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INTERNATIONAL LAW
and
INTERNATIONAL HUMANITARIAN LAW
A BRIEF INTRODUCTION

INTERNATIONAL COMMITTEE
OF THE RED CROSS

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Overview

- What is IHL
- Jus in bello / ad bellum
- Military Necessity, Rules on Conduct of Hostilities—distinction, proportionality, Precautions in Attack

What is IHL?

IHL

International Humanitarian Law (IHL) is a set of rules which seek for humanitarian reasons to **limit the effects** of armed conflict and **protects those who are not or are no longer participating in hostilities** and **regulates the means and methods of warfare**

IHL is also known as the law of armed conflict or the law of war



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Geneva Conventions (1949)



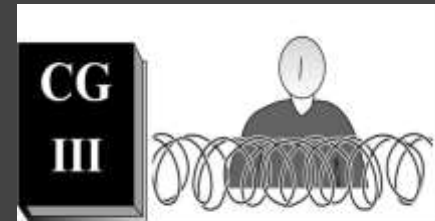
The shipwrecked, wounded and the sick on sea



The wounded and the sick on land

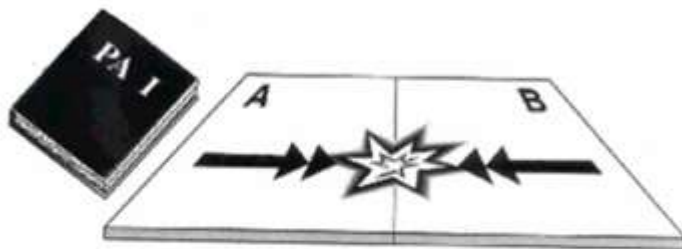


Civilians

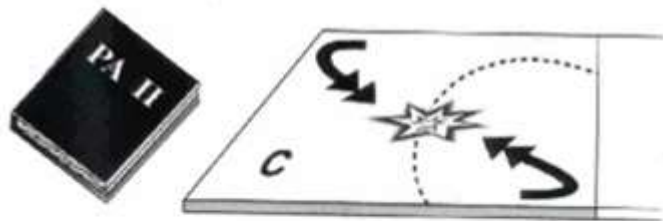


Prisoners of war (POW)

Additional Protocols of 1977 and 2005



▶ International Armed Conflicts (IAC)



▶ Non International Armed Conflicts (NIAC)



▶ Additional Distinctive Emblem

JUS IN BELLO and JUS AD BELLUM

JUS IN BELLO

IHL

Rules of international law applicable between the parties to an armed conflict and related to the armed conflict

JUS AD BELLUM

Use of Force

Rules of international law governing the resort to armed force

MILITARY NECESSITY



Principle justifying measures not forbidden by the L.O.W. and required to overpower the enemy.

Conduct of Hostilities

- ▶ Rules on Distinction & proportionality
 - as to persons
 - as to objects
- ▶ Duty to take precautions



Conduct of Hostilities - Distinction

- AP I - Art 48. Basic rule
- In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

The Principle of Distinction

▶ May be attacked:

- Members of the armed forces and armed groups (except medical & religious personnel)
- Civilians, for such time as they directly participate in hostilities

▶ May not be attacked:

- Civilians (who are not directly participating in hostilities)
- Medical and religious personnel of the armed forces and armed groups

Military objectives

- AP I - Art. 52(2). Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

Military objective - doubt

- AP I - 52(3). In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.

Dual Use Targets?

