, *Metode Penelitian Hukum*, Bandung: CV Mandar Maju, Pg. 83.

¹⁴ Jonaedi Efendi dan Johnny Ibrahim, 2016, *Metode Penelitian Hukum: Normatif dan Empiris*, Jakarta: Prenadamedia Group, Pg. 10-16.

¹⁵ Muhaimin, 2020. *Metode Penelitian Hukum*. Mataram: Mataram University Press, Pg. 56.

¹⁶ *Ibid.*

data is collected, organized, and analyzed to provide a comprehensive explanation relevant to the issue being studied.¹⁷

IV. Result And Discussion

1. Protection of Persons with Disabilities in Armed Conflict in Gaza through the Application of the Distinction Principle.

Civilians in the context of armed conflict hold a status that requires protection, as outlined in the Geneva Conventions of 1949, Additional Protocol II, and the principles of International Humanitarian Law. The Geneva Conventions of 1949 establish the Distinction Principle as a fundamental foundation for the conduct of war by states, with the primary aim of distinguishing between two main groups: combatants who are directly involved in the fighting, and civilians who are not involved in the conflict. Protection of civilians is an obligation of states under international law, designed to ensure that their human rights are not forgotten or neglected during armed conflict. The Geneva Conventions of 1949 and the UDHR emphasize that states have an absolute responsibility to protect their citizens from the negative impacts of war, including the obligation to ensure that civilians are not directly targeted or disproportionately affected by military actions.¹⁸

Thus, the Distinction Principle emphasizes the importance for states to adhere to international legal norms that regulate the protection of civilians. This is essential to uphold human dignity and justice in situations of armed conflict, which often have the potential to result in mass suffering,¹⁹ one of these groups is persons with disabilities. The state actors, in this regard, must be bound by the Convention on the Rights of Persons with Disabilities (CRPD), which emphasizes that state parties must protect and promote the rights of persons with disabilities in their laws, policies, and practices; and must comply with the standards of the treaty when engaging in international cooperation. Article 11 of the CRPD specifically requires state parties, in accordance with their obligations under international law, to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including armed conflict.²⁰ The armed conflict currently under global scrutiny is the Israel-Palestine conflict²¹ in fact, this conflict has had severe impacts on persons with disabilities, particularly those in Gaza. Below are some challenges in the implementation of the Distinction Principle, specifically the obstacles in the protection of persons with disabilities in Gaza, based on data from Human Rights Watch, which conducted interviews with 13 persons with disabilities in Gaza via phone. Ten of them were persons with disabilities themselves, two were family members of persons with disabilities, and one was a psychologist. The following is an overview:²²

a. Difficulty in Escaping Attacks.

Persons with disabilities in Gaza face significant difficulties in avoiding attacks due to the lack of effective warnings and severe infrastructure damage. The limited supply of electricity causes elevators to malfunction, making it difficult for those living in high-rise buildings to escape using wheelchairs and other assistive devices. Disruptions in internet and phone services also limit communication among civilians, hindering their ability to coordinate on safety measures and access to healthcare, food, and shelter. These restrictions also impede humanitarian organizations from providing assistance to those in

¹⁷ Junaedi Effendi. *Op.cit.* Pg. 173.

¹⁸ Ervin Septory, 2023. "Akibat Hukum Dilibatkannya Penduduk Sipil Dalam Konflik Bersenjata Antara Milisi Dan Tentara Pemerintah," *Tatohi Jurnal Ilmu Hukum*. Vol 3, Nomor. 7. hlm 631-630.

¹⁹ Utama, A. N., Mahesa, D., Ul Hosnah, A., & Handoyo DP, S. 2024. "Implementasi Prinsip-Prinsip Hukum Humaniter dalam Penanganan Tindak Pidana Terorisme." *Causa: Jurnal Hukum dan Kewarganegaraan*. Vol. 5, No. 11. Pg. 61.

²⁰ Satuan Tugas IASC untuk Inklusi Penyandang Disabilitas, 2019. "Inklusi Penyandang Disabilitas Dalam Aksi Kemanusiaan," Pg. 7-8.

²¹ Islami, M. N. 2024. "Unmasking Israel's Actions: White Phosphorus and International Law Breaches in Israel-Palestine Conflict." *PETITA: Jurnal Kajian Ilmu Hukum dan Syariah*. Vol. 9, No. 2. Pg. 436.

