



ICRC

ADVISORY SERVICE

ON INTERNATIONAL HUMANITARIAN LAW

What is International Humanitarian Law?

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International humanitarian law is a set of rules which seek, for humanitarian reasons, *to limit the effects of armed conflict*. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict.

International humanitarian law is part of international law, which is the body of rules governing relations between States. International law is contained in agreements between States – treaties or conventions –, in customary rules, which consist of State practice considered by them as legally binding, and in general principles.

International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter.

Where did international humanitarian law originate?

International humanitarian law is rooted in the rules of ancient civilizations and religions – warfare has always been subject to certain principles and customs.

Universal codification of international humanitarian law began in the nineteenth century. Since then, States have agreed to a series of practical rules, based on the bitter experience of modern warfare. These rules strike a careful

balance between humanitarian concerns and the military requirements of States.

As the international community has grown, an increasing number of States have contributed to the development of those rules. International humanitarian law forms today a universal body of law.

Where is international humanitarian law to be found?

A major part of international humanitarian law is contained in the four **Geneva Conventions of 1949**. Nearly every State in the world has agreed to be bound by them. The Conventions have been developed and supplemented by two further agreements: the **Additional Protocols of 1977 relating to the protection of victims of armed conflicts**.

Other agreements prohibit the use of certain weapons and military tactics and protect certain categories of people and goods. These agreements include:

- the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, plus its two protocols;
- the 1972 Biological Weapons Convention;
- the 1980 Conventional Weapons Convention and its five protocols;
- the 1993 Chemical Weapons Convention;
- the 1997 Ottawa Convention on anti-personnel mines;

- the 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

Many provisions of international humanitarian law are now accepted as customary law – that is, as general rules by which all States are bound.

When does international humanitarian law apply?

International humanitarian law applies only to armed conflict; it does not cover internal tensions or disturbances such as isolated acts of violence. The law applies only once a conflict has begun, and then equally to all sides regardless of who started the fighting.

International humanitarian law distinguishes between international and non-international armed conflict. **International armed conflicts** are those in which at least two States are involved. They are subject to a wide range of rules, including those set out in the four Geneva Conventions and Additional Protocol I.

Non-international armed conflicts are those restricted to the territory of a single State, involving either regular armed forces fighting groups of armed dissidents, or armed groups fighting each other. A more limited range of rules apply to internal armed conflicts and are laid down in Article 3 common to the four Geneva Conventions as well as in Additional Protocol II.

It is important to differentiate between international *humanitarian* law and *human rights* law. While

some of their rules are similar, these two bodies of law have developed separately and are contained in different treaties. In particular, human rights law – unlike international humanitarian law – applies in peacetime, and many of its provisions may be suspended during an armed conflict.

What does international humanitarian law cover?

International humanitarian law covers two areas:

- the protection of those who are not, or no longer, taking part in fighting;
- restrictions on the means of warfare – in particular weapons – and the methods of warfare, such as military tactics.

What is “protection”?

International humanitarian law protects those who do not take part in the fighting, such as civilians and medical and religious military personnel. It also protects those who have ceased to take part, such as wounded, shipwrecked and sick combatants, and prisoners of war.

These categories of person are entitled to respect for their lives and for their physical and mental integrity. They also enjoy legal guarantees. They must be protected and treated humanely in all circumstances, with no adverse distinction.

More specifically: it is forbidden to kill or wound an enemy who surrenders or is unable to fight; the sick and wounded must be collected and cared for by the party in whose power they find themselves. Medical personnel, supplies, hospitals and ambulances must all be protected.

There are also detailed rules governing the conditions of detention for prisoners of war and

the way in which civilians are to be treated when under the authority of an enemy power. This includes the provision of food, shelter and medical care, and the right to exchange messages with their families.

The law sets out a number of clearly recognizable symbols which can be used to identify protected people, places and objects. The main emblems are the red cross, the red crescent and the symbols identifying cultural property and civil defence facilities.

What restrictions are there on weapons and tactics?

International humanitarian law prohibits all means and methods of warfare which:

- fail to discriminate between those taking part in the fighting and those, such as civilians, who are not, the purpose being to protect the civilian population, individual civilians and civilian property;
- cause superfluous injury or unnecessary suffering;
- cause severe or long-term damage to the environment.

Humanitarian law has therefore banned the use of many weapons, including exploding bullets, chemical and biological weapons, blinding laser weapons and anti-personnel mines.

Is international humanitarian law actually complied with?

Sadly, there are countless examples of violation of international humanitarian law. Increasingly, the victims of war are civilians. However, there are important cases where international humanitarian law has made a difference in protecting civilians, prisoners, the

sick and the wounded, and in restricting the use of barbaric weapons.

Given that this body of law applies during times of extreme violence, implementing the law will always be a matter of great difficulty. That said, striving for effective compliance remains as urgent as ever.

What should be done to implement the law?

Measures must be taken to ensure respect for international humanitarian law. States have an obligation to teach its rules to their armed forces and the general public. They must prevent violations or punish them if these nevertheless occur.

In particular, they must enact laws to punish the most serious violations of the Geneva Conventions and Additional Protocols, which are regarded as war crimes. The States must also pass laws protecting the red cross and red crescent emblems.

Measures have also been taken at an international level: tribunals have been created to punish acts committed in two recent conflicts (the former Yugoslavia and Rwanda). An international criminal court, with the responsibility of repressing *inter alia* war crimes, was created by the 1998 Rome Statute.

Whether as individuals or through governments and various organizations, we can all make an important contribution to compliance with international humanitarian law.