



International Humanitarian Law Handbook for Humanitarians and Health Professionals



د آی سی آرسي آرسي رول خدوشي دي

آی سی آرسي آرسي رول بشري قانوني قانون همه ولسي ستدي راجستري دي. د ۱۹۴۹ ز. کال د جنوري په ۱۲ نېټه د جنیوا کې د ۱۲۱ هیوادونو لخوا تصویب شوی دی. د ۱۹۴۹ ز. کال د جنوري په ۱۲ نېټه د جنیوا کې د ۱۲۱ هیوادونو لخوا تصویب شوی دی. د ۱۹۴۹ ز. کال د جنوري په ۱۲ نېټه د جنیوا کې د ۱۲۱ هیوادونو لخوا تصویب شوی دی. د ۱۹۴۹ ز. کال د جنوري په ۱۲ نېټه د جنیوا کې د ۱۲۱ هیوادونو لخوا تصویب شوی دی.



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ولې نړيوال بشري قانوني قانون همه ولسي ستدي راجستري دي

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Kandahar Province, Afghanistan, 2019. A member of the Afghan armed forces reads an ICRC leaflet during an exhibition commemorating the 70th anniversary of the Geneva Conventions.

Photo: ICRC/Fawad Ahmad Fozan

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Acknowledgements

Australian Red Cross would like to extend its sincere gratitude to the International Red Cross and Red Crescent Movement partners who supported and contributed to this publication. We are particularly grateful for the support of the British Red Cross, the ICRC Australia Mission, and Australian Red Cross’ volunteer humanitarian and medical advisers on our International Humanitarian Law Advisory Committees, many of whom provided their expert guidance to help develop this handbook.



Donetsk Oblast, Yampil, Ukraine, 2024. The ICRC distributes 61 tonnes of briquettes to residents to protect them from the cold. Photo: ICRC/Veronika Lobanska

Foreword

Why a Handbook for Humanitarians and Health Professionals?

International Humanitarian Law (IHL) 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. At the heart of IHL is a simple and compelling idea: **even wars have limits.**

Australia has an active and reputable humanitarian sector that is guided by the humanitarian principles of humanity, impartiality, neutrality, and independence. It encompasses a diverse range of humanitarian organisations, including medical humanitarian organisations, that work to prevent or alleviate human suffering and deliver assistance to those in need globally, particularly during times of war.

IHL contains many legal rights and obligations relating to the provision of impartial humanitarian assistance and health care, making IHL a valuable tool for humanitarian and health organisations and practitioners operating in conflict settings.

In 2019, Australian Red Cross commenced a research project to explore the value and impact of IHL knowledge and training, specifically within the Australian humanitarian sector. This research indicated, among other things, that IHL knowledge and training can lead to enhanced humanitarian outcomes and reduce organisational, operational, and individual risks.¹



This IHL Handbook for Humanitarians and Health Professionals summarises the fundamental principles, protections, and prohibitions in IHL that are relevant to humanitarians, health professionals, and humanitarian action in situations where IHL applies.

Australian Red Cross has prepared this handbook to contribute to a greater knowledge of IHL among Australian humanitarians and health professionals, enabling them to better leverage these laws for humanitarian purposes. We also hope it will enable and encourage Australian humanitarian and health organisations to become champions of this life-affirming and life-saving regime in Australia and overseas.

We stand ready to offer further assistance in promoting these laws in peacetime and operationalising them in conflict. We call on you to respect and promote these laws of war and help to ensure they are adequately implemented and enforced.

Summary of IHL relating to Humanitarian Action

Under IHL in international and non-international armed conflicts, humanitarians can expect that parties to a conflict will:

- At all times, distinguish between civilians and combatants, and not direct attacks against civilians.
- At all times, distinguish between civilian objects and military objectives, and not direct attacks against civilian objects.
- Not use starvation of the civilian population as a method of warfare.
- Not attack, destroy, remove, or render useless objects indispensable to the survival of the civilian population.
- Treat everyone in their power humanely and without adverse distinction based on such criteria as race, colour, sex, language, religion, national origin or social status, and not engage in acts such as torture, degrading treatment, collective punishments, sexual violence, enforced disappearance, slavery, hostage taking and unfair trials, among other things.
- Respect and protect humanitarian relief personnel and objects used for humanitarian relief operations.
- Allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.
- Ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted.

To ensure the protection afforded to humanitarians under IHL is not compromised or called into question, humanitarians working in situations of armed conflict are expected to:

- Not directly participate in hostilities.
- Abide by the humanitarian principles of humanity, impartiality, neutrality, and independence.
- Deliver humanitarian relief to civilians in need impartially and without adverse distinction, regardless of sex, race, nationality, religion, political opinion, or any other similar criteria.

Summary of IHL relating to Health Care

Under IHL in international and non-international armed conflicts, health professionals can expect that parties to a conflict will:

- Whenever circumstances permit, and particularly after an engagement, without delay, take all possible measures to search for, collect and evacuate the wounded, sick, and shipwrecked without adverse distinction.
- Ensure that the wounded, sick, and shipwrecked receive the medical care and attention required by their condition to the fullest extent practicable and with the least possible delay. No distinction may be made among them on any grounds other than medical ones.
- Ensure that medical personnel, medical units, and medical transports are protected and respected in all circumstances.
- Take all possible measures to protect the wounded, sick, and shipwrecked against ill-treatment and pillage of their personal property.
- Ensure the dead are treated with respect and protected against mutilation and pillage.
- Not compel medical personnel to perform medical activities contrary to the rules of medical ethics.
- Not punish medical personnel for carrying out medical activities compatible with medical ethics.
- Not compel medical personnel to give any information that would prove harmful to the wounded, sick, or their families, except as required by law.

To ensure the protection afforded to health professionals under IHL is not compromised or called into question, health professionals working in situations of armed conflict are expected to:

- Not directly participate in hostilities or to commit acts harmful to the enemy. However, 'medical personnel' are permitted to carry 'light individual weapons' to defend themselves and the wounded and sick in their care.
- Treat patients humanely and impartially, regardless of sex, race, nationality, religion, political opinion or any other similar criteria.

Tigray Region, Mekelle, Ethiopia, 2021. Guard at the warehouse of the ICRC and the Ethiopian Red Cross Society.
Photo: ICRC/Maria Soledad Rueda Garcia



Key Customary International Humanitarian Law Rules Relevant to Humanitarians and Health Professionals

The following Customary International Humanitarian Law (CIHL) rules were identified by the International Committee of the Red Cross (ICRC) in a comprehensive study on CIHL. They are described in further detail in the online ICRC International Humanitarian Law Database.

