

The ABC of International Humanitarian Law



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Introduction

International humanitarian law – also known as the Law of Armed Conflict or the Law of War (*ius in bello*) – applies only to international and non-international armed conflicts and has a two-fold purpose: to regulate the conduct of hostilities and to protect victims of armed conflicts. Yet it does not answer the question of whether or not a particular war is lawful (*ius ad bellum*). This is dealt with by the Charter of the United Nations (UN). International humanitarian law applies to all types of armed conflicts, whether lawful or not, and must be respected by all parties to the conflict.

A substantial part of international humanitarian law, notably concerning conduct of hostilities, was elaborated at the international peace conferences of 1899 and 1907 in The Hague (“Hague Law”). The participants adopted a number of declarations and agreements intended to impose limits on the means and methods of warfare, such as the Hague Conventions of 1899 and 1907 concerning the Laws and Customs of War on Land, various 1907 agreements on the conduct of war at sea and the declarations of 1899 banning use of poison gas and “dumdum” bullets.

Provisions to protect victims of armed conflicts (“Geneva Law”) are contained in the four Geneva Conventions of 1949, which protect the following:

- wounded and sick in armed forces in the field (First Convention),
- wounded, sick and shipwrecked armed forces at sea (Second Convention),
- prisoners of war (Third Convention),
- civilians in time of war (Fourth Convention).

The Geneva Conventions of 1949 were supplemented in 1977 by two Additional Protocols to protect victims of international armed conflicts and victims of non-international armed conflicts. In 2005, a third Additional Protocol on adoption of an additional emblem was adopted.

Since adopting the two Additional Protocols of 1977, which have updated rules governing conduct of hostilities, this strict differentiation between “Hague Law” and “Geneva Law” is no longer pertinent.

International humanitarian law applies only to armed conflicts, whether international or non-international, although also far more rules apply to international armed conflicts than to non-international armed conflicts. In addition, most of these rules are today part of customary international law, so they apply not only to international armed conflict, for which it was originally developed, but also to non-international armed conflict.

Although international humanitarian law is intended mainly for states and parties to a conflict (e.g., armed groups), individuals must also respect many of its provisions. States are obliged to respect the norms, to suppress any violations, and either prosecute persons accused of grave breaches of international humanitarian law (in particular of war crimes) or extradite such persons. If a state is either unwilling or unable to investigate alleged war crimes and prosecute the perpetrators, the responsibility of ensuring that the crimes do not go unpunished falls to the international community, which can grant jurisdiction to the International Criminal Court in The Hague. Furthermore, the international community has also set up international ad hoc tribunals to prosecute crimes committed within specific conflicts (e.g., the International Criminal Tribunals for the former Yugoslavia and for Rwanda).



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People on War

How do combatants and civilians experience war? Why in times of war are the fundamental values of humanity ignored? Through the “People on War” project, the International Committee of the Red Cross (ICRC) interviewed more than 12,000 people on different aspects of war. The interviews were carried out in 12 war-affected countries*. The results were published in 2000.

www.icrc.org/Web/Eng/siteeng0.nsf/html/p0758

* Afghanistan, Bosnia and Herzegovina, Cambodia, Colombia, El Salvador, Georgia/Abkhazia, Israel, the Occupied Palestinian Territory, Lebanon, Nigeria, the Philippines, Somalia, South Africa

Parties to a conflict must respect international humanitarian law in all circumstances and regardless of the behaviour by the other side. A state party may not evade its own obligations by arguing that the other party is failing to uphold international humanitarian law. States also remain bound by the conventions even if an enemy has not acceded to them.

The purpose of these “ABCs” is to explain the key concepts of international humanitarian law and allow the reader to become familiar with this branch of international law. It does not pretend to be an exhaustive lexicon on the subject.

Glossary

A

Additional Protocols

Two Additional Protocols to the Geneva Conventions of 1949 were adopted on 8 June 1977 in Geneva. The first concerns protecting victims of international armed conflicts and the second protects victims of non-international armed conflicts. A third Additional Protocol came into force on 14 January 2007, making the Red Crystal an additional official emblem.

- » Geneva Conventions
- » Armed conflict
- » Emblems

Ad hoc tribunals

Following the conflicts in Rwanda and the former Yugoslavia, the UN Security Council established two ad hoc international criminal tribunals to prosecute war crimes, the crime of genocide and crimes against humanity. The jurisdiction of these tribunals – unlike that of the International Criminal Court – was limited in duration and to the specific conflict. After their mandates expired, the International Residual Mechanism for Criminal Tribunals, which is an international court of justice, was established to complete the remaining work of the ad hoc tribunals.

Other mixed courts, made up of local and international members of staff prosecute crimes committed in particular conflicts or under specific regimes. Examples: the Extraordinary African Chambers set up as special tribunals in Chad to prosecute the atrocities committed by the deposed president of Chad, Hissène Habré, and the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea.

- » United Nations
- » War crimes
- » Crime of genocide
- » Crimes against humanity
- » International Criminal Court

Aggression

Aggression is the use of armed force by one state against the sovereignty, territorial integrity, or political independence of another state. Although international law prohibits use of military force in principle, it allows two exceptions: military self-defence in well-defined circumstances or that within the context of measures to maintain or restore international peace and security based on a United Nations Security Council decision taken under Chapter VII of the charter.

The concept of aggression in international public law should not be confused with the crime of aggression in international criminal law. The latter concerns the criminal responsibility of individuals

- » Crime of aggression
- » International criminal law

Applicability

International humanitarian law applies to both international and non-international armed conflict. It takes effect from the beginning of an armed conflict and remains in force until the general close of military operations or end of occupation. Certain provisions remain in force for as long as *de facto* situation continues. Thus, for example, the Third Geneva Convention protects prisoners of war even after hostilities end.

- » Armed conflict
- » Prisoners of war
- » Geneva Conventions

Armed conflict

International humanitarian law applies to all armed conflicts. Although none of the relevant conventions contains a definition of armed conflict, it has been described as follows in jurisprudence: “an armed conflict exists whenever there is a resort to armed forces between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State.”

Thus armed conflicts can be international or non-international. To qualify as such a non-international armed conflict must reach a certain intensity and the armed group(s) must be organised to a certain degree. Internal tensions, internal disturbances such as riots, isolated or sporadic acts of violence and similar events are not covered by international humanitarian law.

» Internal disturbances

Asymmetric warfare

Today’s wars are no longer exclusively conducted by conventional armies, but also involve non-state armed groups. They are becoming increasingly “asymmetric”, *i.e.*, there is a considerable difference between the military capabilities of the belligerents. International humanitarian law also applies to this kind of conflict, regardless of whether or not the (state or non-state) parties to the conflict recognise this body of law.

Nonetheless asymmetry leads to many problems when it comes to observing the rules. For instance, when a party sees itself at a disadvantage if it respects the provisions of international humanitarian law, or when the party which is technically weaker adopts means and methods that are in violation of international humanitarian law such as perfidy or the use of civilians as human shields, or when the dominant party fails to respect the principles of distinction and of proportionality in reaction to violations by an enemy.

