

An *aide memoire* on International Humanitarian Law (IHL)

IHL is one part of the **law** of war: it relates to the conduct of war (*ius in bello*). The other part of the **law** of war concerns the legitimacy of the resort to armed force (*ius ad bellum*) and is quite distinct. IHL says nothing about the legitimacy of war itself. It divides roughly into two parts: '**Geneva**' law and '**Hague**' law.

'Geneva Law'

Main provisions contained in
4 Geneva Conventions of 1949
2 Additional Protocols of 1977

- The 1949 Conventions and Protocol I apply to international armed conflict,
- Common Article 3 of the 1949 Conventions, and Protocol II, apply to non-international armed conflict (civil war)
- Additional Protocols I & II attempt to update and expand on the provisions relating to international conflict (I) and civil conflict (II). Virtually all states have signed the 1949 Conventions, but only about 150 have signed the
- Additional Protocols to date (2002) => **check** whether the Protocols apply.

'Hague Law'

Various treaties limiting production and use of certain weapons,
e.g. **1980 Convention on Conventional Weapons**
1997 Convention on Anti-Personnel Mines

Some basic principles of IHL:

Purpose is to protect those not (or no longer) taking part in hostilities (**Geneva law**); and to limit the methods and means of warfare adopted (**Geneva** and **Hague law**). IHL represents a pragmatic balance between military necessity and humanitarian principles.

Protected persons under the 1949 **Geneva** Conventions and 1977 Protocols:

- Civilians - see especially 4th GC; Prot. I art. 48-79; Prot. II art. 13-18
- Those who are '*hors de combat*' (PoWs, wounded & sick soldiers)

General principles:

- **Distinction**: duty to distinguish between military and civil targets
- **Precaution**: duty to minimize incidental damage to civilians or civilian property
- **Proportionality**: any such damage must be proportionate to the concrete and direct military advantage anticipated.

Relief operations: generally subject to the consent of the warring parties, but presumption in favour unless urgent military necessity dictates otherwise.

Non-international armed conflict: Common Article 3 contains basic safeguards for all those taking no active part in hostilities, including protection from violence and other forms of inhumane treatment. It is part of customary international **law** and so applies to all non-international (civil) armed conflicts.

Observance and enforcement: Generally depends on the extent to which the warring parties are prepared to enforce these regulations through the chain of command. Desire for legitimacy may have bearing on this. Apart from the ICRC, external bodies with relevant mandates include the UN Security Council and the International Criminal Court.

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