Rules relating to Humanitarian Access and Assistance

CIHL Rule 55: Access for Humanitarian Relief to Civilians in Need

The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.

CIHL Rule 56: Freedom of Movement of Humanitarian Relief Personnel

The parties to the conflict must ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted.

CIHL Rule 53: Starvation as a Method of Warfare

The use of starvation of the civilian population as a method of warfare is prohibited.

Rules relating to Humanitarian Personnel and Relief

CIHL Rule 1: The Principle of Distinction between Civilians and Combatants

The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.

CIHL Rule 7: The Principle of Distinction between Civilian Objects and Military Objectives

The parties to the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects.

CIHL Rule 31: Humanitarian Relief Personnel

Humanitarian relief personnel must be respected and protected.

CIHL Rule 32: Humanitarian Relief Objects

Objects used for humanitarian relief operations must be respected and protected.

Rules relating to the Wounded and Sick

CIHL Rule 109: Search for, Collection and Evacuation of the Wounded, Sick and Shipwrecked

Whenever circumstances permit, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to search for, collect and evacuate the wounded, sick and shipwrecked without adverse distinction.

CIHL Rule 110: Treatment and Care of the Wounded, Sick and Shipwrecked

The wounded, sick and shipwrecked must receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. No distinction may be made among them founded on any grounds other than medical ones.

CIHL Rule 111: Protection of the Wounded, Sick and Shipwrecked against Pillage and Ill-Treatment

Each party to the conflict must take all possible measures to protect the wounded, sick and shipwrecked against ill-treatment and against pillage of their personal property.

Rules relating to Medical Personnel

CIHL Rule 25. Medical Personnel

Medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances. They lose their protection if they commit, outside their humanitarian function, acts harmful to the enemy.

CIHL Rule 26. Medical Activities

Punishing a person for performing medical duties compatible with medical ethics or compelling a person engaged in medical activities to perform acts contrary to medical ethics is prohibited.

Rules relating to Medical Units

CIHL Rule 28: Medical Units

Medical units exclusively assigned to medical purposes must be respected and protected in all circumstances. They lose their protection if they are being used, outside their humanitarian function, to commit acts harmful to the enemy.

Rules relating to Medical Transports

Rule 29. Medical Transports

Medical transports assigned exclusively to medical transportation must be respected and protected in all circumstances. They lose their protection if they are being used, outside their humanitarian function, to commit acts harmful to the enemy.

Rules relating to the Distinctive Emblems

CIHL Rule 30. Persons and Objects Displaying the Distinctive Emblem

Attacks directed against medical and religious personnel and objects displaying the distinctive emblems of the Geneva Conventions in conformity with international law are prohibited.

CIHL Rule 59. Improper Use of the Distinctive Emblems of the Geneva Conventions

The improper use of the distinctive emblems of the Geneva Conventions is prohibited.



Sayoun Airport, Sanaa, Yemen, 2020. People formerly detained in relation to the conflict in Yemen are transported back to their region of origin or to their home countries by the ICRC. Photo: ICRC/Abdellah Alhebshi

CHAPTER 1: Introduction to IHL

What is International Humanitarian Law?

International Humanitarian Law (IHL), also known as the 'laws of war' or the 'laws of armed conflict', is a unique branch of international law that seeks, for humanitarian reasons, to limit the effects of armed conflict. It protects individuals who are not, or are no longer, participating in the hostilities and restricts the means and methods of warfare.

Sources of IHL

The primary sources of IHL include the four Geneva Conventions of 1949 (the 'Geneva Conventions'), which provide protection to wounded, sick, and soldiers on land (GCI), the wounded, sick and shipwrecked at sea (GCII), prisoners of war (GCIII), and civilians (GCIV), as well as recognising the distinctive red cross and red crescent emblems. The Geneva Conventions have been universally ratified, which means that all Nation States ('States') around the world have agreed to be bound by them.

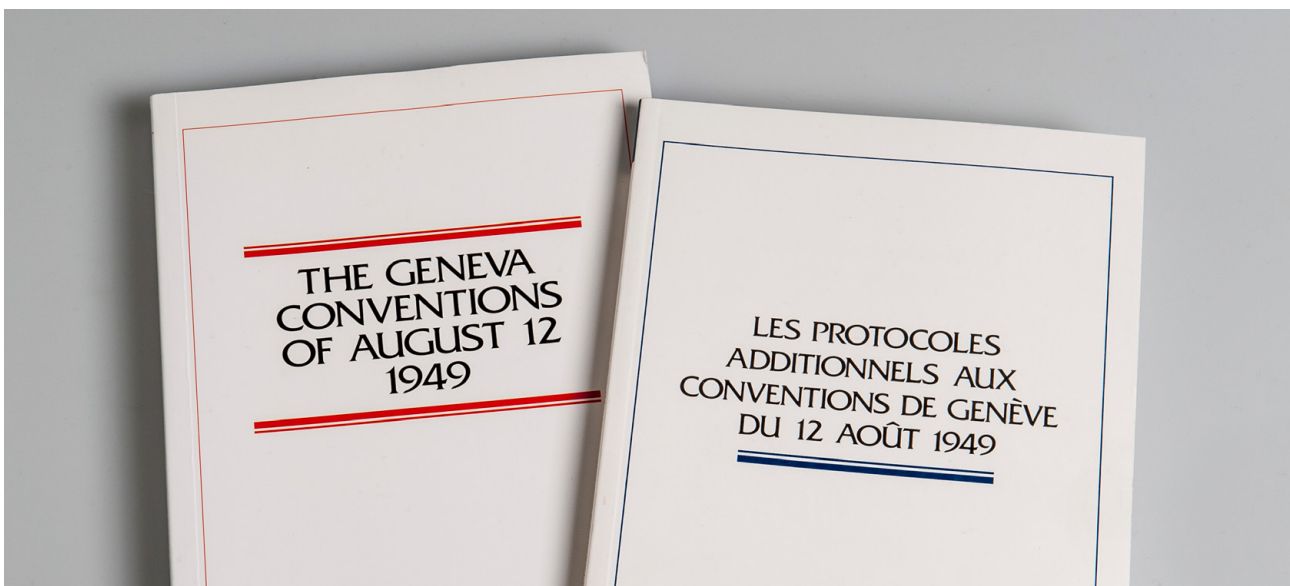
The Geneva Conventions were later supplemented by three Additional Protocols. Additional Protocol I (API) adds protections for those impacted by international armed conflicts, while Additional Protocol II (APII) adds protections for persons impacted by non-international armed conflicts (APII).