» Means and methods of warfare
» Perfidy
» Distinction
» Proportionality

B

Ban on torture

Torture and other cruel, inhuman or degrading treatment or punishment are at all times and in all circumstances prohibited by customary international law as well as by various international treaties such as the Convention against Torture. The Additional Protocol to the Convention against Torture of 2002 strengthens efforts to prevent torture through visits to prisons and other detention facilities, and monitoring by international and national bodies. Torture and cruel treatment are also expressly prohibited by the Geneva Conventions and their Additional Protocols.

Torture carried out in the course of armed conflicts is treated as a war crime, and in the context of widespread or systematic attacks against civilian populations as a crime against humanity.

- » Customary international law
- » Geneva Conventions
- » Additional Protocols
- » War crimes
- » Crimes against humanity

Biological weapons

Biological weapons are also known as bacteriological weapons. These are designed to cause disease and death. Biological weapons contain living organisms that reproduce and release toxins dangerous to humans, animals and plants. Besides endangering health they cause damage to the environment. Use of biological weapons has been prohibited since 1925. The Biological Weapons Convention of 1972 prohibits development, production or stockpiling of weapons that contain microbiological and bacteriological agents or toxins, as well as their means of delivery. The states parties to this convention agree to destroy such weapons or convert them to use for peaceful purposes.

- » Weapons

C

Ceasefire

A ceasefire is an immediate halt or end to hostilities. This military concept refers to both agreements negotiated between the parties to a conflict and unilateral termination of all military activity by one of the parties, possibly for a specified period of time or in a specified area.

Central Tracing Agency

The Central Tracing Agency, created under the auspices of the International Committee of the Red Cross (ICRC), is based in Geneva. It is the successor to the Central Prisoners of War Agency which defended the rights of prisoners of war and the right of their families to know what had become of them during World Wars I and II. The agency works with the national authorities' official information services, ICRC delegates and other institutions active in the field. It coordinates the search for missing persons, passes on information about prisoners of war and other detainees, carries out prisoner transfers and repatriations, conveys messages and helps to reunite families.

- » International Committee of the Red Cross
- » Prisoners of war

Chemical weapons

Chemical weapons contain chemical substances that endanger health, can cause death to humans and animals, render them temporarily incapable of resistance (hors de combat) or cause lasting damage. These substances can also contaminate foodstuffs, drinks and other materials. As a result of the terrible consequences of chemical weapons in World War I, use of asphyxiating, poisonous and similar gases was prohibited in 1925. An international convention went further in 1993, prohibiting development, production, stockpiling or use of chemical weapons and recommending their destruction.

- » Weapons

Children

International humanitarian law offers special protection to children. Parties to a conflict are under obligation to provide all the care and assistance that they need due to their youth or for any other reason. Food and medical aid must be provided to children before others. International humanitarian law also contains special guarantees for detained children, the inviolability of their nationality and civil status and for reunification with their families. Children orphaned by war or separated from their parents have the right to education in accordance with their own religion and culture.

Child soldiers

It is estimated that there are around 250,000 child soldiers in the world today. Some are recruited by force, while others are volunteers, in some cases for ideological reasons and in others just as a way to obtain food. The Optional Protocol of 2000 to the UN Convention on the Rights of the Child provides for measures to ensure reintegration in society of children who have served as combatants.

The protocol completes and strengthens provisions of the two Additional Protocols, prohibiting compulsory recruitment and direct participation in hostilities before the age of 18. Furthermore, it calls on the states parties to adopt measures to prevent armed groups from recruiting persons below the age of 18 and from deploying them in combat operations. Recruitment of children below the age of 15 in armed forces or other armed groups is regarded as a war crime.

- » Additional Protocols
- » War crimes

Civil defence

Civil defence is the organisation of assistance and relief in situations of conflict and major disasters to protect and ensure survival of civilian populations and to limit damage to civilian objects as much as possible. It is prohibited to attack members of the civil defence service, who are identified by a blue triangle on an orange ground.

» Civilian objects

Civilian objects

International humanitarian law distinguishes between civilian objects and military objectives, prohibiting acts of violence against the former. Other provisions provide special protection for certain specific civilian objects, some of which are expected to bear distinctive signs: medical units and means of transport, places of worship, cultural property, civil defence installations, goods indispensable for survival of the population, the natural environment, and works and installations containing dangerous forces (e.g. nuclear power stations and dams). Civilian objects are all objects which are not military objectives.

- » Military objectives
- » Cultural property
- » Environment



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How combatants experience war*

In war-torn regions 29 per cent of the combatants were wounded, 18 per cent were taken prisoner, and almost 20 per cent of prisoners were tortured. 43 per cent of the prisoners disclosed that a member of their family had been killed.

* Results from the worldwide ICRC survey, "People on War"

Civilians

Until 1949, international humanitarian law protected the wounded, sick, shipwrecked and imprisoned members of the armed forces. The Geneva Conventions of 1949 extended protection in time of war to the civilian population. The Additional Protocols of 1977 increased the degree of protection and extended it by means of special regulations to specific categories of civilians (women, children, refugees, journalists).

- » Geneva Conventions
- » Additional Protocols
- » Women
- » Children
- » Refugees
- » Journalists
- » Wounded, sick and shipwrecked

Civil war

A non-international armed conflict. A civil war takes place between state and rebel armed forces or between non-state armed groups involved in on-going and coordinated combat. Internal disturbances and tensions are not considered armed conflict.

- » Armed conflict
- » Internal disturbances

Cluster munitions

Cluster munitions were used regularly and on a large scale during the Vietnam War as well as in other armed conflicts. They consist of a hollow shell containing from a dozen to many hundreds of bomblets (sub-munitions) released over a wide area. Cluster munitions can have grave humanitarian effects since their impact is indiscriminate. Moreover, many sub-munitions do not explode, lie on the ground and are thus a long-term threat to the civilian population. An international convention was adopted in May 2008 in Dublin prohibiting manufacture, stockpiling, transfer and deployment of cluster munitions. The convention also provides for obligations on stockpile destruction, clearance and victim assistance. Switzerland ratified it on 17 July 2012.

- » Armed conflict

Combatants

In an international armed conflict all members of the armed forces of a party to the conflict are considered combatants, with the exception of medical and religious personnel. Combatants may take part in licit acts of war, for which they may not be subjected to criminal prosecution or brought to court (“combatants’ privileges”). In certain circumstances persons who participate in an uprising to defend their national territory are also accorded the status of combatants, as are militia fighters, volunteers, and members of resistance movements. Combatants who are captured have a right to the status and guarantees accorded to prisoners of war.

- » Armed conflict
- » Prisoners of war

Conduct of hostilities

Not all means and methods of warfare are allowed in an armed conflict. International humanitarian law stipulates the military operations, tactics and weapons permitted. The two generally accepted principles of distinction and proportionality are the basis for a number of specific rules such as prohibition of direct attacks on the civilian population or on civilian objects, prohibition of indiscriminate attacks and the obligation to adopt precautionary measures (precaution) so as to avoid or limit casualties among civilians and damage to civilian objects to the greatest possible extent.