²² Human Rights Watch, 2023, Serangan Israel Dan Blockade Membahayakan Penyandang Disabilitas, <https://www.hrw.org/id/news/2023/11/13/Gaza-israeli-attacks-blockade-devastating-people-disabilities>, diakses pada tanggal 1 Juni 2024.

need, which increases the risk of injury and death in the midst of the challenging conflict situation.

b. The Impact of Evacuation Orders.

More than 1.4 million Palestinians in Gaza have been displaced since the conflict began on October 7, according to the UN. Israel's order on October 13 for all civilians in northern Gaza to evacuate is considered to risk forcing displacement, which violates international humanitarian law and could be deemed a war crime. For persons with disabilities, leaving their homes without considering their specific needs presents an immense challenge.

c. Lack of Medications

Israel has blockaded humanitarian aid to Gaza, causing a shortage of medicines and medical equipment. Military bombing has also obstructed the people of Gaza's access to medical care. Dr. Mustafa, a person with a disability, fled to a hospital in Khan Younis with his family after the evacuation order on October 13. They are facing a shortage of essential medications, including those for hypertension and diabetes, while his mother, who is paralyzed, has no access to a wheelchair.

d. Overcrowding in Shelters.

The increasing overcrowding in 50 emergency shelters operated by the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), where the number of refugees exceeds the designated capacity by more than 2.5 times. More than 15% of the refugee population is estimated to be persons with disabilities, yet the shelters are not equipped with adequate facilities to meet their needs. Displaced persons with disabilities face serious challenges in hospitals, schools, and emergency camps due to high density, poor living conditions, and lack of access to basic services.

e. Lack of Access to Water

Israel cut off all water supplies to Gaza as part of its total blockade on October 11. Persons with disabilities face significant difficulties in accessing clean drinking water, and some are forced to use groundwater, which was previously reported by OCHA as unsafe for human consumption.

f. Lack of Access to Food

All persons with disabilities interviewed reported difficulties in meeting their food needs, as their disabilities limit their ability to procure food for themselves and their families.

g. Access to Sanitation/Toilets

All persons with disabilities who were displaced reported difficulties in accessing toilets in schools, hospitals, and other shelters. One informant, Al Masri, explained, "The hospital where we sought refuge is not disability-friendly; the toilets are not designed for wheelchair users. This makes it difficult for me to use the toilet."

h. Impact on Mental Health

In September 2022, one-third of the population in Gaza required psychosocial services due to increasing psychological stress. Persons with disabilities in Gaza have experienced psychological pressure due to the Israeli blockade and traumatic experiences, such as fear of future attacks. The current bombing and siege are further exacerbating the mental health conditions of civilians, including persons with disabilities and children.

Based on the above, it is undeniable that discussing issues related to persons with disabilities is inseparable from human rights,²³ therefore, there is a critical need to enhance the protection of persons with disabilities in situations of armed conflict in Gaza, one of which is through the application of the Distinction Principle. This principle, which determines who can be targeted and who is allowed to participate in warfare, plays a crucial role in international

²³ Maya Indrasti Notoprayitno, 2021, " Ketakutan Yang Beralasan Pada Pengungsi Penyandang Disabilitas (*Well-Founded Fear Within Refugees With Disabilities*)," *Teras Law Review*, Vol. 3, Nomor 1. Pg. 43.

humanitarian law in protecting civilians, including persons with disabilities. The Distinction Principle is closely linked to human rights, as it provides protection for life, health, and the dignity of individuals in conflict situations. States must design appropriate national regulations, raise awareness among the public about international humanitarian law, and align national laws with existing international standards.²⁴

Therefore, the application of the Distinction Principle becomes crucial in protecting persons with disabilities during armed conflict in Gaza. Its main objective is to minimize the risk to civilians, including persons with disabilities, as well as to protect civilian property. This means that military attacks must be specifically directed only at military targets or legitimate strategic sites under the laws of war, not at civilians or civilian property, including healthcare facilities or the homes of persons with disabilities.²⁵ Moreover, the states involved in the conflict also have an obligation to ensure that persons with disabilities receive special protection in accordance with their needs. This includes facilitating their access to healthcare services, clean water, sanitation, and other basic necessities that are often disrupted during conflict. By sincerely applying the Distinction Principle, it is hoped that the adverse impacts on persons with disabilities can be reduced and that they will continue to be protected in accordance with international humanitarian law and the applicable human rights principles.²⁶