API and APII were adopted in 1977 and, although they are not yet universally agreed, they have been ratified or acceded to by more than 160 States, making them among the world's most widely accepted legal instruments. Additional Protocol III (APIII) was adopted in 2005, creating an additional distinctive emblem: the red crystal.

There are also several related treaties that prohibit or regulate means and methods of warfare, such as conventions that prohibit the use of certain weapons (for example, biological and chemical weapons and anti-personnel mines).

Many IHL rules in these treaties have now been accepted as customary international law. Customary international laws are rules that have become accepted by States as binding international law as a result of repeated and consistent adherence to them in practice.²

The International Committee of the Red Cross (ICRC) monitors the practice of States and has identified what is considered to be rules of customary IHL (CIHL).³



Edition of the Geneva Conventions of 1949 and the Protocols additional to the Geneva Conventions of 1949. Photo: ICRC/Thierry Gassmann



Tavush Region, international border between Armenia and Azerbaijan, 2017. In its role of neutral intermediary, the ICRC facilitates the repatriation of a civilian internee from Armenia to Azerbaijan. Photo: ICRC/Armen Karamyan

When IHL Applies

IHL does not regulate the conditions under which States may resort to force or the legitimacy of using armed force, nor does it not apply in peacetime or during situations of internal disturbance, such as protests or riots.

IHL only applies in situations of 'armed conflict'. Once an armed conflict has begun, IHL applies to all parties to the conflict (regardless of the reasons for the conflict, the legality of the conflict, or who started the fighting) but it also regulates and influences the conduct of others (including humanitarians and health care professionals) as well.

IHL ceases to apply upon the 'general close of military operations' or the conclusion or settlement of peace between warring parties. However, in situations of an occupied territory, the application of IHL will persist in many ways for the duration of the occupation, regardless of the cessation of hostilities.

IHL differentiates between two types of armed conflict, namely 'international armed conflict' (IAC) and 'non-international armed conflict' (NIAC). The classification of a conflict is essential, as different laws of war apply depending on whether the armed conflict is international or non-international in nature.

International Armed Conflict

An IAC exists when there is a resort to armed force between two or more States, regardless of the reasons for, or the intensity of, the confrontation and irrespective of whether war is declared or denied.⁴ These situations are commonly referred to as 'wars'. The laws of war applicable during an IAC also apply to all cases of partial or total occupation, even if the occupation meets with no armed resistance.⁵

During IAC and occupation, the four Geneva Conventions and customary international humanitarian law apply. API also applies to any parties to the conflict that have ratified or agreed to be bound by it, and other related IHL treaties may also apply.

Non-international Armed Conflict

A NIAC exists when there is a conflict on the territory of a single State between that State's armed forces and one or more non-state armed groups or between two or more non-state armed groups, which meets a certain threshold of intensity and organisation.⁶ This situation is commonly referred to as 'civil war' or 'internal armed conflict'.

During NIAC, Common Article 3 of the Geneva Conventions applies, as does APII to any parties to the conflict that have ratified it or agreed to be bound by it. Common Article 3 has been described as a 'mini convention' as it contains the essential rules of the Geneva Conventions in a condensed format and makes them applicable to conflicts not of an international character.⁷ Among other things, Common Article 3 requires humane and non-discriminatory treatment for all persons in enemy hands. It prohibits certain serious acts of violence and mistreatment, such as murder and torture. While these condensed rules for NIAC are not as comprehensive as the full suite of protections and prohibitions set out in the Geneva Conventions for IAC, some of the most critical gaps are filled by customary international humanitarian law and other related IHL treaties that may be applicable during NIAC.

The Basic Rules of IHL

Principles of IHL⁸

International humanitarian law is founded upon the following core principles:

Humanity

Humanity limits the infliction of suffering, injury, or destruction that is not necessary to accomplish legitimate military purposes.

Military Necessity

A party to an armed conflict may use only that degree and kind of force, not otherwise prohibited by IHL, that is required to achieve the legitimate purpose of the armed conflict, namely the complete or partial submission of the enemy at the earliest possible moment with the minimum expenditure of life and resources.

Distinction

The parties to the conflict must, at all times, distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must never be directed against civilians.

Proportionality

It is prohibited to launch an attack that may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects⁹, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

Precautions

In conducting military operations, constant care must be taken to spare the civilian population, civilians, and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimise, incidental loss of civilian life, injury to civilians and damage to civilian objects.

Protections of IHL

IHL protects people who are not, or are no longer, taking part in the fighting, as they are entitled to respect for their lives and physical and moral integrity. This protection extends to their property and their environment.

Civilians and Civilian Objects

IHL provides that civilians must be treated humanely in all circumstances, without any adverse distinction, and protects them from being deliberately targeted and attacked. Civilians must also be protected against all forms of violence and degrading treatment, including murder and torture. Parties to a conflict are required to take all feasible precautions to avoid attacks that result in civilian casualties and to avoid defensive measures that put civilians in danger.

IHL recognises that civilian populations impacted by armed conflict are entitled to receive humanitarian assistance. IHL also protects specific civilian groups such as women, children, refugees and displaced persons, because of additional risks that such categories of people may face during armed conflict.



School in Mets Masrik, Armenia, 2023. Children are back in the classroom following the building's renovation by the ICRC.

Photo: ICRC/Armen Karamyan

The protection of civilians also extends to those trying to help them, particularly health professionals and humanitarian or relief personnel and bodies providing humanitarian essentials such as food, clothing, medical services and medical supplies.¹⁰ Parties to a conflict are required to allow access to such organisations and to permit relief operations for the benefit of civilians, including enemy civilians.

IHL also protects civilian objects (that is, objects that are not military objectives). This includes things and places that are non-military in nature, such as hospitals, ambulances, schools, and cultural property, including places of worship, works of art, and historic monuments. It also protects the natural environment, works and installations containing dangerous forces, such as dams and nuclear power plants, and cultural property.

Although IHL protects civilians and civilian objects, protected people can lose their protected status if they directly participate in hostilities, and protected civilian objects can lose their protected status if they are used for military purposes.