- » Means and methods of warfare
- » Armed conflict
- » Distinction
- » Proportionality
- » Civilian objects
- » Precaution
- » Civilians

Crimes against humanity

Acts intended to cause major suffering or serious impairment of physical or mental health qualify as crimes against humanity when committed as part of a widespread or systematic attack directed against a civilian population. In particular this includes murder, extermination, enslavement, deportation, deprivation of freedom in violation of the basic principles of international law, torture, rape, sexual enslavement, enforced prostitution, enforced pregnancy, enforced sterilisation and similar forms of serious sexual violence, persecution on political, racial, nationalist, ethnic, cultural, religious or gender-specific grounds, apartheid as well as enforced disappearance of persons.

- » Ban of torture
- » Enforced disappearance of persons

Crime of aggression

Acts that could constitute crimes of aggression include invasion, military occupation, annexation through use of force and blockade of ports or coasts of a state if by its character, gravity and scale such an act constitutes a manifest violation of the Charter of the United Nations. The perpetrator of an act of aggression is “a person in a position effectively to exercise control over or to direct the political or military action of a State”.

The International Criminal Court has the competent authority to judge crimes of aggression from 17 July 2018..

- » Aggression
- » International Criminal Court

Crime of genocide

Actions which aim at complete or partial annihilation of a national, ethnic, racial or religious group qualify as genocide. These actions include notably:

- Killing members of a particular group,
- Inflicting serious physical or mental injuries,
- Measures designed to prevent births, or physically eliminate a particular group,
- Enforced transfer of children to another group.

The United Nations adopted a convention in 1948 to prevent and punish genocide.

- » Children
- » United Nations

Cultural property

Cultural property includes movable and immovable objects important to the cultural heritage of humanity, and the buildings in which they are stored or displayed. In the event of an armed conflict cultural property is accorded special protection under international law. Not only are hostile acts against cultural property prohibited, but making use of such property in support of military operations or as a target of reprisals. An exception is only foreseen for cases of imperative military necessity. protected items are marked by a distinctive sign.

The way cultural property is to be treated is regulated in the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict of 1954 and its two Additional Protocols. The First Protocol concerns the protection of cultural property during an occupation (occupied territory), while the second strengthens protection, extending it to non-international armed conflicts, and also defines individual criminal responsibility.

- » Armed conflict
- » Reprisals
- » Hague Conventions
- » Occupied territory
- » Military necessity

Customary international law

Along with international treaties, custom is one of two main sources of the rights and obligations of states. Customary international law is referred to when states adopt certain attitudes, believing that they are acting in conformity with an obligation. For customary law to develop, two elements are required: systematic recurrence of the same pattern of behaviour of states and the conviction of these states that they are acting in conformity with a rule of international law.

Most of the provisions of international humanitarian law and in particular those concerning conduct of hostilities are now also covered by customary international law and are thus binding on both state and non-state actors.

- » Conduct of hostilities
- » Non-state actors

D

Depositary

The depositary of an international treaty is a state or international organisation whose duties are primarily those of a notary and include safekeeping of documents, certification of documents, the acceptance, safekeeping and transmission of messages, reservations and declarations. Switzerland is the depositary for a number of international conventions including the four Geneva Conventions of 1949, Additional Protocols I and II of 1977 and Additional Protocol III of 2005.

- » Geneva Conventions
- » Additional Protocols



How the civilian population experiences war*

War destroys family life. This is the most widespread experience of war among the civilian population. 40 per cent of those interviewed had lost contact with a close relative. More than 34 per cent had been forced to leave their homes. 31 per cent of the people interviewed said that someone from their immediate family had died in the war.

* Results from the worldwide ICRC survey, "People on War"

Direct participation in hostilities

A key element of international humanitarian law is that it clearly distinguishes between combatants and civilians. Combatants may be legitimately attacked; civilians are protected from attack as long as they are not directly participating in hostilities. However, in recent years civilians have become increasingly involved in hostilities. Moreover, distinguishing between civilian and military functions is becoming increasingly difficult.

Following six years of discussions and research by experts, the International Committee of the Red Cross published an interpretive guidance in 2010 to clarify the notion of direct participation in hostilities under international humanitarian law: what consequences must civilians expect if they take part directly in hostilities, and when.

- » Civilians
- » Conduct of hostilities
- » International Committee of the Red Cross

Displaced persons

Internally displaced persons differ from refugees in that they are displaced within their own country. They are entitled to the protection accorded to all civilians. International humanitarian law expressly prohibits forcible transfer of civilians in both international and non-international conflicts, defining it as a war crime.

- » Refugees
- » Civilians
- » War crimes

Dissemination

Respecting and ensuring respect for international humanitarian law is one of the most important obligations of the states parties to the Geneva Conventions of 1949. The states parties must also incorporate the provisions of the Geneva Conventions into their own national legislation and to work for dissemination of international humanitarian law in peacetime as well as during armed conflict.

- » Geneva Conventions
- » Armed conflict

Distinction

International humanitarian law protects the civilian population and prohibits attacks against civilians and civilian objects. One of its ground rules is the principle of distinction: parties to a conflict are obliged to conduct military operations exclusively against military objectives and must therefore always distinguish between civilians and combatants as well as between civilian objects and military objectives. The principle of distinction imposes limits on means and methods of warfare: any weapon or strategy that cannot be directed exclusively at a specific military objective is prohibited.

- » Civilians
- » Civilian objects
- » Combatants
- » Military objectives
- » Weapon
- » Means and methods of warfare

Dumdum bullets

Dumdum bullets were first used as ammunition for firearms at the end of the 19th century. Unlike a conventional bullet, dumdum bullets expand or flatten easily in the human body, tearing the body tissue and shattering bone in the process.

Use of dumdum bullets in armed conflict was prohibited on grounds of cruelty and inhumanity at the first international peace conference in The Hague (1899). The bullet is named after a suburb of Kolkata (Calcutta), where it was invented.

- » Armed conflict

Dunant, Henry

A Swiss businessman happened to witness the battle of Solferino in Lombardy in 1859. Shocked by what he saw, Henry Dunant published the book "A Memory of Solferino" in 1862, in which he proposed creation in each European country of a voluntary aid organisation to relieve and support military medical staff. Each state would officially undertake to recognise the neutrality of military hospitals and medical staff, thus ensuring their protection.

Already by 1863 the International Committee for Relief to the Wounded had been founded. It was renamed the International Committee of the Red Cross (ICRC) in 1876. The first international Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field was adopted in 1864 in Geneva.

- » International Committee of the Red Cross
- » Solferino



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Women in war*

Women are almost as frequently victims of expulsion, family dispersion and destruction of property as men. The probability of the loss of a close family member is almost as high for women as for men. A total of 40 per cent of women lost contact with members of their families and 32 per cent were forced to leave their homes. 9 per cent knew someone who had been raped and another 9 per cent had been tortured.

* Results from the worldwide ICRC survey, "People on War"

E

Emblems (distinctive sign)

In armed conflicts recognisable emblems serve above all to protect military and civilian medical installations as well as buildings of national relief organisations and their personnel from attack (protective function). The emblems themselves do not guarantee this protection based directly in international law. In peacetime, the national Red Cross, Red Crescent and Red Crystal societies are allowed to use these emblems for activities that are compatible with their founding principles (indicative function).

The Geneva Conventions of 1949 recognise the Red Cross, the Red Crescent and the Red Lion and Sun (abandoned in 1980) as emblems. The Red Crystal was recognised as an additional emblem in 2005 for use by all states that for religious or other reasons do not wish to make use of the original emblems. Other emblems with a protective function include the white flag for combatants who wish to parley or surrender and a blue triangle on an orange ground, as the emblem of civil defence. Improper use of these emblems is prohibited by law.