2. Prospects of International Regulations for the Application of the Distinction Principle in Protecting Persons with Disabilities in Gaza

The application of international humanitarian law to conflict situations, particularly in handling civilian and military targets, must be done judiciously, one of which is through the Distinction Principle and the limitations in warfare supported by the Geneva Conventions and its Additional Protocols in distinguishing military objects from civilian objects.²⁷ The Distinction Principle must not be ignored, as its absence could turn armed conflict into an unchecked exercise in violence.²⁸ This is what must be considered by the states involved in the conflict, in order to provide protection to civilian objects, including persons with disabilities. Meanwhile, to enhance the protection of persons with disabilities in Gaza during armed conflict, international regulations need to be strengthened through concrete measures such as ensuring strict implementation of the Distinction Principle,²⁹ enhancing accessibility to healthcare and rehabilitation services, as well as involving persons with disabilities directly in the reconstruction and peace processes, is essential. Intensive monitoring and international coordination are also required to ensure the fulfillment of the obligations of state parties to the Conventions and the effective protection of this vulnerable population.³⁰

The Distinction Principle, as a fundamental principle, is outlined in the Hague Convention of 1907, the Geneva Conventions of 1949, and Additional Protocol I of 1977 as follows:³¹

²⁴ Eno Prasetiawan dan Lina Hastuti, 2020, "Penerapan *Distinction Principle* Dalam Perundang-Undangan di Indonesia," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, Vol. 9 Nomor. 2. pg. 457-459

²⁵ Sitompul, A. 2023. "War Crimes in Palestine from the Perspective of the International Criminal Court (ICC)." *International Asia of Law and Money Laundering*. Vol. 2, No. 4. Pg. 159.

²⁶ Prasetiawan, E., Astuti, E., Amnihar, H., and Artha, F. 2018. "Distinction Principle in International Humanitarian Law Related to Civilian Objects and Military Objects." In Proceedings of the 2nd International Conference Postgraduate School (ICPS 2018), 651-652.

²⁷ De Silva, N. Hiruni. 2023. *The Principle of Distinction; oscillation between Military objectives and Civilian objects in IHL*. Poster.

²⁸ Yoram Dinstein. "The principle of distinction and cyber war in International Armed Conflicts." *Journal of Conflict and Security Law*. Vol. 17. Nomor. 2. pg. 277.

²⁹ Elisabeth Septin Puspoayu, Sigit Riyanto, & Keanu Abinuno Wattimena, *Humanitarian Assistance in 21 Century: Between Humanity and Sovereignty*, ILREJ, Vol. 3, No. 2, 2023, p. 216.

³⁰ OHCHR. 2024. *Palestinians with Disabilities Subject to Unbearable Consequences of the ongoing Hostilities and Violence in the OPT*. Palestinians with disabilities subject to unbearable consequences of the ongoing hostilities and violence in the OPT | OHCHR diakses pada tanggal 17 Juni 2024

³¹ Khafifa Kara Abnin, et al. 2021. "Pengaturan Prinsip Pembedaan dan Penerapannya dalam Konflik Armenia-Azerbaijan," *Tatohi Jurnal Ilmu Hukum*. Vol. 1. Nomor. 3. Pg. 183-184.