Additionally, there are situations where it may be lawful for combatants to incidentally kill or injure civilians and damage or destroy civilian objects. 'Collateral damage' is the term used to describe damage inflicted on humans, structures, animals, and the natural environment that are not the target of the attack. IHL allows for the incidental killing or injuring of civilians or damage to civilian objects when an attack is militarily necessary and proportionate to the expected military advantage (that is, the anticipated collateral damage would not be excessive in relation to the expected military advantage).

For this reason, the protection of civilians and civilian objects in armed conflict is not absolute, and civilians and civilian objects are always at some level of risk in conflict situations.

Combatants who are *Hors de Combat*

Combatants who are *hors de combat* (removed from the fighting because they are sick, wounded, captured, have surrendered, or are incapacitated) must also be protected. They are no longer participating in hostilities and, therefore, pose no threat on the battlefield. As such, they should be granted temporary protection. IHL also sets out rules concerning the treatment of prisoners of war and detainees, which require that they are treated humanely and given a fair trial, among other things, as well as the conditions of their detention.

Military Medical Personnel and Objects

Military medical personnel are noncombatants who are to be respected and protected at all times. Military medical personnel include those exclusively assigned (on a permanent or temporary basis) to medical services. This includes those directly involved in delivering medical aid (such as doctors, nurses, stretcher-bearers and orderlies) as well as administrators, cooks, drivers and the like, provided they are specifically assigned to medical units.

Religious Personnel

Religious personnel, whether military or civilian, are also noncombatants who are to be respected and protected at all times. Religious personnel includes those of all faiths who are dedicated to the exercise of their ministry. To receive protection, they must be attached either permanently or temporarily to the armed forces, a medical unit, or a civil defence organisation.

The Distinctive Emblems

IHL also recognises and protects the red cross, red crescent, and red crystal emblems, which are international emblems of protection in situations of armed conflict. The emblems are, first and foremost, the distinctive signs of the medical services of armed forces, to distinguish these military personnel and establishments as neutral non-combatants. Additionally, the emblems may also be used to identify other specific groups of officially authorised people, facilities and organisations, engaged in providing medical or humanitarian assistance. More information about the emblems can be found in Chapter Four.



Waassit Province, Kut, Iraq, 2014. An Iraqi Civil Defense officer practices the clearing procedures of an area contaminated by anti-personnel landmines and explosive remnants of war. Photo: Getty Images/CICR, Marco DI LAURO

Prohibitions of IHL

Parties to a conflict and combatants do not have an unlimited choice of methods and means of warfare. IHL prohibits the use of means (weapons, weapon systems, and platforms) or methods (strategies or tactics) of warfare that cause indiscriminate or unnecessary losses or excessive suffering.

Means of warfare that are prohibited include the use of weapons which are indiscriminate, such as anti-personnel landmines and booby traps. Indiscriminate attacks are those that cannot be directed at a specific military objective or attacks that have effects that cannot be limited, such that they may strike military objectives and civilians or civilian objects without distinction.

IHL also prohibits the use of weapons that cause superfluous injury or unnecessary suffering, such as biological, chemical, and incendiary weapons and blinding lasers, as well as weapons that cause widespread, severe, or long-term damage to the environment.

Methods of warfare that are prohibited include the starvation of the civilian population, the use of civilians as human shields, the forcible displacement of civilians, and the taking of hostages. IHL also prohibits the destruction of infrastructure or objects indispensable to the survival of the civilian population (such as drinking water supplies) and works containing dangerous forces (such as nuclear power stations and dams). Unnecessary attacks on civilian means of livelihood, such as farms, housing, transport, and health facilities, are also forbidden.



Raska, Rudnica, Serbia, 2014. Markers signal a gravesite. Photo: ICRC/Nadia Shira Cohen

Enforcing IHL

States party to IHL treaties are legally bound to comply with and undertake to respect and ensure respect for IHL. Serious violations of IHL constitute war crimes, and individuals at all levels of society can be held individually criminally responsible.

The primary responsibility for the prosecution of those accused of war crimes rests with States. Certain specific acts found in the Geneva Conventions and Additional Protocol I, such as wilful killing, torture, or inhuman treatment and other acts which wilfully cause great suffering or injury to body or health, such as rape, are known as grave breaches of the Geneva Conventions and must be punished. IHL also requires States to search for persons accused of grave breaches, regardless of where they were committed, and either bring them before their own courts or transfer them for trial in another State. States are also obliged to require military commanders to prevent their subordinates' commission of war crimes and take measures to punish those under their control who commit grave breaches.

As well as domestic prosecutions, the international community has established several international tribunals, which aim to supplement national courts. During the 1990s, the United Nations (UN) created two ad hoc tribunals to deal specifically with war crimes committed in the former Yugoslavia and Rwanda. In some instances, States have created hybrid domestic/international mechanisms to prosecute those accused of war crimes, such as the Extraordinary Chambers in the Courts of Cambodia and the Special Court for Sierra Leone. These enable

national courts to play a role in the administration of local justice with international support.

The International Criminal Court (ICC) was established in 2002 with the goal of ending impunity for the perpetrators of the most serious crimes of international concern. It is the first permanent body that has jurisdiction over serious international crimes, including war crimes (whether committed in an international or non-international armed conflict), genocide, crimes against humanity and the crime of aggression. It is not to be confused with the International Court of Justice, also in the Hague, which adjudicates disputes between States.

The ICC is intended to complement national courts; it will only have jurisdiction when a State is unwilling or unable to prosecute those accused of serious international crimes within its jurisdiction.

Australia has several laws that deal with this subject matter and make it possible to prosecute people accused of committing war crimes and other serious crimes in armed conflicts, including the *War Crimes Act 1945 (Cth)* and the *Geneva Conventions Act 1957 (Cth)*. Australia has also passed legislation to allow domestic prosecution and cooperation with international institutions, including the *International Criminal Court Act 2002 (Cth)*, *International Criminal Court (Consequential Amendments) Act 2002 (Cth)* and the *International War Crimes Tribunal Act 1995 (Cth)*. Criminal sanctions for war crimes, crimes against humanity, genocide, and crimes against the administration of justice of the ICC are found in the *Criminal Code Act 1995 (Cth)*.

What is the Relationship between IHL and other Bodies of Law Relevant to Humanitarian Action?

