**Rule 97. Human Shields**

**https://www.icrc.org/customary-ihl/eng/docs/v1\_rul\_rule97**

***Rule 97. The use of human shields is prohibited.***

**Summary**

State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.

**International and non-international armed conflicts**

In the context of international armed conflicts, this rule is set forth in the Third Geneva Convention (with respect to prisoners of war), the Fourth Geneva Convention (with respect to protected civilians) and Additional Protocol I (with respect to civilians in general).*[[1]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_1)*  Under the Statute of the International Criminal Court, “utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations” constitutes a war crime in international armed conflicts.*[[2]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_2)*
The prohibition of using human shields is contained in numerous military manuals, many of which extend the prohibition to all civilians.*[[3]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_3)*  Using human shields constitutes a criminal offence under the legislation of many States.*[[4]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_4)*  This practice includes that of States not, or not at the time, party to Additional Protocol I or to the Statute of the International Criminal Court.*[[5]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_5)*  In 1990 and 1991, there was extensive condemnation by States of the use of prisoners of war and civilians by Iraq as human shields, and the United States declared that such use amounted to a war crime.*[[6]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_6)*  The use of prisoners of war as human shields during the Second World War was the subject of war crimes trials by the UK Military Court at Lüneberg in the *Student case*in 1946 and by the US Military Tribunal at Nuremberg in the *Von Leeb (The High Command Trial) case*in 1948.*[[7]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_7)*  In the *Karadžić and Mladić case* in 1995 before the International Criminal Tribunal for the former Yugoslavia, the accused were charged with war crimes for using UN peacekeepers as human shields. In its review of the indictments the Tribunal upheld this charge.*[[8]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_8)*
With respect to non-international armed conflicts, Additional Protocol II does not explicitly mention the use of human shields, but such practice would be prohibited by the requirement that “the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations”.*[[9]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_9)*  It is significant, furthermore, that the use of human shields has often been equated with the taking of hostages,*[[10]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_10)*  which is prohibited by Additional Protocol II,*[[11]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_11)*  and by customary international law (see Rule 96). In addition, deliberately using civilians to shield military operations is contrary to the principle of distinction and violates the obligation to take feasible precautions to separate civilians and military objectives (see Rules 23–24).
Several military manuals which apply in non-international armed conflicts prohibit the use of human shields.*[[12]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_12)*  The legislation of several States criminalizes the use of human shields in non-international armed conflicts.*[[13]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_13)*  The use of human shields in non-international armed conflicts has been condemned by States and by the United Nations, for example, with respect to the conflicts in Liberia, Rwanda, Sierra Leone, Somalia, Tajikistan and the former Yugoslavia.*[[14]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_14)*
No official contrary practice was found.
The ICRC has reminded parties to both international and non-international armed conflicts of the prohibition of using human shields.*[[15]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_15)*
International human rights law does not prohibit the use of human shields as such, but this practice would constitute, among other things, a violation of the non-derogable right not to be arbitrarily deprived of the right to life (see commentary to Rule 89). The UN Human Rights Committee and regional human rights bodies have indicated that this right involves not only the right not to be killed, but also the duty of States to take measures to protect life.*[[16]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_16)*  In *Demiray v. Turkey*, in which the applicant submitted that her husband had been used as a human shield, the European Court of Human Rights stated that “Article 2 may … imply in certain well-defined circumstances a positive obligation on the authorities to take preventive operational measures to protect an individual for which they are responsible”.*[[17]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_17)*

**Definition of human shields**

The prohibition of using human shields in the Geneva Conventions, Additional Protocol I and the Statute of the International Criminal Court are couched in terms of using the presence (or movements) of civilians or other protected persons to render certain points or areas (or military forces) immune from military operations.*[[18]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_18)*  Most examples given in military manuals, or which have been the object of condemnations, have been cases where persons were actually taken to military objectives in order to shield those objectives from attacks. The military manuals of New Zealand and the United Kingdom give as examples the placing of persons in or next to ammunition trains.*[[19]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_19)*  There were many condemnations of the threat by Iraq to round up and place prisoners of war and civilians in strategic sites and around military defence points.*[[20]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_20)*  Other condemnations on the basis of this prohibition related to rounding up civilians and putting them in front of military units in the conflicts in the former Yugoslavia and Liberia.*[[21]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_21)*
In the Review of the Indictments in the *Karadžić and Mladić case*, the International Criminal Tribunal for the former Yugoslavia qualified physically securing or otherwise holding peacekeeping forces against their will at potential NATO air targets, including ammunition bunkers, a radar site and a communications centre, as using “human shields”.*[[22]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22Fn_61_22)*
It can be concluded that the use of human shields requires an intentional co-location of military objectives and civilians or persons *hors de combat* with the specific intent of trying to prevent the targeting of those military objectives.