- » Armed conflict
- » Geneva Conventions
- » Combatants
- » Civil defence

Enforced disappearances

The concept of “enforced disappearance” refers to cases in which people are apprehended or abducted by agents of the state, their detention is not acknowledged and the fate and/or place of detention of persons who have been abducted is kept secret. Thus persons concerned lose all legal protection.

Enforced disappearances violate international humanitarian law and human rights. No conflict or no national security consideration can justify such disappearances. The Convention for the Protection of All Persons from Enforced Disappearance was adopted in 2006 and entered into force in 2010. Nonetheless international humanitarian law contains provisions on enforced disappearance of persons following an armed conflict. In particular, their next of kin have the right to know what has happened to them.

- » Human rights
- » Armed conflict

Environment

Attacks and combat methods that can cause widespread, long-term and severe damage to the natural environment are expressly prohibited by the First Additional Protocol to the Geneva Conventions. The general principles of customary international law such as the principles of distinction and proportionality ensure protection of the environment.

- » Additional Protocol
- » Geneva Conventions
- » Customary international law
- » Distinction
- » Proportionality

Explosive remnants of war

‘Explosive remnants of war’ is the term for unexploded ordnance and abandoned explosive munitions, which remain a serious threat to the civilian population. The Protocol on Explosive Remnants of War of 2003 annexed to the 1980 Convention on Certain Conventional Weapons (CCW) stipulates that all states parties mark and remove or destroy such remnants in areas under their control once hostilities have ended. Otherwise they must provide the necessary information and support for clearance of the areas in question. However the protocol does not limit the deployment of weapons that leave explosive remnants behind.

- » Weapons
- » Civilians

F

Fundamental guarantees

International humanitarian law provides fundamental guarantees to persons who do not benefit from more favourable treatment on the basis of the Geneva Conventions of 1949. This minimal protection includes, for example, the ban on torture and other cruel, inhuman or degrading treatment, certain minimum standards with regard to the conditions of detention and a number of judicial guarantees.

- » Geneva Conventions
- » Ban on torture

G

Geneva Conventions

At the end of World War II the rules for protecting non-combatants and individuals who are not, or no longer, participating in armed conflicts were strengthened. These rules apply mainly to civilians, the wounded, the sick, the shipwrecked, and to prisoners of war. The four Geneva Conventions of 1949 and the two Additional Protocols of 1977 form the core of international humanitarian law.

- » Civilians
- » Wounded, sick and shipwrecked
- » Prisoners of war
- » Additional Protocols
- » Depositary

Good offices

General term used to describe the efforts of a third party to find a peaceful solution to a conflict between two or more parties. The aim of good offices is to open a dialogue between the parties concerned. Good offices includes support of technical or organisational nature (e.g., provision of a conference venue for the conflicting parties), mediation, or participation in international peacekeeping operations. States as well as the International Committee of the Red Cross (ICRC) or the International Humanitarian Fact-Finding Commission can use their good offices to help bring conflicts to an end.

- » Peacekeeping operations
- » International Committee of the Red Cross
- » International Humanitarian Fact-Finding Commission

H

Hague Conventions

Several conventions were adopted at the two peace conferences in The Hague in 1899 and 1907, to regulate the conduct of war. One notable achievement was a ban on use of weapons which are of a nature to cause unnecessary suffering. To these was added the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and its two Additional Protocols of 1954 and 1999.

- » Weapons
- » Armed conflict
- » Additional Protocols
- » Conduct of war
- » Cultural property

Hostage taking

Hostage taking is the unlawful capture of a person resulting in detention and holding of this person to force a third party to take a given course of action, failing which the hostage will not be released and will be in danger of loss of life or physical integrity. Hostage taking is considered a war crime and is absolutely prohibited.

- » War crimes

Humanitarian access

If the civilian population is not adequately provided with food supplies, international humanitarian law provides that relief actions which are humanitarian, impartial and non-discriminatory shall be undertaken, subject to the consent of the parties concerned. Exceptions to this consent proviso are situations of occupation in which the occupying force is obliged to accept humanitarian relief. It also requires states to allow and facilitate rapid and unimpeded access of relief consignments. Civilians may turn to any organisation that could come to their aid. Despite this, humanitarian organisations often have no access to civilians in need of assistance and protection in armed conflicts, either because parties to the conflict refuse permission, or because of geographical or logistical difficulties, bureaucratic obstacles or security considerations.

- » Civilians
- » Armed conflict
- » Occupied territory

Human rights

Human rights are freedoms to which all individuals are entitled as human beings. Human rights are protected through a system of agreements, conventions, resolutions, and declarations at the international level as well as through customary international law.

The international system for protection of human rights is closely associated with international humanitarian law and international refugee law. But although closely related, these three branches are quite distinct in their field of application. Thus international humanitarian law (i.e. the four Geneva Conventions of 1949 together with the Additional Protocols of 1977) applies in principle only to armed conflict. International refugee law (e.g. the Geneva Convention relating to the status of refugees of 1951 and the Additional Protocol of 1967) applies only to persons with recognised refugee status, and, to a limited extent, asylum seekers. Nowadays, however, human rights apply to all people at all times, although international humanitarian law takes precedence in armed conflicts as *lex specialis*.

- » Customary international law
- » Geneva Conventions
- » Additional Protocols
- » Armed conflict
- » Refugees

Implementation

The term implementation refers to measures necessary to ensure that international humanitarian law is respected. States carry the primary responsibility for implementation. They must in all cases respect and ensure respect for international humanitarian law, by incorporating its provisions in national legislation including in criminal law to ensure that war crimes are punishable. Furthermore, governments must take all necessary measures to suppress violations. In case of grave breaches, the states must themselves prosecute the perpetrators or hand them over to another contracting party for prosecution. States are also responsible for disseminating international humanitarian law. At the international level the International Humanitarian Fact-Finding Commission, the ad hoc tribunals and the International Criminal Court are responsible for implementation.

- » War crimes
- » International Humanitarian Fact-Finding Commission
- » Ad hoc tribunals
- » International Criminal Court

Initials, signature and ratification

In negotiation of an international treaty, the negotiators initial the bottom of every page of the agreement as authentication.

The signature of the plenipotentiaries (country representatives with full negotiating powers) is affixed at the end of a treaty. The signing ceremony marks the end of treaty negotiations and obliges signatory states to act in good faith in accordance with a treaty. Unless the treaty provides otherwise, the signature does not yet make the state a party to the treaty.

Ratification is the act which commits the state to respect the treaty at the international level. In Switzerland, the Federal Assembly (both chambers of parliament) approves ratification of treaties, except for those which the Federal Council is allowed to sign and ratify alone by virtue of a law or a treaty.



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Limits to war*

For the large majority of people interviewed the principle of non-aggression against civilians is absolute. 64 per cent demand that only combatants be allowed to carry out attacks to weaken the enemy and that civilians must be spared. Only three per cent of those interviewed accepted the term total war in which both combatants and civilians may be attacked indiscriminately.