1. The Distinction Principle According to the Hague Convention of 1907. Although the Hague Convention of 1907 does not explicitly mention the Distinction Principle, the principle is implied in Hague Regulations IV, which govern the laws and customs of warfare on land. These regulations are important because they set forth rules regarding the use of weapons and methods of warfare deemed critical for the military, often referred to as the "soldier's vademecum".
2. The Distinction Principle According to the Geneva Conventions of 1949. The Geneva Conventions of 1949 consist of four conventions, each addressing different aspects of protection in situations of armed conflict:³²
 - a. The Geneva Convention I concerning the protection of wounded and sick members of the armed forces on the battlefield.
 - b. The Geneva Convention II concerning the protection of wounded, sick, and shipwrecked members of the armed forces at sea.
 - c. The Geneva Convention III regulates the treatment of prisoners of war.
 - d. The Geneva Convention IV concerns the protection of civilians during times of war.
3. Although Conventions I and II contain the Distinction Principle in Article 13, and Convention III in Article 4, the term "combatant" is not explicitly used. These articles define the categories that must be protected under the provisions of Conventions I or II, and establish the criteria for determining who should be treated as prisoners of war under Convention III, clearly distinguishing them from civilians.
4. The Distinction Principle According to Additional Protocol I of 1977. Additional Protocol I of 1977 clearly defines "combatants" as members of the armed forces of a state who have the right to directly participate in hostilities, and it regulates the status of combatants and prisoners of war in Articles 43 and 44. This Protocol clarifies the definitions of armed forces and combatants compared to previous conventions, providing more opportunities for non-members of the armed forces to be regarded as combatants and prisoners of war if captured. Article 48 of this Protocol reaffirms the Distinction Principle, requiring conflicting parties to distinctly separate civilians from combatants, as well as civilian and military objects, in order to protect civilians and civilian objects from military operations.

Based on this, the prospects of international regulations for the implementation of the Distinction Principle to enhance the protection of persons with disabilities in Gaza during armed conflict require concrete steps in international regulation. *First*, countries need to strengthen the implementation of the Fourth Geneva Convention and related Additional Protocols to ensure special protection for persons with disabilities in accordance with international humanitarian law. *Second*, enforcement of the Distinction Principle between military and civilian populations, as well as protected individuals, should be enhanced through training and stricter international monitoring mechanisms. *Third*, regulations should include stronger requirements for accessibility to healthcare services, rehabilitation, and humanitarian assistance for persons with disabilities in Gaza. *Fourth*, international support should be strengthened through infrastructure development and rehabilitation projects that address their needs. *Fifth*, the importance of independent monitoring and continuous reporting by organizations such as the ICRC should be emphasized to monitor and report violations against persons with disabilities. *Lastly*, education and awareness programs should be promoted to increase understanding of the rights of persons with disabilities and the Distinction Principle at all levels of society. These measures can strengthen their protection in conflict situations that often significantly impact them.

In the context of protecting persons with disabilities during armed conflict in Gaza, the Distinction Principle becomes crucial. This principle emphasizes the need to clearly distinguish between combatants and civilians, including persons with disabilities, in order to protect them

³² Athar Dil, S., Perwita, A. A. B., Rishianto, A., & Hashmi, H. R. 2024. "Law of Armed Conflict and Humanitarian Law (Case Study: U.S. War in Vietnam)." *INNOVATIVE: Journal of Social Science Research*. Vol. 4, No. 1. Pg. 5.

from the adverse effects of war.³³ In the context of protecting persons with disabilities during armed conflict in Gaza, the Distinction Principle becomes crucial. This principle emphasizes the need to clearly distinguish between combatants and civilians, including persons with disabilities, in order to protect them from the adverse effects of war.³⁴ The protection of persons with disabilities, who are vulnerable to difficulties in accessing healthcare, evacuation, and humanitarian aid, is guaranteed by international law such as the Geneva Convention IV. States have an obligation to protect their citizens, including persons with disabilities, from the negative impacts of war in accordance with the principles of international humanitarian law. By effectively implementing the Distinction Principle, states can ensure that their military operations do not harm civilians, including persons with disabilities. International regulations need to be strengthened to ensure strict enforcement of this principle, including through military training and more stringent international monitoring mechanisms. International support is also crucial for monitoring and reporting violations of these principles and ensuring accessibility to healthcare and rehabilitation services for persons with disabilities in conflict zones. Overall, consistency and adherence to the Distinction Principle are key in enhancing the protection of persons with disabilities in Gaza and worldwide in armed conflict situations.

V. Conclusion

The protection of persons with disabilities during armed conflict in Gaza is a humanitarian responsibility that requires strong global commitment. The Distinction Principle in international humanitarian law serves as a crucial foundation to ensure that civilians, including persons with disabilities, are protected from the negative effects of war. Despite challenges such as limited access to healthcare services and restrictions on humanitarian aid, concrete steps must be taken to strengthen the implementation of this principle. Collaborative efforts from the international community, including enhanced monitoring, reporting of violations, and enforcement of the Distinction Principle, are vital to improving the protection of persons with disabilities in conflict zones. These steps not only respect international law but also secure human dignity amid difficult conflict situations.