International humanitarian law, refugee law and human rights law are complementary bodies of law that share a common goal: protecting the lives, health, and dignity of persons.¹¹

The International Red Cross and Red Crescent Movement defines protection as all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, including international human rights law, international humanitarian law, and refugee law.¹²

Although these bodies of law are complementary, how and when these legal frameworks apply and interact depends on the circumstances.

International Refugee Law and Frameworks Relating to Internally Displaced Persons

International refugee law (IRL) is the body of law that sets out the rights and protections that States owe refugees and people seeking asylum.

It defines who is a refugee, safeguards certain rights of refugees (including the right to seek asylum and the right not to be punished for irregular entry into a country, among others) and creates certain obligations for them (for example, the requirement to abide by the laws and regulations of their country of asylum). It also protects refugees from being returned to a country where their life or freedom would be threatened.

Refugees are generally described as ‘people who have fled war, violence, conflict or persecution and have crossed an international border to find safety in another country’.¹³ The 1951 Convention and 1967 Protocol Relating to the Status of Refugees are the critical legal documents in IRL.¹⁴

However, these define a refugee more narrowly as someone who, ‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it’.¹⁵ More recently, however, the definition of a refugee has been broadened in regional and complementary protection legal frameworks to include people fleeing from situations of armed conflict and generalised violence.



UNHCR Refugee Camp, Azraq, Jordan, 2016. ICRC Restoring Family Links program. Abir hoped to be reunited with her husband who immigrated to Sweden due to conflict. Photo: ICRC, Nadia Shira COHEN

Countries must agree to be bound by these frameworks for them to apply. Still, some key principles of refugee law, such as the principle of *non-refoulement*, which prohibits the return of a person to a country where their life or freedom would be threatened, have been recognised as rules of customary international law.

Although IHL is intended to limit the effects of armed conflict and protect individuals who are not or are no longer, participating in the hostilities, many people are still compelled to leave their countries of origin because of the indiscriminate effects of armed conflicts or international humanitarian law violations.

IHL is relevant to the assessment of whether a person is entitled to protection as a refugee under IRL, as their risk of being targeted and subjected to grave breaches of the Geneva Conventions for reasons of their race, religion, political opinion, nationality, or membership of a particular social group refugee may warrant their protection as a refugee under the Refugee Convention. Similarly, this risk may warrant their protection under regional or complementary legal frameworks relating to international protection. IHL and international criminal law are also relevant to assessing whether a person should be *excluded* from protection as a refugee under IRL if they have been accused of committing grave breaches of the Geneva Conventions.

IHL offers refugees who find themselves in a state experiencing armed conflict a two-tiered protection. First, provided that they are not taking a direct part in hostilities, refugees are entitled to protection from the effects of hostilities as civilians. Secondly, in addition to this general protection, international humanitarian law grants refugees additional rights and protections given their situation as aliens in the territory of a party to a conflict and their consequent specific vulnerabilities.¹⁶

Internally displaced persons are described in the United Nations Guiding Principles on Internal Displacement as 'persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognised state border'.¹⁷

While these Guiding Principles are not in themselves legally binding, they contain numerous rules that are part of existing international human rights law and IHL. For example, the Guiding Principles affirm that states have the primary responsibility to prevent displacement, to protect and assist internally displaced persons under their jurisdiction, and to provide durable solutions to their situation. IHL similarly contains important provisions to prevent the displacement of civilians and the suffering it causes from occurring in the first place. It also aims to ensure that, when displacement occurs, internally displaced persons are protected and provided with assistance at all stages of their displacement.¹⁸

International Human Rights Law

International human rights law (IHRL) sets out the obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights without discrimination.

IHL and IHRL are complementary as they seek to protect human life, prohibit torture and cruel treatment, prescribe basic judicial guarantees, prohibit discrimination, and provide access to food and medical treatment.

However, there are some important differences between these bodies of law. IHL only applies during armed conflicts, whereas IHRL applies at all times. IHL binds all actors in armed conflicts, including governments, organised armed groups, and individuals, whereas IHRL regulates how governments should relate to individuals. Certain human rights, such as the right to freedom of movement or assembly, may be temporarily suspended by governments in public emergencies, such as civil unrest or armed conflicts, or progressively realised, such as certain economic, social and cultural rights. IHL, on the other hand, cannot be suspended for any reason.



Eleanor Roosevelt holding poster of the Universal Declaration of Human Rights (in English), Lake Success, New York. November 1949.
 Photo: FDR Presidential Library & Museum

IHL also covers issues that are outside the scope of human rights law, such as the status of 'combatants' and 'prisoners of war', the protection of the red cross, red crescent, and red crystal emblems, and the legality of specific kinds of weapons. Similarly, IHRL deals with aspects of life that are not regulated by IHL, such as freedom of the press, the right to assembly, to vote, to strike, and other matters that remain relevant during times of armed conflict.¹⁹

Furthermore, some issues are governed by both IHL and IHRL, but in different and sometimes contradictory ways. This is especially the case for the use of force and detention. For example, the human right not to be arbitrarily deprived of life can be displaced in situations of armed

conflict, as IHL allows combatants to target military objectives with the knowledge that civilians may be incidentally killed, provided that such attacks are consistent with the principles of proportionality and military necessity. In situations of armed conflict, international courts have ruled that international humanitarian law should be regarded as *lex specialis*²⁰. This means that where IHL and IHRL conflict, IHL prevails over, or trumps, IHRL. Similarly, human rights norms must be interpreted with IHL in mind during armed conflict. On the other hand, when IHL is unclear or silent on particular issues, human rights law can help to resolve these uncertainties.