*[[1]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_1)* Third Geneva Convention, Article 23, first paragraph (cited in Vol. II, Ch. 32, § 2251); Fourth Geneva Convention, Article 28 (*ibid.*, § 2252); Additional Protocol I, Article 51(7) (adopted by consensus) (*ibid.*, § 2254).

*[[2]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_2)* ICC Statute, Article 8(2)(b)(xxiii) (*ibid.*, § 2255).

*[[3]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_3)* See, e.g., the military manuals of Argentina (*ibid.*, § 2259), Australia (*ibid.*, §§ 2260–2261), Belgium (*ibid.*, § 2262), Cameroon (*ibid.*, § 2263), Canada (*ibid.*, § 2264), Colombia (*ibid.*, § 2265), Croatia (*ibid.*, § 2266), Dominican Republic (*ibid.*, § 2267), Ecuador (*ibid.*, § 2268), France (*ibid.*, §§ 2269–2271), Germany (*ibid.*, § 2272), Israel (*ibid.*, § 2273), Italy (*ibid.*, § 2274), Kenya (*ibid.*, § 2275), Netherlands (*ibid.*, § 2276), New Zealand (*ibid.*, § 2277), Spain (*ibid.*, § 2278), Switzerland (*ibid.*, § 2279), United Kingdom (*ibid.*, §§ 2280–2281) and United States (*ibid.*, §§ 2282 and 2284).

*[[4]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_4)* See, e.g., the legislation of Australia (*ibid.*, § 2285), Azerbaijan (*ibid.*, §§ 2286–2287), Bangladesh (*ibid.*, § 2288), Belarus (*ibid.*, § 2289), Canada (*ibid.*, § 2291), Democratic Republic of the Congo (*ibid.*, § 2292), Congo (*ibid.*, § 2293), Germany (*ibid.*, § 2294), Georgia (*ibid.*, § 2295), Ireland (*ibid.*, § 2296), Lithuania (*ibid.*, § 2297), Mali (*ibid.*, § 2298), Netherlands (*ibid.*, § 2299), New Zealand (*ibid.*, § 2300), Norway (*ibid.*, § 2301), Peru (*ibid.*, § 2302), Poland (*ibid.*, § 2303), Tajikistan (*ibid.*, § 2304), United Kingdom (*ibid.*, § 2306) and Yemen (*ibid.*, § 2307); see also the draft legislation of Burundi (*ibid.*, § 2290) and Trinidad and Tobago (*ibid.*, § 2305).

*[[5]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_5)* See, e.g., the military manuals of France (*ibid.*, § 2269), Kenya (*ibid.*, § 2275), United Kingdom (*ibid.*, § 2281) and United States (*ibid.*, §§ 2282 and 2284) and the legislation of Azerbaijan (*ibid.*, §§ 2286–2287), Bangladesh (*ibid.*, § 2288), Belarus (*ibid.*, § 2289), Democratic Republic of the Congo (*ibid.*, § 2292), Georgia (*ibid.*, § 2295), Lithuania (*ibid.*, § 2297), Peru (*ibid.*, § 2302), Poland (*ibid.*, § 2303), Tajikistan (*ibid.*, § 2304) and Yemen (*ibid.*, § 2307); see also the draft legislation of Burundi (*ibid.*, § 2290).

*[[6]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_6)* See, e.g., the statements of El Salvador (*ibid.*, § 2312), Germany (*ibid.*, § 2314), Italy (*ibid.*, § 2317), Kuwait (*ibid.*, § 2319), Senegal (*ibid.*, § 2324), United Kingdom (*ibid.*, §§ 2327–2328) and United States (*ibid.*, §§ 2335–2343) and the reported practice of Spain (*ibid.*, § 2325).

*[[7]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_7)* United Kingdom, Military Court at Lüneberg, *Student case* (*ibid.*, § 2308); United States, Military Tribunal at Nuremberg, *Von Leeb (The High Command Trial) case* (*ibid.*, § 2309).

*[[8]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_8)* ICTY, *Karadžić and Mladić case*, First Indictment and Review of the Indictments (*ibid.*, § 2364).

*[[9]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_9)* Additional Protocol II, Article 13(1) (adopted by consensus) (cited in Vol. II, Ch. 5, § 2).