* Results from the worldwide ICRC survey, "People on War"

Inquiry

An inquiry takes place when a serious violation or a grave breach of international humanitarian law is suspected. In this context, the distinction must be made between a bilateral inquiry and an institutional inquiry, for which the International Humanitarian Fact-Finding Commission was created by the First Additional Protocol to the Geneva Conventions.

- » International Humanitarian Fact-Finding Commission
- » Additional Protocol

Internal disturbances

Internal disturbances and internal tensions lack the intensity of an armed conflict. In such cases it is human rights that apply rather than international humanitarian law.

- » Applicability
- » Armed conflict

International Code of Conduct for Private Security Service Providers

The International Code of Conduct for Private Security Service Providers (ICoC) was created in 2010 at the initiative of various parties including Switzerland. The code defines industry rules and principles based on human rights and international humanitarian law for responsible provision of private security services. It is unique, in that it has the support of private security companies, various professional associations, and humanitarian and civil society organisations.

Envisaged from the start of the ICoC process, the International Code of Conduct Association (ICoCA) was founded in 2013 as the independent governance and oversight mechanism of the Code. The ICoCA has the mandate to verify that member companies and their subcontractors operate in accordance with the principles and standards of the ICoC, through procedures for certification, monitoring and treatment of complaints of alleged violations of the Code.

The ICoCA is led by a multi-stakeholder Board of Directors composed of representatives from governments, private security companies and civil society.

- » Private military and security companies
- » Human rights

International Committee of the Red Cross (ICRC)

The Geneva-based International Committee of the Red Cross (ICRC) was founded in 1876 as a successor to the International Committee for Relief to the Wounded. It is established under Swiss law as a neutral organisation independent of the government and has a proper international personality based on the Geneva Conventions. The ICRC plays a decisive role in codification of international law.

The role and duties of the ICRC in an armed conflict are defined in the Geneva Conventions of 1949 and their Additional Protocols. The ICRC's most important tasks include visiting prisoners, searching for missing persons, humanitarian activities such as the provision of medical assistance and the supply of food, and checking to ensure compliance with and dissemination of international humanitarian law.

- » Geneva Conventions
- » Armed conflict
- » Additional Protocols

International Conference of Red Cross and Red Crescent Societies

The International Conference of Red Cross and Red Crescent Societies is the highest consultative organ of the International Red Cross and Red Crescent Movement. It generally meets once every four years. Its first meeting was in 1867 in Paris. Representatives of the movement's member organisations as well as of the states parties to the Geneva Conventions come together to discuss humanitarian questions and take decisions in the form of resolutions.

- » International Red Cross and Red Crescent Movement
- » Geneva Conventions

International Criminal Court (ICC)

The International Criminal Court in The Hague prosecutes individuals for the most serious crimes of international concern: crime of genocide, crimes against humanity, war crimes and crime of aggression. The ICC plays a complementary role, *i.e.*, it only steps in once it becomes clear that the national authorities primarily responsible for prosecution are either unwilling or unable genuinely to carry out the necessary investigation and prosecution.

The legal basis for the ICC is the Rome Statute, which came into force in 2002.

- » Crime of genocide
- » Crimes against humanity
- » War crimes
- » Crime of aggression
- » Rome Statute

International criminal law

International criminal law is the body of law that deals with the criminal responsibility of individuals directly on the basis of international law. Crimes in international law are crime of genocide, war crimes, crimes against humanity, and crime of aggression. These are crimes whose impact is considered to exceed the boundaries of an individual state, which puts criminal prosecution of the perpetrators in the interests of the international community as a whole. The International Criminal Court, which is based in the Hague, is currently the most important institution for the enforcement of international criminal law.

- » Crime of genocide
- » War crimes
- » Crimes against humanity
- » Crime of aggression
- » International Criminal Court

International Humanitarian Fact-Finding Commission

The International Humanitarian Fact-Finding Commission (IHFFC), which has its headquarter in Bern, is a permanent institution available to the international community to investigate allegations of serious violations of international humanitarian law. Its remit includes both international armed conflicts and armed conflicts within a single state. However, the IHFFC's 15 experts cannot initiate an investigation until all parties to a conflict have given their consent. The IHFFC differs from a law court in that it cannot deliver a verdict.

Its role is limited to establishing facts. It communicates its findings and recommendations to parties to the conflict. The Commission can also offer its good offices in support of the application of international humanitarian law.

The IHFFC is based on Article 90 of the First Additional Protocol to the Geneva Conventions of 1949. Switzerland hosts the IHFFC secretariat as the depositary of these instruments.

- » Good offices
- » Additional Protocol
- » Geneva Conventions
- » Depositary
- » Armed conflict

International Red Cross and Red Crescent Movement

The International Red Cross and Red Crescent Movement includes the International Committee of the Red Cross (ICRC), the Red Cross and Red Crescent national societies and the International Federation of Red Cross and Red Crescent Societies.

The aim of the movement is primarily to protect the lives, health and human dignity of people caught up in emergency situations, and particularly in an armed conflict. In this context its action follows seven principles. The movement's members together with the states parties to the Geneva Conventions meet every four years for the International Conference of Red Cross and Red Crescent Societies.

- » International Committee of the Red Cross
- » Armed conflict
- » Seven principles
- » Geneva Conventions
- » International Conference of Red Cross and Red Crescent Societies
- » National Red Cross and Red Crescent societies

Internment

Detention ordered by the executive branch rather than by due process of law, without formal criminal charges being made. The internment of prisoners of war in the course of an international armed conflict comes under the provisions of the Third Geneva Convention. The detailed provisions of international humanitarian law relate in particular to the place of detention, the physical and mental welfare of detainees, the possibility of work, living conditions and termination of imprisonment. In exceptional cases civilians may also be interned. The Fourth Geneva Convention allows parties to the conflict to adopt control and security measures in relation to protected persons. Such measures are subject to strict conditions and must be reviewed at least twice yearly by a tribunal or an authority appointed for that purpose.

- » Prisoners of war
- » Armed conflict
- » Geneva Convention
- » Civilians
- » Protected persons

Ius ad bellum, ius in bello

Ius ad bellum concerns the legality of the threat or use of military force. It is regulated by the Charter of the United Nations (UN).

Ius in bello only applies to an armed conflict, regardless of the legality of such a conflict. It regulates both the conduct of war and protection of victims. International humanitarian law and *ius in bello* are synonyms.

- » United Nations
- » Armed conflict

J

Journalists

With the exception of war correspondents accompanying armed forces, journalists are considered as civilians and are protected as such. The First Additional Protocol to the Geneva Conventions of 1949 gives specific protection to journalists and provides that they can obtain a special identity card.

- » Civilians
- » Additional Protocol
- » Geneva Conventions

L

Lieber, Francis

During the American Civil War, at the request of President Abraham Lincoln in 1863, a New York Professor Francis Lieber drafted a code of conduct for the army of the northern states (the Union Army). Known as the "Lieber Code" it is considered the first attempt to codify laws and customs in times of war. Lieber brought together in a single document most of the known codes and customs, creating through it the basis for the Hague Conventions of 1899 and 1907.