- Airfield, Electricity Grid, highway – Civ obj or mil obj

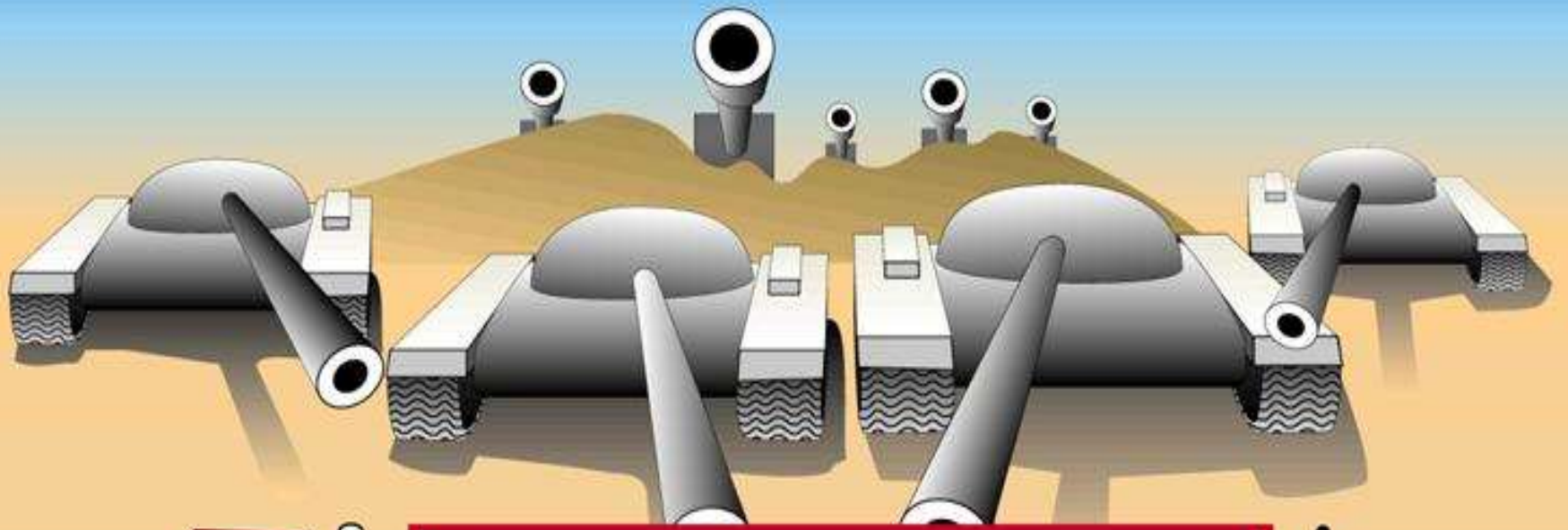
Proportionality

AP I – Art. 51(5). Among others, the following types of attacks are to be considered as indiscriminate:

(a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects;

and

(b) an attack which may be expected to cause **incidental loss** of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be **excessive** in relation to the **concrete and direct military advantage** anticipated.



PROPORTIONALITY





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Precautionary Measures



- **Assessment**
- **Verify targets**
- **Choice of means and method of attack**
- **Effective warning**
- **Precautions**



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WHEN DOES IHL APPLY

IHL is applicable in situations of

- international armed conflict
- non-international armed conflict

IHL is not applicable in situations including

- Internal disturbances

Tadic case (ICTY 1995) “an armed conflict exists *whenever there is a resort to armed force between states* or *protracted armed violence* between govt authorities and organized armed groups or between such groups within a state.”

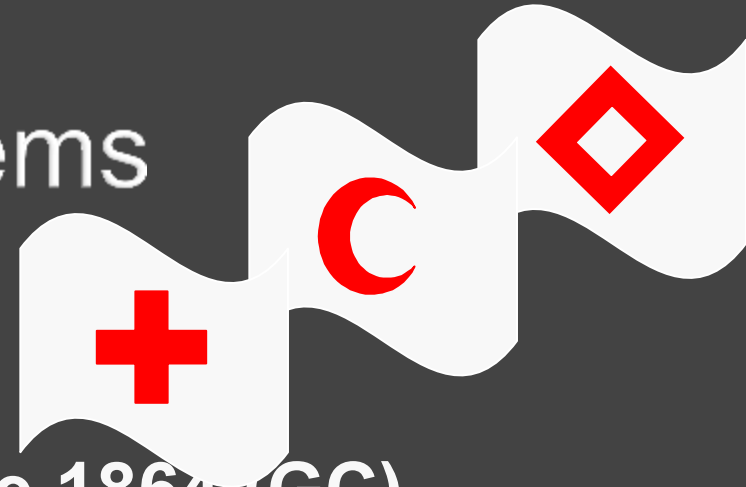
Qualification & Applicable IHL

- International Armed Conflict
 - Geneva Conventions, customary IHL, API (where ratified)

- Non-International Armed Conflict
 - Common article 3, customary IHL, APII (where ratified)

- Internal Disturbances & Tensions
("Other situations of violence")
 - (i.e. below threshold of armed conflict)
 - domestic law, human rights law, etc.

Recognized emblems



- ▶ **Red cross** ... since 1864 (GC)
- ▶ **Red crescent** ... since 1876 (GC 1929)
- ▶ **Red crystal** ... adopted in 2005 (AP)

Red lion and sun ...

(recognized in 1929, not in use since 1980)





Use of the emblem

Protective use



Indicative use



Uses of the emblem

Protective – Visible sign in arms conflict given to medical services, equipments and buildings of the armed forces under international law.

Indicative – NSs use to identify themselves as part of global network. Used during peacetime.

The rules for both are precise.

Misuse of Emblem



Respect for Emblem

Misuse diminishes its protective value

Destroy the delicate mechanism established by IHL (Humanitarian assistance to victims)

Diminishes the credibility of our Fundamental Principles.

Responsibility of the government to ensure respect the emblem.



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Appropriate symbols



AMBULANCE



DOCTOR



PHARMACY



HOSPITALS



Only Red Cross
Movement members and
Army Medical Core can
use the Red Cross

Use of Emblem in India

- India ratified Geneva Conventions in 1950
- Indian law regulating the use of emblem is the Geneva Conventions Act.
- Misuse of the emblem is a punishable offence in India.
- Punishment of Rs. 500, besides provision of forfeiture of goods/vehicles on which emblem is used without authorisation.



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For more information...

- www.icrc.org