International Criminal Law

International Criminal Law (ICL) is the body of law that criminalises the most serious violations of international law. It establishes crimes of international concern and seeks to hold individuals responsible for them. Such crimes may include:

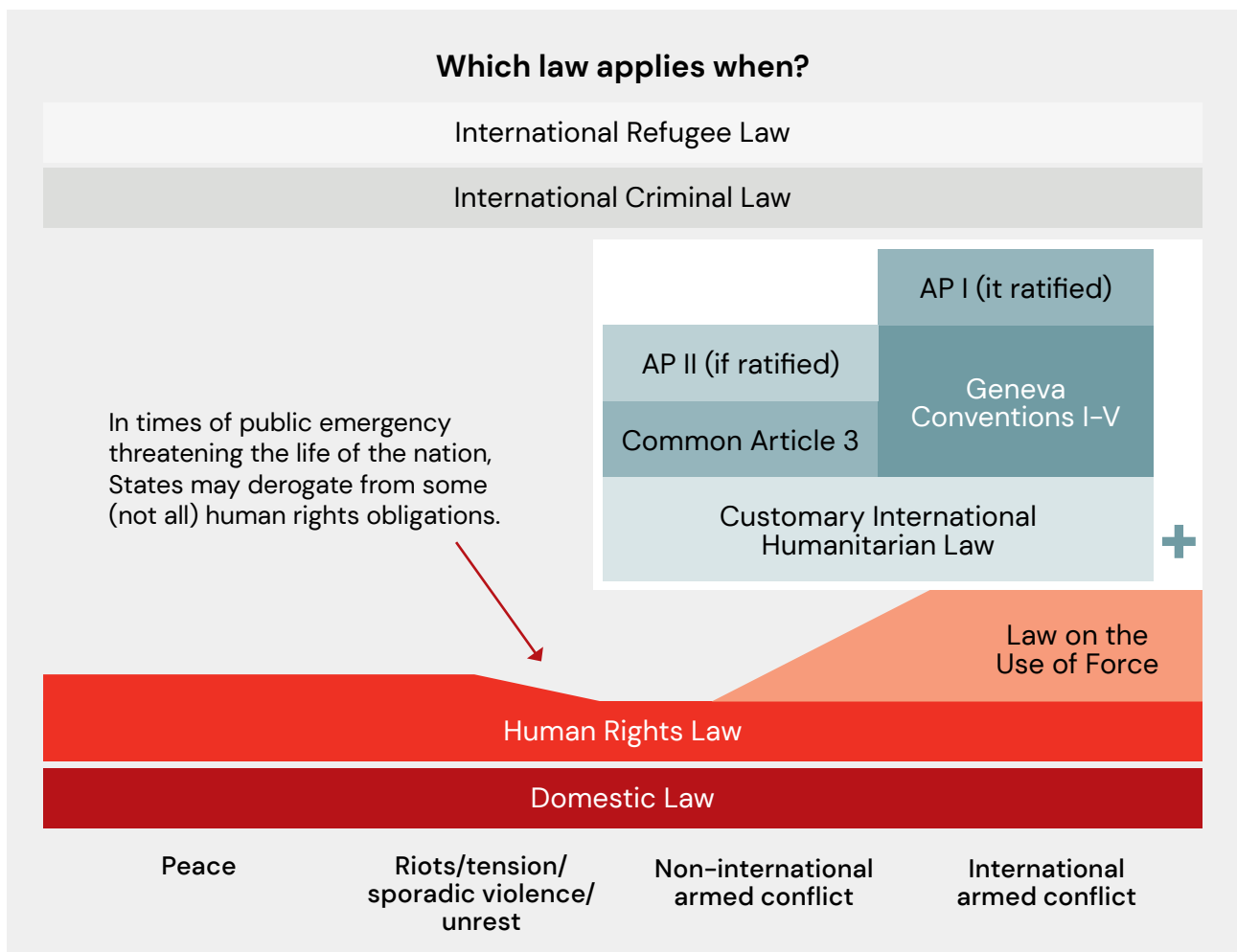
- War crimes (grave breaches of the Geneva Conventions and their Additional Protocols or serious violations of customary international humanitarian law);
- Genocide (acts committed with an intent to destroy, in whole or in part, a national, ethnic, racial or religious group);
- Crimes against humanity (certain crimes and inhumane acts committed as part of a widespread or systematic attack directed against a civilian population);

- The crime of aggression (the planning, preparation, initiation or execution by a person controlling or directing a State's political or military action of an 'act of aggression' which manifestly violates the UN Charter).

International crimes other than war crimes can be committed at any time, but war crimes can only be committed during armed conflicts when IHL applies.

Domestic Legal Frameworks

In addition to international legal frameworks that apply during armed conflict, the domestic laws of a country affected by armed conflict still apply as long as they have not been limited, derogated²¹ from, or suspended because of the conflict and as long as they do not conflict with IHL.



CHAPTER 2: IHL for Humanitarians



Kornidzor, Syunik Province, Armenia, 2023. The ICRC carries 70 tons of humanitarian supplies.. Photo: ICRC/Zara Amatuni

Why Humanitarians Need to Know about IHL

Humanitarians, including humanitarian health professionals delivering medical assistance, regularly respond to and are confronted by the consequences of war. Armed conflicts often result in civilian deaths and injuries, population displacements, and the destruction of civilian objects, systems, and infrastructures that are indispensable to civilian populations. Armed conflicts create and exacerbate vulnerabilities and expose civilians to violence, displacement, and other forms of harm. The proliferation of new conflicts and the failure to resolve ongoing protracted conflicts continue to generate and worsen issues of humanitarian concern globally, exponentially increasing the need for humanitarian action.

In this context, International Humanitarian Law (IHL) knowledge is a valuable tool that humanitarians, including humanitarian health professionals, may utilise to improve humanitarian outcomes and reduce organisational and individual risk.

- **IHL reinforces respect for humanitarian principles.** IHL reinforces the humanitarian principles of humanity, neutrality, impartiality, and independence by providing a legal framework that can facilitate the protection of affected populations without discrimination.

- **IHL facilitates humanitarian access and assistance and enhances humanitarian outcomes.** It provides a legal basis for humanitarians to access and assist civilians impacted by conflicts.
- **IHL safeguards humanitarians and reduces operational and organisational risks.** IHL has clear rules that relate to the safety of humanitarians.
- **IHL can be leveraged in humanitarian diplomacy.** IHL regulates the conduct of armed conflicts. Humanitarians can leverage this to advocate for the rights and protection of affected populations.
- **Humanitarians can promote respect for and encourage compliance with IHL.**

In other words, IHL provides a legal framework that guides and supports the work of humanitarians and facilitates the protection of individuals affected by armed conflicts.

However, in order to benefit from the operation of IHL, humanitarians also have several obligations they must abide by in conflict situations.

IHL and the Humanitarian Principles

IHL Reinforces Respect for Humanitarian Principles

International Humanitarian Law and the humanitarian principles of humanity, impartiality, neutrality, and independence are closely related and reinforce each other. While IHL provides a legal framework for protecting individuals impacted by armed conflicts, the humanitarian principles guide the actions and behaviour of humanitarians working in these contexts.

