

IHL and GENDER – recommendations

Armed conflict impacts women, girls, boys and men in different ways. The past few decades have witnessed an increasing recognition of this within the international community and responses through international law. Essential to effective action in relation to armed conflicts is therefore the consideration of the distinct and diverse status, needs and capacities as well as the consequences of these in relation to plausible actions. It is through this perspective that the development and application of international humanitarian law (IHL) today also needs to take these facts into consideration. In other words, IHL needs to be approached with a “gender perspective”. All key stakeholders and decision-makers (civilian and military) with responsibilities under IHL must understand how gender factors impact the application of the law, and take responsibility for ensuring that this perspective impacts the planning, conduct and evaluation of military operations and other actions under the law.

The following is a set of recommendations to facilitate the understanding of what a gender perspective on IHL entails. They are based on the findings of the

joint Swedish and Swedish Red Cross publication, *IHL and Gender – Swedish experiences*.

A GENDER PERSPECTIVE IN THE APPLICATION OF IHL

Why a gender perspective?

Gender, together with factors such as age, ethnicity, and class, influence, among other things, the expected behaviour, roles, power, needs, capacities, resources, constraints and opportunities for people in any culture. Existing gender norms and inequalities, and preconceived gender stereotypes impact the lives of all individuals.

A non-discriminatory legal regime might not have the intended effect in an inherently discriminatory setting. Therefore, it is necessary to collect, analyse and use information regarding gender factors in relation to IHL in order to ensure equal and non-discriminatory application of the law. In addition, a gender perspective on IHL also contributes to other inter-linked activities, such as effective humanitarian assistance (including safe and accessible health care).



Collect information

A gender perspective requires the collection of;

- ✓ sex- and age-disaggregated data (SADD). The presence of information gaps regarding sex and age of the individuals in the situational context limits the effectiveness of the application of international humanitarian law;
- ✓ information regarding the situation of the individuals in the specific context. This must also include information about the expected behaviour, roles, power, needs, capacities, resources, constraints and opportunities of men and women respectively; and
- ✓ information regarding how the experience of armed conflict differs between men and women of different ages and backgrounds.

Analyse

A gender perspective requires an analysis of;

- ✓ how the means and methods of warfare chosen in a planned operation affects women and men of different ages and backgrounds respectively.
- ✓ how actions to ensure obligations under IHL, e.g., right to protection, respect for and/or access to health care, are made equally accessible, secure and beneficial for men and women respectively;
- ✓ how acts or omissions committed under the law risk exacerbating inequalities or causing divergent vulnerabilities between men and women in the situational context, which could be avoided with alternative activities.

Use

A gender perspective requires:

- ✓ that the collected information and the analysis of gender factors are consequently included in the planning, conduct and evaluation of military operations; and
- ✓ that information regarding the effects of military operations (including battle-damage assessments) is collected, analysed and used in ways that do not reinforce gender assumptions (for example, female deaths should not automatically be reported as 'civilian').

Participation

Ensure that women and men of different ages and backgrounds are consulted and actively take part in the collection of information regarding the contextual situation, and ensure their participation in relevant analyses and decision-making processes.

One illustrative example; a gender perspective in relation to the provisions on weapons.

The production and use of weapons (including ammunition) implicate and impact men, women, girls and boys differently – but not always in stereotypically assumed ways. Therefore, it is important to collect, analyse and use information regarding:

- ✓ how/if gendered differences in status and functions in society create different vulnerabilities to specific types of weapons or to specific use of weapons;
- ✓ how/if gendered differences in, for example, freedom of movement, and access to resources and services create different vulnerabilities to specific types of weapons or to specific use of weapons;
- ✓ how/if biological differences lead to men and women being impacted differently by the direct and indirect effects from weapons; and
- ✓ what constitutes superfluous injury to, or unnecessary suffering in, men and women respectively given their status and function in society, including their respective access to key services.

These gender factors must also impact the review of weapons. A gender analysis is needed in order to make a correct assessment according to the requirements of article 36 of Additional Protocol I.