*[[10]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_10)* See, e.g., the practice of El Salvador (cited in Vol. II, Ch. 32, § 2312) and the European Community (*ibid.*, § 2359).

*[[11]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_11)* Additional Protocol II, Article 4(2)(c) (adopted by consensus) (*ibid.*, § 2051).

*[[12]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_12)* See, e.g., the military manuals of Australia (*ibid.*, § 2260), Canada (*ibid.*, § 2264), Colombia (*ibid.*, § 2265), Croatia (*ibid.*, § 2266), Ecuador (*ibid.*, § 2268), Germany (*ibid.*, § 2272), Italy (*ibid.*, § 2274) and Kenya (*ibid.*, § 2275).

*[[13]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_13)* See, e.g., the legislation of Azerbaijan (*ibid.*, §§ 2286–2287), Belarus (*ibid.*, § 2289), Democratic Republic of the Congo (*ibid.*, § 2292), Germany (*ibid.*, § 2294), Georgia (*ibid.*, § 2295), Lithuania (*ibid.*, § 2297), Poland (*ibid.*, § 2303) and Tajikistan (*ibid.*, § 2304); see also the legislation of Peru (*ibid.*, § 2302) and Yemen (*ibid.*, § 2307), the application of which is not excluded in time of non-international armed conflict, and the draft legislation of Burundi (*ibid.*, § 2290).

*[[14]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_14)* See, e.g., the statements of Chile (*ibid.*, § 2310), Tajikistan (*ibid.*, § 2326) and Yugoslavia (*ibid.*, § 2346); the reported practice of Rwanda (*ibid.*, § 2323); UN Commission on Human Rights, Res. 1995/89 (*ibid.*, § 2348); UN Secretary-General, Progress report on UNOMIL (*ibid.*, § 2349), Progress report on UNOMSIL (*ibid.*, § 2350) and Report pursuant to paragraph 5 of Security Council resolution 837 (1993) on the investigation into the 5 June 1993 attack on the UN forces in Somalia conducted on behalf of the UN Security Council (*ibid.*, § 2351).

*[[15]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_15)* See, e.g., ICRC, Communication to the Press No. 93/17 (*ibid.*, § 2367) and archive document (*ibid.*, § 2368).

*[[16]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_16)* UN Human Rights Committee, General Comment No. 6 (Article 6 of the International Covenant on Civil and Political Rights) (*ibid.*, § 2365); African Commission on Human and Peoples’ Rights, *Civil Liberties Organisation v. Chad* (*ibid.*, § 940); European Court of Human Rights, *Demiray v. Turkey* (*ibid.*, § 2367).

*[[17]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_17)* European Court of Human Rights, *Demiray v. Turkey* (*ibid.*, § 2367).

*[[18]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_18)* Third Geneva Convention, Article 23, first paragraph (*ibid.*, § 2251); Fourth Geneva Convention, Article 28 (*ibid.*, § 2252); Additional Protocol I, Article 12(4) (adopted by consensus) (*ibid.*, § 2253) and Article 51(7) (*ibid.*, § 2254); ICC Statute, Article 8(2)(b)(xxiii) (*ibid.*, § 2255).

*[[19]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_19)* See the military manuals of New Zealand (*ibid.*, § 2277) and United Kingdom (*ibid.*, § 2280).

*[[20]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_20)* See, e.g., the statements of Germany (*ibid.*, § 2314), Italy (*ibid.*, § 2317), Kuwait (*ibid.*, § 2319), Senegal (*ibid.*, § 2324), United Kingdom (*ibid.*, §§ 2327–2332) and United States (*ibid.*, §§ 2335–2340 and 2342–2343); UN Commission on Human Rights, Res. 1992/71 (*ibid.*, § 2347); EC, Declaration on the situation of foreigners in Iraq and Kuwait (*ibid.*, § 2356), Statement before the Third Committee of the UN General Assembly (*ibid.*, § 2357), Statement on the situation of prisoners of war (*ibid.*, § 2358) and Declaration on the Gulf crisis (*ibid.*, § 2359).

*[[21]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_21)* See, e.g., the statement of Yugoslavia (*ibid.*, § 2346); UN Commission on Human Rights, Res. 1995/89 (*ibid.*, § 2348); UN Secretary-General, Progress report on UNOMIL (*ibid.*, § 2349).

*[[22]](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule97%22%20%5Cl%20%22refFn_61_22)* ICTY, *Karadžić and Mladić case*, Review of the Indictments (*ibid.*, § 2364).