

The Impact of Armed Conflict on Gender Issues and How This May Play a Role in IHL Interpretation

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Different people, different impacts and diverse needs in armed conflicts

- People are not a homogenous category
 - Exposure to harm shaped by different identity markers such as age, gender, and disability
 - Greater awareness of how conflict affects people differently is necessary to implement IHL in a manner that provides meaningful protection for people
- Increased efforts to understand this diversity at different levels through in-depth research and analysis across a variety of contexts
- Initiatives of the International RCRC Movement to better consider this diversity as prerequisite to ensure effective application of IHL: how changing the approach in military practice, including from a gender perspective, for a more appropriate protection?



Outline

- The impact of armed conflicts from a gender perspective
 - The exacerbation of inequalities based on gender and the traditional vision of roles' distribution between men and women
 - The need to develop a gender-based approach in the application of IHL
- The integration of the gender perspective in IHL application
 - Gender-based interpretation of IHL rules
 - Adapting military practice



The impact of armed conflicts from a gender perspective

Gender?

- Socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for individuals based on the sex they were assigned at birth
- One factor of a person's identity and position in society, interacting with other diversity factors (e.g. age, disability, ethnicity, religion, nationality, migrant status, class, health, caste and sexual orientation)

≠ Sex: Not socially constructed, refers to biological and physical characteristics

IFRC, Protection, Gender, and Inclusion Policy, June 2022



The impact of armed conflicts from a gender perspective

Preexisting structural inequalities faced
by women & girls

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Limited access to financial resources,
land ownership, employment and
essential services, and under-
representation in decision-making
bodies

Armed conflicts

More significant impact resulting from
destruction or damage of critical
infrastructures on access to basic
necessities and health care

Traditional view of the roles' division
between women/men in society

Also reflected in GCs and their APs

Armed conflicts

Men & boys are more readily equated with
members of armed forces or armed groups,
or civilians directly participating in hostilities

Potential impact on equal treatment for
militaries as detainees or wounded and sick



The impact of armed conflicts from a gender perspective

Need to address the exacerbation of inequalities and to consider differently the roles of men and women today



Supporting a gender-based approach for a better compliance with IHL rules relating to the human treatment of people without any adverse distinction and with those limiting the means and methods of warfare



Development of tools to include the gender perspective in the interpretation of existing IHL rules (e.g. ICRC updated commentaries to GCs) and to identify practical recommendations for military practice



The integration of the gender perspective in IHL application

Interpretation of IHL rules

Scenario 1

State A has captured members of State B's armed forces and holds them as PoWs in a camp. There is a lack of appropriate hygiene products for women. Women PoWs are dressed in oversized men's clothing and shoes. They sleep in the same dormitories as set up for men PoWs and are supervised by male guards.

Scenario 2

The armed forces of State A plan to launch an attack on a road that is used by the enemy to transport military equipment for the preparation of a major offensive. This road is also daily used by women to get access by walk to the main food distribution points and the only hospital located in the region. It is well known that prior to the armed conflict, women already faced several barriers to accessing transportation and health care. Women are less likely to have a driver's licence and have fewer financial resources combined with primary responsibility to ensure children are fed. The destruction of the road could lead them to use alternative longer routes which are less safe and more prone to acts of sexual violence.



The integration of the gender perspective in IHL application

Interpretation of rules on the protection of persons in the power of the parties to armed conflict

General protection

Human treatment for all persons without any adverse distinction based on a non-exhaustive list of criteria including sex

GC I, Art. 12 (2) / GC II, Art. 12 (2) / GC III, Art. 16 / GC IV, Art. 13 & Art. 27 (3)

Equal treatment **does not exclude non-adverse distinctions** through specific treatments that are justified by the substantively different situations and needs of protected persons

Application of specific treatment

Women should be treated with all consideration due to their sex

GC I, Art. 12 (4) / GC III, Art. 14 (2)

Specific rules of protection for women

Examples

PoW – GC III

- Separate dormitories - Article 25 (4)
- Hygiene facilities - Article 29 (2)
- Sex to be taken into account in the assignment of work - Article 49 (1)
- Application of disciplinary or judicial measures - Articles 88 (2) and (3), 97 (4) and 108 (2)

Civilian – GC IV

- Protection against sexual violence as an “attack on their honour” - Art. 27 (2)
Problem of misinterpretation due to inappropriate wording

Operationalization of general rules

Military wounded and sick - GC I (Updated ICRC Commentary)

- Favourable treatment to address specific physical and physiological needs of female wounded and sick members of the armed forces (e.g. additional food or specific hygiene requirements considering their condition) – Art. 12 (2) & (4)

PoW - GC III (Updated ICRC Commentary)

- Electing a woman representative who would be authorized to communicate directly with the senior women among the camp staff – Art. 79
- Food rations to be adapted to their individual circumstances – Art. 26
- Adapted clothing for women – Art. 27



The integration of the gender perspective in IHL application

Interpretation of rules aiming to limit the use of means and methods of warfare

Distinction

Upholding the presumption of civilian status for all individuals including males

Assumptions about combatant status of males, must be rejected / Targeting decisions based on individualized assessments of conduct and verifiable indicators

ICRC, [Gendered impacts of armed conflicts and implications for the application of International humanitarian law](#), 2022

IHL Centre, [Inclusive IHL: Closing the gaps in Humanitarian protection](#), 2026

Proportionality

Explicitly including foreseeable harm to women and girls, particularly maternal and reproductive health outcomes

Treating epidemiological and public health research on conflict-affected maternal outcomes as reasonably available information to consider within assessments

Ensuring that assessments explicitly consider the foreseeable harm arising from gendered life patterns so that expected civilian harm is accurately assessed

Precautions

Effectiveness of a warning should be assessed from the perspective of the civilian population that may be affected, including women and girls

Presentation of accessible information in a variety of formats that would help overcome the limited access women and girls have to digital communication and comparatively lower literacy rates

*Articles 48, 51-52 & 57-58 of API
Article 13 of AP II
Rules 1-24 of ICRC ICHL Study*



The integration of the gender perspective in IHL application

Adaptation of military practice

Selected recommendations for applying the gender perspective in the planning and conduct of military operations

- Enforcing internal discipline to influence external conduct
- Elaborating conducive law, doctrine, policy and procedure
- Collecting operational gender-related data
- Appointing gender advisers and focal points
- Ensuring a gender-balanced composition of the armed forces and engaging men on gender-related issues
- Getting logistics right to ensure equal treatment and access to medical care
- Locating IHL in the Women, Peace and Security (WPS) Agenda (UNSCR 1325)

ICRC, NCGM and Swedish RC, [International Humanitarian Law and a Gender Perspective in the Planning and Conduct of Military Operations](#), 2024



Conclusion

- Protected persons are not a homogenous category, but are differently impacted by armed conflicts
- Inclusive interpretation of IHL is not an option but a legal prerequisite to ensure effective protection in light of its humanitarian object, by mitigating the harm arising from pre-existing gender inequalities and traditional view of social roles' distribution
- Prospects for States to include the gender perspective:
 - Training and briefing sessions for armed forces
 - Integration as a cross-cutting issue in military practice, including military manuals and planning exercises
 - Promoting gender perspective at international meetings on IHL issues

