

Abstract

Changes in the nature of armed conflict with the support of weapons of mass destruction which in turn resulted in many casualties and property. Recognizing such conditions, the desire of States arises to make international regulations to avoid suffering as a result of armed conflict. Wars from time to time always take a very large number of victims which leads to suffering, both for those who fight and those who do not participate in the war (civilians). When international humanitarian law cannot be applied to a conflict, it does not mean that the conflict is independent of international humanitarian law because there is a Marten Clause. This study aims to analyze the position of the Martens clause based on the Geneva Conventions of 1949 in the protection of civilians in international armed conflicts and the background of the need to protect civilians in international armed conflicts. The Martens clause's position is to provide protection until the laws on war law that are issued, outside the agreement remain under the protection of the principles of international law, arising from customs between civilized countries, which are principled in humanitarian law and from the conscience of the people. Protection of civilians is needed as the essence of human rights which guarantees minimum protection that is absolutely respected to anyone, both in times of peace and in times of war. This is in accordance with the aim of international humanitarian law to protect both combatants and civilians from unnecessary suffering and guaranteeing human rights, and preventing cruel warfare without boundaries.

Keywords : international humanitarian law, Marten Clause, human rights, Geneva Conventions of 1949, Protection of civilians