The humanitarian principles have been endorsed by the United Nations through General Assembly resolutions, and most humanitarian organisations have committed to codes and standards that endorse the humanitarian principles, such as the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations in Disaster Relief.²² With so many humanitarian actors complying with these principles globally, they provide a foundation for humanitarian action, and can be central to establishing and maintaining access and delivering humanitarian assistance to affected people, whether in a disaster or a complex emergency, such as armed conflict. They ensure consistency and predictability in how humanitarian practitioners work and enable humanitarian practitioners to clearly communicate the motivation behind their action. This helps to distinguish humanitarian assistance and protection from other forms of relief provided by other actors, including civilian authorities, armed forces, and private corporations. This can be critical to ensuring humanitarian personnel have safe, unimpeded, and sustained access to affected people, in accordance with IHL.²³

Humanity

Human suffering must be addressed wherever it is found. Humanitarian action aims to protect life and health and ensure respect for human beings. IHL reinforces this principle by seeking to balance military necessity with humanitarian considerations to prevent and alleviate human suffering and preserve human dignity in times of conflict. By seeking to limit the effects of armed conflict and respecting the dignity and worth of all individuals impacted by it, IHL reinforces the principle of humanity.

IHL expressly refers to the principle of humanity to define humanitarian action and organisations.

Impartiality

Humanitarian action must be carried out based on need alone, prioritising the most urgent cases of distress and making no distinctions based on nationality, race, gender, religious belief, class or political opinions. IHL reinforces this principle by establishing clear rules that prohibit discrimination and promote equitable treatment for all individuals affected by armed conflicts. IHL expressly refers to the principle of impartiality to define humanitarian action and organisations.

Neutrality

Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature. Humanitarian neutrality involves ensuring that the parties to a conflict accept that, 'by nature, relief actions are not hostile acts, nor are they de facto contributions to the war efforts of one of the belligerents'.²⁴ As explained below, adherence to this principle in the context of armed conflicts can reduce the risk of humanitarians being perceived to be directly participating in hostilities, which may cause combatants to question a humanitarian's protected status as civilians and relief personnel.

Independence

Humanitarian action must be independent from any political, economic, military or other objectives. IHL reinforces this principle by enabling the delivery of impartial humanitarian assistance which is free from any political, military or any other influences. Adherence to the principle of independence in the context of armed conflicts can also reduce the risk that humanitarians are, or are perceived to be, directly participating in hostilities, which could compromise their protected status as civilians and relief personnel.

IHL and the humanitarian principles continue to reflect critical and fundamental legal and moral standards that must always be borne in mind by humanitarian practitioners as tools that can define humanitarian operations and create humanitarian space.²⁵



Mindat, Chin State, Myanmar, 2022. An ICRC team distributes food parcels and hygiene kits to the population. Photo: ICRC/Aye Sandar Tun

IHL and Humanitarian Access and Assistance

Rules relating to Humanitarian Access and Assistance

CIHL Rule 55: Access for Humanitarian Relief to Civilians in Need

The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.

CIHL Rule 56: Freedom of Movement of Humanitarian Relief Personnel

The parties to the conflict must ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted.

CIHL Rule 53: Starvation as a Method of Warfare

The use of starvation of the civilian population as a method of warfare is prohibited.

Source: ICRC Customary IHL Database

IHL can facilitate humanitarian access and assistance and enhance humanitarian outcomes

Under international human rights law, countries at war are responsible for ensuring that the basic needs of civilians and civilian populations under their control are met. However, if these countries are unable or unwilling to meet these basic needs, IHL provides for relief action to be taken by others, such as impartial humanitarian organisations, subject to the consent of the relevant parties to a conflict.

Humanitarian Assistance

Generally speaking, humanitarian assistance is a term used to describe the delivery of aid, support, and services to individuals or communities affected by crises. It aims to save lives, alleviate suffering, address basic needs, and promote the well-being and dignity of affected populations. Humanitarian assistance can include activities such as the distribution of food, water, shelter, health care, education, and protection services.

Humanitarian assistance should be impartial in character and conducted without any adverse distinction. This means that no discrimination should be made as to a person's nationality, race, religious beliefs, class, or political opinions, among other things.

Relief should be provided to relieve the suffering of individuals, being guided solely by their needs, and giving priority to the most urgent cases of distress.

Humanitarian Access

Access in International and Non-International Armed Conflict

Humanitarian access relates to the ability of humanitarian actors to reach and assist populations affected by crisis, such as armed conflict. It also relates to the affected population's ability to access humanitarian assistance and services. For this reason, humanitarian access is a fundamental pre-requisite to effective humanitarian assistance.²⁶

It is accepted as customary IHL in international and non-international armed conflict that the parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.²⁷

In other words, if the basic needs of civilians and civilian populations impacted by conflicts are not being met by the parties to a conflict, impartial humanitarian organisations may offer to provide humanitarian assistance. Such an offer must be accepted by the relevant parties to the conflict, subject to their right of control.

This 'right of control' means that humanitarian access may be controlled, limited, or blocked for a number of reasons, including security concerns, logistical issues, bureaucratic restrictions, or risks to humanitarian personnel.²⁸

However, this right of control cannot be exercised as part of a military strategy aimed at depriving the adversary and/or the civilian population of essential supplies,²⁹ and it can only be exercised in limited circumstances. In any case, if it is established that a civilian population is threatened with starvation and a humanitarian organisation that provides relief on an impartial and non-discriminatory basis is able to remedy the situation, a party is obliged to give consent.³⁰

Once humanitarian access has been granted, the parties to the conflict must ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted. The exception of 'imperative military necessity' is justified on the basis that relief operations must not be allowed to interfere with military operations, particularly if the safety of humanitarian relief personnel is endangered.

These restrictions can only be limited and temporary, however, and they must not violate other customary IHL Rules.³¹

In international armed conflict where Additional Protocol I applies, Article 71 also requires that relief personnel may not exceed the terms of their mission, under any circumstances. In particular, they must take into account the security requirements of the party in whose territory they are carrying out their duties. Any personnel that do not respect these conditions may see their mission terminated.³²

Access in Occupied Territories

In addition to these rules relating to humanitarian access in international and non-international armed conflict, if the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population and shall facilitate them by all the means at its disposal.³³

Humanitarian Corridors, Safe Passages, and Humanitarian Pauses³⁴

Humanitarian corridors or safe passages are essentially agreements between parties to an armed conflict to allow for safe passage for a limited time in a specific geographic area. They can allow civilians to leave, humanitarian assistance to come in, or for the evacuation of the wounded, sick, or dead.

