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# The protection of vulnerable persons in conflict zones

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# Introduction

Vulnerable persons enjoy general protection:

- As civilians
- As a result of their association with civilian objects
- Being on the “receiving end” of targeting rules and principles  
(‘Hague law’)



# Vulnerable persons – I – War Journalists

- Nature of work carries inherent risks
- Value of free gathering of news in armed conflict
- Examples of attacks on journalists
  - NATO bombing of Serbian State TV and radio building in Belgrade (1999)
  - US bombing of Kabul and Baghdad offices of Al-Jazeera (2001, 2003)
- Protected by Article 79 of the First Additional Protocol
- International practice
- Difficulties in modern warfare





## Security Council

### Resolution 1738 (2006)

Distr.: General  
23 December 2006

1. **Condemns intentional attacks against journalists** ... as such, in situations of armed conflict, and calls upon all parties to put an end to such practices;
2. Recalls in this regard that journalists ... in areas of armed conflict shall be **considered as civilians and shall be respected and protected** as such, provided that they take no action adversely affecting their status as civilians. ... ;
3. Recalls also that **media equipment and installations constitute civilian objects**, and in this respect shall not be the object of attack or of reprisals, unless they are military objectives;  
...
6. Urges States and all other parties to an armed conflict to do their utmost to **prevent violations of international humanitarian law** against civilians, including journalists, ...;
- ...
8. Urges all parties involved in situations of armed conflict to **respect the professional independence** and rights of journalists, ... as civilians.



# Vulnerable persons – II – Civil aviation

- Attacks on civilian airliners are rare, but have major consequences
- Passengers on civilian airliners are not specifically addressed by IHL
- Examples:
  - 1955: El Al Flight 402 (Israel) by Bulgaria (55 victims)
  - 1988: Iran Air Flight 655 by USA (290)
  - 1988: Pan Am Flight 103 (USA) by Libya (270)
  - 2003: Siberia Flight 1812 (Russia/Israel) by Ukraine (78)
  - 2008: Georgian Airways Flights TU-134A/134B by Abkhazian separatists (143)
  - 2014: MH17 (Malaysia) by Ukrainian separatists (298)
  - 2015: Metrojet Flight 9268 (Russia) by ISIL (224)
  - 2020: UIA Flight 725 by Iran (176)



# Vulnerable persons – II – Civil aviation

Protection:

- First hurdle: Does IHL apply? (MH17: yes; Flight 725: unclear)
- General protection of civilians and civilian objects:
  - No direct attack, unless ...
  - Precautions to ensure IHL compliance
- Article 3bis Chicago Convention on International Civil Aviation:  
*'every State must refrain from resorting to the use of weapons against civil aircraft in flight'*
- Effort to clarify the law, fill the gaps and develop good practices:
  - HPCR Manual on International Law Applicable to Air and Missile Warfare
  - ICAO Risk Assessment Manual for Civil Aircraft Operations Over or Near Conflict Zones



# Vulnerable persons – II – Civil aviation

## HPCR Manual

- “Civilian airliner” = ‘a civilian aircraft identifiable as such and engaged in carrying civilian passengers in scheduled or non-scheduled service’ [Rule 1(i)]
- Civilian aircraft
  - are civilian objects and protected from attack, unless they constitute military objectives [Rules 47 and 63]
  - ought to avoid areas of potentially hazardous military operations [and] comply with instructions from the military forces regarding their heading and altitude [Rule 54]
  - must comply with Notice to Airmen (NOTAM) providing information on military operations [Rule 56]
  - must be warned by military forces in case of absence of non-compliance with NOTAM [Rule 57]
  - may be attacked if military objective, and only if further conditions are fulfilled (eg diversion for landing and inspection impossible; circumstances leading to the loss of protection are sufficiently grave to justify an attack; warning; high level decision making) [Rule 68]



# Vulnerable persons – II – Civil aviation

## ICAO Risk Assessment Manual

- Adopted in response to downing of MH17
- Aim: to standardize the format of and access to risk assessments
- Scope
- Primary focus
- Difficulty: multiplicity of actors and high stakes