- » Hague Conventions

M

Means and methods of warfare

Even in war not everything is allowed. Various means and methods are prohibited, including perfidy, spreading terror, starvation, pillage, hostage taking, reprisals against the civilian population or against non-military objectives, deportation, enforced recruitment of prisoners of war or of protected persons, indiscriminate attacks, and denying protection to persons hors de combat. Weapons that cause unnecessary suffering and have indiscriminate effects are also prohibited.

There are a number of conventions that limit the choice of weapons and prohibit the manufacture, stockpiling, transfer and deployment of specific weapons.

- » Perfidy
- » Hostage taking
- » Reprisals
- » Prisoners of war
- » Protected persons
- » Unnecessary suffering
- » Weapons
- » Civilians

Mercenaries

Mercenaries participate in armed conflicts without belonging to the armed forces and without sharing the nationality of any parties to the conflict. Nor are they residents of areas occupied by any parties to the conflict. Mercenaries operate purely for their own material benefit. The First Additional Protocol to the Geneva Conventions (1977) denies mercenaries both the status of combatants and of prisoners of war.

- » Armed conflict
- » Additional Protocol
- » Geneva Conventions
- » Combatants
- » Prisoners of war

Military necessity

The principle of military necessity is a general principle of the conduct of hostilities. It must at all times be demonstrable that military force is necessary and proportionate (proportionality), and that it distinguishes between civilians and combatants as well as between civilian objects and military objectives. The fundamental concern of international humanitarian law is to ensure that a balance is struck between military necessity and humanitarian considerations.

Military objectives

International humanitarian law distinguishes between civilian objects and military objectives. Military objectives are those whose nature, location, purpose or use make an effective contribution to military actions, and whose total or partial destruction, capture or neutralisation would provide a definite military advantage. Under international humanitarian law military personnel must at all times give full consideration to the nature of a potential target and opt exclusively for those that qualify as genuine military objectives.



Human dignity*

When is an act of war inadmissible? When does an act of war violate all conventions? In situations where such acts violate fundamental human dignity, say 48 per cent of the people interviewed in war zones. 37 per cent consider certain acts of war based on religious conviction to be wrong.

* Results from the worldwide ICRC survey, "People on War"

Mines

Mines are weapons that explode in direct or indirect contact with people (or animals) or vehicles (anti-personnel mines/anti-vehicle mines). They can be deployed above ground, below ground, near the ground surface, or on a different type of surface. The Second Protocol to the 1980 Convention on Certain Conventional Weapons regulates deployment and transfer of all types of land mines.

The “Ottawa Convention” of 1997 prohibits use, stockpiling, manufacture, production and transfer of anti-personnel mines. It also addresses such issues as mine clearance and destruction, as well as measures to help the victims of mines.

Montreux Document

The Montreux Document of 17 September 2008 defines how international law applies to activities of private military and security companies (PMSCs) when they are operating in an armed conflict zone. It contains a set of good practices designed to help states take measures nationally in order to fulfil their obligations under international law.

The Montreux Document gives expression to the consensus that international law does apply to PMSCs and there is not a legal vacuum concerning their activities. It is a practical and realistic contribution which aims to promote respect for international humanitarian law and human rights. It addresses legal questions raised by PMSCs, without creating new obligations. It is not a legally binding instrument.

Established in December 2014, the Montreux Document Forum, provides a venue for informal consultation among Montreux Document participants. The aim of the Montreux Document Forum is to advance implementation of the document at the national level, as well as to bring more states and international organisations to actively support it.

» Private military and security companies

Multinational forces

A multinational or international force is a coalition of several states that intervene militarily under the same mandate. Multinational forces must respect international humanitarian law.

N

National Red Cross and Red Crescent Societies

National Red Cross and Red Crescent Societies oversee implementation of the movement's objectives and fundamental principles. The national societies help state authorities carry out humanitarian tasks by providing a wide variety of services.

Each country may only have one Red Cross or Red Crescent society. To bear the Red Cross or Red Crescent title, the society must fulfil a number of criteria and be recognised by the International Committee of the Red Cross. It must also possess enough autonomy to be able to carry out its operations in accordance with the fundamental principles of the movement.

- » International Red Cross and Red Crescent Movement
- » International Committee of the Red Cross

Neutral territory/zone

Neutral territory is the territory of a state that is not party to a conflict and has chosen to remain neutral, either permanently or in relation to a given conflict.

Neutral territories are to be distinguished from neutral zones (neutralised zones, hospital and safety zones, and demilitarised zones) set aside within the territory of one or more parties to the conflict, for example to receive wounded and sick as well as civilians and non-combatants.

- » Wounded, sick and shipwrecked
- » Civilians
- » Combatants

New technologies

New technologies have appeared on the battle-field in recent years. Cyberspace has opened up a potentially new war-fighting domain. Parties to armed conflict are making increasing use of remote controlled weapons systems such as drones. Automated weapons systems are also becoming increasingly widespread, and certain autonomous weapons, such as combat robots, are being considered for the battlefields of tomorrow.

Although each one of these technologies raises a certain number of legal questions, there can be no doubt that international humanitarian law applies to new weapons and means of combat.

Non-state actors

Non-state actors – including armed groups, military and private security companies – are playing an ever greater role today in armed conflicts. International humanitarian law is also legally binding on non-state actors.

- » Armed conflict
- » Military and private security companies



The Geneva Conventions*

39 per cent of the people interviewed in crisis regions have already heard of the Geneva Conventions. Knowledge of the Conventions influences humanitarian attitudes: willingness to assist a wounded member of the enemy or one who has surrendered is higher. 38 per cent of those who know the Conventions would help. Among those who do not know about the Conventions, only 31 per cent would help. 56 per cent of all those interviewed believe that the Conventions prevent wars getting worse.

* Results from the worldwide ICRC survey, "People on War"

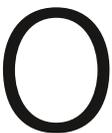
Nuclear weapons

This category of weapon includes atomic bombs, hydrogen bombs (thermonuclear), and neutron bombs. While atomic bombs such as those dropped on Hiroshima and Nagasaki in 1945 are subject to specific restrictions and other bans such as on testing, manufacture, stockpiling, etc.

According to a 1996 advisory opinion of the International Court of Justice (ICJ), use of nuclear weapons is usually a violation of international humanitarian law due to the scale of their impact, even though there is no comprehensive ban in customary international law, nor indeed in international treaty law. Moreover, it is difficult to envisage how any use of nuclear weapons could be compatible with its rules, in particular the principles of distinction, proportionality and precaution.

The states parties to the Treaty on the Prohibition of Nuclear Weapons undertake, among other things, never under any circumstances to develop, test, produce, manufacture, acquire, possess, store, transfer, use or threaten to use nuclear weapons or other nuclear explosive devices. The treaty enters into force 90 days after the 50th instrument of ratification, acceptance, approval or accession is deposited.

- » Customary international law
- » Distinction
- » Proportionality
- » Precaution



Occupied territory

An occupied territory is one that is actually placed under the authority of a foreign armed force, even if the occupation meets with no armed resistance.

International humanitarian law applies in all such situations regardless of whether or not the occupation is lawful. It governs the rights of the local population and obligations of an occupying force. The latter is responsible for ensuring public order and security while respecting, unless absolutely prevented, the laws in force. Furthermore, the occupying force must ensure that the local population has access to food and medical care.