To enhance the protection of persons with disabilities in Gaza during armed conflict, it is crucial to implement the Distinction Principle from international humanitarian law. This principle dictates that military attacks should be directed solely at legitimate military targets, not at civilians or civilian property. States must strengthen the implementation of this principle by improving military training, ensuring access to healthcare and rehabilitation services, and involving persons with disabilities in the peacebuilding and reconstruction processes. Coordinated international support and strict monitoring are also essential to ensure effective protection for this vulnerable population.

References

- Abnin, Khafifa Kara et al. 2021. "Pengaturan Prinsip Pembedaan dan Penerapannya dalam Konflik Armenia-Azerbaijan," *Tatohi Jurnal Ilmu Hukum*. Vol. 1. Nomor. 3. pg. 183-184.
- Athar Dil, S., Perwita, A. A. B., Rishianto, A., & Hashmi, H. R. 2024. "Law of Armed Conflict and Humanitarian Law (Case Study: U.S. War in Vietnam)." *INNOVATIVE: Journal of Social Science Research*. Vol. 4, No. 1. Pg. 5.
- Azkalwafa, Farhan, Skripsi : *Peran UNHRC terhadap Hak Disabilitas di Suriah Tahun 2022*, (Jakarta, Universitas Nasional, 2023). pg. 85.

³³ Yusuf DM, Mohd., et al. 2024. "Penegakan Hukum Pidana Internasional Terhadap Kejahatan Perang Dalam Hukum Humaniter." *Jurnal Cahaya Mandalika*. Vol. 5. Nomor. 1. Pg. 738.

³⁴ Dania. 2015. "Existence of the Distinction Principle as a Protection for the Victims of Armed Conflict: The Implications on Renewal of the National Law." *Jurnal Dinamika Hukum*. Vol. 15. No. 2. Pg. 179.

- Chandra, H. 2024. "Agresi Israel terhadap Palestina: Perspektif Hukum Humaniter Internasional." *Jurnal Pendidikan Dasar dan Sosial Humaniora*. Vol. 3, No. 3. Pg. 207.
- Convention on The Right of Persons with Disabilities (CRPD)*.
- Danial, 2016. "Efektifitas Konsep Prinsip Pembedaan Hukum Humaniter Internasional Sebagai Upaya Perlindungan Korban dalam Konflik Bersenjata Modern," *Jurnal Media Hukum*. Vol. 23. Nomor 2. hlm, 207.
- Danial. 2015. "Existence of the Distinction Principle as a Protection for the Victims of Armed Conflict: The Implications on Renewal of the National Law." *Jurnal Dinamika Hukum*. Vol. 15. No. 2. Pg. 179.
- Darmawan, I Putu Adi, Skripsi : *Penerapan Prinsip Pembedaan (Distinction Principle) Dalam Konflik Bersenjata Antara Israel Dan Palestina*, (Yogyakarta, Universitas Ama Jaya Yogyakarta, 2020), pg. 9.
- Dinstein. Yoram. "The principle of distinction and cyber war in International Armed Conflicts." *Journal of Conflict and Security Law*. Vol. 17. Nomor. 2. pg. 277.
- DM, Mohd., Yusuf, et al. 2024. "Penegakan Hukum Pidana Internasional Terhadap Kejahatan Perang Dalam Hukum Humaniter." *Jurnal Cahaya Mandalika*. Vol. 5. Nomor. 1. Pg. 738
- Efendi, Jonaedi dan Johnny Ibrahim, 2016, *Metode Penelitian Hukum: Normatif dan Empiris*, Jakarta: Prenadamedia Group, Pg. 10-16.
- Elisabeth Septin Puspoayu, Sigit Riyanto, & Keanu Abinuno Wattimena, *Humanitarian Assistance in 21 Century: Between Humanity and Sovereignty*, ILREJ, Vol. 3, No. 2, 2023, p. 216.
- Human Rights Watch, 2023, Serangan Israel Dan Blockade Membahayakan Penyandang Disabilitas, <https://www.hrw.org/id/news/2023/11/13/Gaza-israeli-attacks-blockade-devastating-people-disabilities> diakses pada tanggal 20 Mei 2024.
- Islami, M. N. 2024. "Unmasking Israel's Actions: White Phosphorus and International Law Breaches in Israel-Palestine Conflict." *PETITA: Jurnal Kajian Ilmu Hukum dan Syariah*. Vol. 9, No. 2. Pg. 436.
- Jumhana, E. 2024. "Peran Organisasi Internasional pada Pelanggaran Hukum Internasional yang Dilakukan oleh Zionis Israel terhadap Konflik dengan Palestina." *Jurnal Res Justitia: Jurnal Ilmu Hukum Program Studi Hukum Fakultas Hukum Universitas Bina Bangsa*. Vol. 4, No. 1. Pg. 154.
- Marpaung, V. P., Sihombing, G. A., Maulida, H., Ridho, A., & Ardianto, B. 2024. "Serangan Militer Israel di Jalur Gaza: Pertanggungjawaban Pidana Berdasarkan Statuta Roma Mahkamah Pidana Internasional." *Aliansi: Jurnal Hukum, Pendidikan dan Sosial Humaniora*. Vol. 1, No. 5. Pg. 22-23.
- Mohammad Abdullah Bawazir, "The Effectiveness of International Humanitarian Law in the Israel-Palestine Conflict 2014," *Mediasi Journal of International Relation*, Vol. 2, No. 1, 2019.
- Muhaimin, 2020. *Metode Penelitian Hukum*. Mataram: Mataram University Press, Pg. 56.
- N. Hiruni, De Silva. 2023. *The Principle of Distinction; oscillation between Military objectives and Civilian objects in IHL*. Poster.
- Nasution, B.J. 2020, *Metode Penelitian Hukum*, Bandung: CV Mandar Maju, Pg. 83.
- Notoprayitno, Maya Indrasti. 2021, " Ketakutan Yang Beralasan Pada Pengungsi Penyandang Disabilitas (*Well-Founded Fear Within Refugees With Disabilities*)," *Teras Law Review*, Vol. 3, Nomor 1. pg. 43.
- OHCHR. 2024. *Palestinians with Disabilities Subject to Unbearable Consequences of the ongoing Hostilities and Violence in the OPT. Palestinians with disabilities subject to unbearable*