P

Peacekeeping operations

International peacekeeping operations are an instrument of the international community for conflict resolution and crisis management. Both civilian and military means may be employed to create stable and peaceful relations. Since the end of the Cold War, such operations have further developed and today often involve a much wider variety of tasks, including peacekeeping and peace enforcement, conflict prevention, peace building and consolidation, as well as humanitarian operations.

In peacekeeping and peace enforcement operations mandated by or under the auspices of the United Nations (UN), the troops involved must respect provisions of international humanitarian law whenever actively involved in armed conflict with any of the parties.

- » United Nations
- » Armed conflict
- » Multinational forces

Perfidy

International humanitarian law prohibits killing, injuring, or capturing an adversary by resorting to perfidy. Acts of perfidy include any form of deception designed to win the confidence of an adversary and lead him to believe that he is entitled or obliged to accord protection under the rules of international humanitarian law, with the intention of betraying that confidence. An example of perfidy is to falsely lay claim to protected status through misuse of signs or emblems and feigning incapacitation on grounds of injuries or sickness.

- » Emblems

Precaution

Although military operations can be legitimately carried out against military objectives only, this does not prevent civilians or civilian objects from being harmed. In order to protect them, international humanitarian law requires that constant care shall be taken to spare civilians and civilian objects in the conduct of military operations. This is what is called the principle of precaution.

- » Military objectives
- » Civilians
- » Civilian objects

Prisoners of war

Prisoners of war are combatants who have been captured by the enemy in an international armed conflict. The crews of merchant navy ships and commercial airlines as well as other persons who accompany armed forces without directly being a part of them are entitled to prisoner of war status.

The conditions of detention, and use as a workforce, are regulated by the Third Geneva Convention. Prisoners of war have the right to be visited by delegates of the International Committee of the Red Cross (ICRC). Criminal charges may not be brought against them for acts of war that are lawful under international humanitarian law. Prisoners of war are not free to renounce their prisoner of war status.

The medical and religious personnel who administer to prisoners must not be considered prisoners of war, although they have the right to the same treatment. Mercenaries and spies on the other hand are not normally granted prisoner of war status.

- » Combatants
- » Armed conflict
- » Geneva Convention
- » International Committee of the Red Cross
- » Mercenaries
- » Spies



Protection organisations*

Which organisations play a central role in protecting civilians in times of war? 42 per cent of those interviewed named the ICRC, the Red Cross / Red Crescent, as the most important organisation. The UN took second place (32 per cent) ahead of international humanitarian organisations and non-governmental organisations. Religious leaders ranked fourth (18 per cent). 84 per cent of the people interviewed were able to identify the Red Cross or Red Crescent emblem correctly.

* Results from the worldwide ICRC survey, "People on War"

Private military and security companies

There is a trend for states in conflict situations to pass on an increasing number of tasks to private military and security companies. These tasks include protection not only of civilians and civilian infrastructure but even of army personnel and military infrastructure, training of soldiers and police, and services in the areas of consultancy, logistics, operation of weapons systems as well as intelligence gathering and in some cases combat support. These private actors are regularly in contact with persons protected by international humanitarian law, and sometimes even participate directly in hostilities. Employees of these companies are obliged to respect international humanitarian law, and the states concerned must ensure that they do so.

In 2006, Switzerland, in collaboration with the International Committee of the Red Cross (ICRC), launched an international initiative to ensure that private military and security companies operating in conflict zones respect international humanitarian law and human rights. The initiative resulted in the release of the “Montreux Document” in 2008. At the same time, Switzerland supports companies monitoring their own compliance with the International Code of Conduct for Private Security Service Providers (ICoC).

- » Civilians
- » International Committee of the Red Cross
- » Human rights
- » Montreux Document
- » International Code of Conduct for Private Security Service Providers

Promotion of international humanitarian law

The global fight against terrorism, the growing phenomena of the direct participation in hostilities of civilians, increase in the number of non-state actors involved in conflicts, as well as technological developments are only some challenges that international humanitarian law must face nowadays. Although the existing rules of international humanitarian law suffice to respond to these challenges, implementation of these rules is still incomplete. Therefore, it is important that the actors concerned ensure a higher degree of respect for international humanitarian law and its implementation, in particular through reaffirmation and dissemination of existing rules as well as through further clarification of some of them.

- » Terrorism
- » Direct participation in hostilities
- » Non-state actors
- » Dissemination

Proportionality

The principle of proportionality applies to every aspect of the conduct of hostilities. It is prohibited, for example, to carry out attacks against a military objective that would cause a disproportionate amount of harm to the civilian population, and against civilian objectives. Before launching an attack, there is an obligation to assess whether or not the impact on the civilian population is excessive in relation to the concrete and direct military advantage anticipated.

- » Military objective
- » Civilian objectives
- » Conduct of hostilities

Protected persons

In accordance with the Geneva Conventions of 1949 persons who have a right to special protection are considered "protected persons". They include the wounded, sick and shipwrecked, prisoners of war, civilians on the territory of the enemy and under its control, and civilians in an occupied territory. The following are usually counted as protected persons: medical and religious personnel, aid and civil protection staff, foreigners, refugees and stateless persons on the territory of a party to the conflict, as well as women and children.

- » Geneva Conventions
- » Wounded, sick and shipwrecked
- » Prisoners of war
- » Civilians
- » Occupied territory
- » Refugees
- » Women
- » Children

Protecting powers

International humanitarian law provides that each party to a conflict can appoint a neutral state as a protecting power. The purpose of the protecting power is to safeguard the interests of parties to the conflict and to ensure that international humanitarian law is duly respected, particularly with regard to treatment of people fallen into the hands of the enemy. It may also offer its good offices in an effort to bring the conflict to an end. Today, it is usually the International Committee of the Red Cross (ICRC) that takes on the role of protecting power.

- » Good offices
- » International Committee of the Red Cross

R

Refugees

Anyone forced to leave his or her home country out of a justified fear of persecution meets the official definition of a “refugee”, whether the cause is his or her race, religion, or nationality, membership of a particular social group, or political convictions. The 1951 Convention relating to the Status of Refugees, supplemented by the Protocol of 1967, regulates the status of refugees.

In this context, the principle of *non-refoulement* is particularly important. This prohibits repatriation of individuals to states where they are in danger of life or physical integrity. The Office of the United Nations High Commissioner for Refugees (UNHCR) monitors the world refugee situation, protects and supports refugees with the help of partner humanitarian organisations, and assists them at the time of return and/or when starting life in a temporary country of asylum or in a new host country. Refugees enjoy special guarantees for the duration of an armed conflict.

- » Armed conflict
- » United Nations

Reprisals

International humanitarian law does not include any general prohibition of reprisals. However, there are numerous provisions that prohibit specific types of reprisal, in particular reprisals against protected persons such as civilians, the wounded and prisoners of war. Also prohibited are reprisals against certain specific objects such as cultural property and places of worship, the natural environment, and installations that may cause a dangerous situation to occur (e.g., nuclear power stations and dams).

- » Protected persons
- » Civilians
- » Prisoners of war
- » Wounded, sick and shipwrecked
- » Cultural property
- » Environment

Rome Statute

The Rome Statute is the treaty that established the International Criminal Court (ICC) seated in The Hague. It governs the structure and functioning of the court as well as its jurisdiction for criminal prosecution of crime of genocide, crimes against humanity, war crimes and crime of aggression, committed by an individual. The statute was adopted in Rome in July 1998 and entered into force in 2002. Switzerland ratified the Rome Statute in 2001.

- » Crime of genocide
- » Crimes against humanity
- » War crimes
- » Crime of aggression



War crimes*

76 per cent of those interviewed believe that war criminals should face trial. 16 percent want to put the events behind them and forget them rather than proceed with judgement and punishment.

56 per cent believe that punishment of war criminals should be carried out by their own government, courts, military or political authorities. However, 36 per cent are of the view, that a international criminal court should deal with such cases.

* Results from the worldwide ICRC survey, "People on War"

S

Seven fundamental principles

The International Red Cross and Red Crescent Movement upholds seven fundamental principles:

- Humanity: Human suffering is prevented or alleviated, life and health protected, and human dignity respected.
- Impartiality: Discrimination of any kind is prohibited.
- Neutrality: The movement is neutral with respect to the military situation, politics, ethnicity, ideology, and religion.
- Independence: The movement is independent with respect to the military situation, politics, ideology, religion, and economic interests.
- Voluntary service: Relief is provided on a voluntary and disinterested basis.
- Unity: In each country there is only one Red Cross society.
- Universality: The movement is present worldwide.

» International Red Cross and Red Crescent Movement

Solferino

The combined forces of Piedmont-Sardinia and France fought the army of the Austrian Empire at this village in the north of Italy on 24 June 1859. The battle left 40,000 dead and wounded on the field with no one to provide care. Solferino is linked with the name of Henry Dunant, whose reaction to the slaughter on the battlefield led the foundation of a relief organisation (International Committee of the Red Cross).

» Dunant Henry
» International Committee of the Red Cross

Spies

A spy is a person who secretly attempts to obtain information of military importance in enemy controlled territory. Spies operating in civilian clothes are not entitled to the status of combatants and if captured are not accorded the status of prisoners of war. On the other hand spies in uniform do count as combatants and are to be accorded prisoner of war status if captured.

» Combatants
» Prisoners of war

T

Terrorism

The concept of “terrorism” is not defined in international law. Nonetheless international law, human rights and international humanitarian law do prohibit many terrorism related acts and activities.

In fact, according to international humanitarian law, acts generally considered as acts of terrorism, such as strikes against the civilian population or civilian objects, indiscriminate attacks or hostage taking, are prohibited in both international and non-international armed conflicts. Moreover, international humanitarian law explicitly prohibits acts or threats of violence which have as their primary purpose to spread terror among the civilian population.

- » International law
- » Human rights
- » Civilian objects
- » Hostage taking

U

United Nations (UN)

The UN is an international organisation of truly global reach. It has 193 member states (March 2018) and provides a forum for discussion of all topics of international significance. Switzerland became a full member of the UN in 2002. Before that date (since 1948) the Confederation only had observer status, though it was a member of many specialised agencies.

International humanitarian law is constantly evolving through new conventions adopted by the UN, particularly with regard to weapons. The Geneva Conventions and their First Additional Protocol require states parties to take measures against serious violations of the conventions or the protocol in collaboration with the UN and in accordance with the UN Charter.

- » Weapons
- » Geneva Conventions
- » Additional Protocol

Unnecessary suffering

The prohibition with regard to causing unnecessary suffering is one of the fundamental principles of international humanitarian law. It imposes limits on the means and methods of warfare. Combatants should suffer only the force necessary to put them *hors de combat*.

- » Means and methods of warfare
- » Combatants

W

War crimes

War crimes are grave breaches of the Geneva Conventions of 1949 protecting persons and objects as well as other serious violations of the laws and customs that apply to an international or non-international armed conflict. War crimes include notably: wilful killing, torture, deportation, ill treatment, unlawful detention, hostage taking, wilful attacks against civilians and against civilian objectives, recruitment of children in armed forces, and pillage. States are under an obligation to prosecute or extradite persons suspected of having committed war crimes on their territory.

- » Geneva Conventions
- » Armed conflict
- » Torture
- » Hostage taking
- » Civilians
- » Civilian objectives

“War on Terror”

The so-called “War on Terror” is a political concept, not a legal one. International humanitarian law applies exclusively to armed conflicts. It does not apply to other situations associated with the “War on Terror”, such as, for example, the attacks in Madrid and London in 2004 and 2005. This is not to say that terrorist acts and efforts to combat them are not covered by law: human rights, national law, and various international law conventions that deal with combating terrorism apply in such situations.

- » Armed conflict
- » Human rights
- » Terrorism

Weapons

International humanitarian law imposes limitations, in some cases a total ban on development, possession and use of certain weapons. These limitations are based on the following criteria:

- Weapons whose use inevitably leads to death;
- Weapons that cause disproportionate injury or unnecessary suffering;
- Weapons that cannot be directed at a specific military objective whose effects cannot be limited as required by international humanitarian law;
- Weapons that cause severe, widespread and long-term damage to nature and the environment.

On the basis of these criteria, a number of specific weapons are explicitly prohibited by international conventions, including anti-personnel mines, cluster munitions, blinding laser weapons, dum dum bullets as well as biological and chemical weapons. Some of these bans are part of customary international law.

- » Unnecessary suffering
- » Mines
- » Cluster munitions
- » Dum dum bullets
- » Biological weapons
- » Chemical weapons
- » Customary international law
- » Nuclear weapons

Weapons of mass destruction

The definition of weapons of mass destruction includes nuclear weapons as well as biological and chemical weapons. They differ from other weapons in their capability to injure and kill people and destroy property on a massive scale, as well as to cause extensive and lasting damage to the environment.

- » Nuclear weapons
- » Biological weapons
- » Chemical weapons
- » Weapons
- » Environment

Women

International humanitarian law calls for special protection of women. As civilians they are protected against any assault on their honour and physical integrity. Pregnant women and mothers of small children enjoy the same status as the sick and wounded, being transferred to safety zones and are first in line for assistance. Other special provisions protect women who are members of the armed forces, for example, in the case of women who are prisoners of war, who are to be housed separately from men and are to be placed under the direct supervision of other women.

- » Civilians
- » Wounded, sick and shipwrecked
- » Prisoners of war

Wounded, sick and shipwrecked

Wounded and sick are defined as members of the armed forces or civilians, who are in need of medical attention and who renounce all acts of hostility. According to this definition, a wounded combatant who continues to use a weapon does not qualify.

International humanitarian law calls on all parties to a conflict to treat the wounded and sick in a humane way, *i.e.*, to shelter, rescue and protect them and to provide medical care. No distinction is to be made, except of a medical nature, and women are given special consideration. The same rules apply to shipwrecked persons, *i.e.*, to all members of the armed forces and civilians in danger at sea or in any other body of water. Wounded, sick and shipwrecked combatants are to be accorded prisoner of war status.

- » Civilians
- » Women
- » Combatants
- » Prisoners of war

Imprint

Editor:

Swiss Federal Department of Foreign Affairs FDFA
3003 Bern
www.fdfa.admin.ch

Design:

Visual Communication FDFA, Bern

Photo cover page:

Jeroen Oerlemans / Panos

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Bern, 2018 © FDFA (3rd revised edition)