consequences of the ongoing hostilities and violence in the OPT | OHCHR diakses pada tanggal 17 Juni 2024

- Prasetiawan, Eno dan Lina Hastuti, 2020, "Penerapan *Distinction Principle* Dalam Perundang-Undangan di Indonesia," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, Vol. 9 Nomor. 2. pg. 457-459
- Prasetiawan, E., Astuti, E., Amnihar, H., and Artha, F. 2018. "Distinction Principle in International Humanitarian Law Related to Civilian Objects and Military Objects." In Proceedings of the 2nd International Conference Postgraduate School (ICPS 2018), 651-652.
- Pratiwi, N. 2023. "Pelanggaran Prinsip-Prinsip Hukum Humaniter Internasional dalam Agresi Militer Israel ke Palestina." *Jurnal Hukum Indonesia*. Pg. 60.
- Satuan Tugas IASC untuk Inklusi Penyandang Disabilitas, 2019. "Inklusi Penyandang Disabilitas Dalam Aksi Kemanusiaan," Pg. 7-8.
- Septory, Ervin. 2023. "Akibat Hukum Dilibatkannya Penduduk Sipil Dalam Konflik Bersenjata Antara Milisi Dan Tentara Pemerintah," *Tatohi Jurnal Ilmu Hukum*. Vol 3, Nomor. 7. hlm 631-630.
- Sitompul, A. 2023. "War Crimes in Palestine from the Perspective of the International Criminal Court (ICC)." *International Asia of Law and Money Laundering*. Vol. 2, No. 4. Pg. 159.
- Tommy Patrio Sorongan, 2023, Sejarah Konflik Israel-Palestina, Perang hingga Akhir Zaman?, <https://www.cnbciindonesia.com/news/202312241030554500024/sejarah-konflik-israel-palestina-perang-hingga-akhir-zaman>, diakses pada tanggal 20 Mei 2024.
- Utama, A. N., Mahesa, D., Ul Hosnah, A., & Handoyo DP, S. 2024. "Implementasi Prinsip-Prinsip Hukum Humaniter dalam Penanganan Tindak Pidana Terorisme." *Causa: Jurnal Hukum dan Kewarganegaraan*. Vol. 5, No. 11. Pg. 61.