A humanitarian pause is a temporary suspension of hostilities for purely humanitarian purposes that is agreed between the parties to the conflict. It is usually for a specific time and in a specific area. The complexity of the design and implementation of humanitarian corridors and pauses means they may not be the most practical humanitarian option, and notwithstanding the agreement of the parties, they often remain hazardous operations.

Humanitarian corridors and pauses are not regulated by IHL, but laws of war relating to the protection of civilians can help to frame humanitarian diplomacy to establish these humanitarian corridors or pauses. It must be noted that civilians who cannot or do not wish to leave the area are still protected under IHL and can benefit from humanitarian assistance.

Protection of Humanitarians

Rules relating to Humanitarian Personnel and Relief

CIHL Rule 1: The Principle of Distinction between Civilians and Combatants

The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.

CIHL Rule 7: The Principle of Distinction between Civilian Objects and Military Objectives

The parties to the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects.

CIHL Rule 31: Humanitarian Relief Personnel

Humanitarian relief personnel must be respected and protected.

CIHL Rule 32: Humanitarian Relief Objects

Objects used for humanitarian relief operations must be respected and protected.

Source: ICRC Customary IHL Database

IHL can safeguard humanitarians and reduce operational and organisational risks

Rights of humanitarians

It is recognised as customary international law applicable in both international and non-international armed conflict that humanitarian relief personnel and objects used for humanitarian relief operations must be respected and protected.

Humanitarians are civilians in armed conflicts, and benefit from the protections afforded to all civilians impacted by conflict. In particular, the principle of distinction requires combatants to distinguish between civilians and combatants, and civilian objects and military objectives, and

prohibits attacks directly targeting civilians or civilian objects. Additionally, the status of “protected person” grants special protection to several categories of civilians, including those in the hands of a party to the conflict who they are not nationals of, and nationals of neutral states present in occupied territories.³⁵

IHL also provides for certain fundamental guarantees.³⁶ Among other safeguards, everyone in the power of a party to a conflict is entitled to humane treatment without adverse distinction based on such criteria as race, colour, sex, language, religion, national origin or social status. These fundamental guarantees prohibit such acts as torture, degrading treatment, collective punishments, sexual violence, enforced disappearance, slavery, hostage taking and unfair trials.³⁷

In addition to the protection afforded to all civilians, humanitarian relief personnel and objects used for humanitarian relief operations are provided further protection under IHL. Respect for and protection of humanitarian relief personnel and objects flows from the prohibition of starvation³⁸, as well as the rule that the wounded and sick must be collected and cared for³⁹. The safety and security of humanitarian relief personnel and objects is an indispensable condition for the delivery of humanitarian relief to civilian populations in need threatened with starvation.⁴⁰



Ukraine, 2019. Red Cross providing humanitarian support to communities affected by the ongoing conflict.. Photo: ICRC

Intentionally directing attacks against humanitarians can amount to a war crime. The Rome Statute of the International Criminal Court (ICC) defines war crimes as, among other things, “serious violations of the laws and customs applicable in international armed conflict” and “serious violations of the laws and customs applicable in an armed conflict not of an international character”.

Article 8 of the ICC Statute specifies a number of war crimes, including:

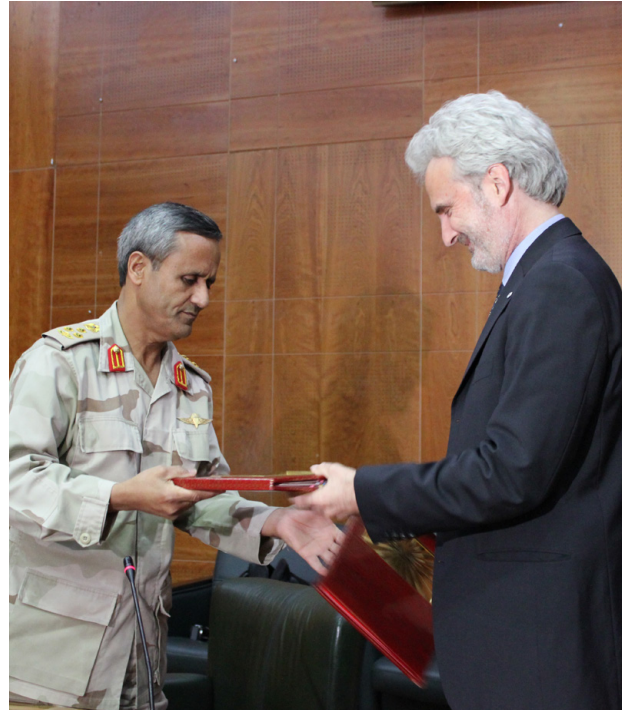
- intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- intentionally directing attacks against civilian objects; and
- intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict.⁴¹

Responsibilities of humanitarians

Adherence to the humanitarian principles gives assurance to the parties to an armed conflict that humanitarian activities will not interfere in the conflict or give an advantage to their adversary. Following the humanitarian principles also reduces the risk that humanitarians may be perceived to be directly participating in hostilities, which may result in them losing their protection from attack.

Under IHL, humanitarians must adhere to such principles in order to benefit from the privileges afforded to humanitarian relief personnel and operations. They should not take sides in the conflict or engage in any activity that could compromise their neutrality or call into question their protected status.

Although IHL provides legal safeguards, adherence to security protocols, regularly conducting context-specific risk assessments, and coordinating with relevant actors on the ground are also essential actions to mitigate risks and enhance the safety of humanitarian personnel.



Libyan Armed Forces Headquarters, Tripoli, Libya, 2012. A memorandum of understanding is signed by the Libyan Armed Forces and the ICRC..
Photo: ICRC/Xiangqun Hu

IHL and Humanitarian Diplomacy

IHL can be leveraged in humanitarian diplomacy

The International Federation of Red Cross and Red Crescent Societies (IFRC) defines humanitarian diplomacy as persuading decision makers and opinion leaders to act, at all times, in the interests of vulnerable people, and with full respect for fundamental humanitarian principles.⁴²

Humanitarians can leverage IHL in humanitarian diplomacy in several ways. Knowledge of how IHL applies in different situations, and how it protects civilians and those who are no longer participating in the fighting, can be used by humanitarians in diplomatic negotiations as a tool to advocate for the rights of the people they are seeking to assist. IHL rules relating to humanitarian access can also be leveraged when negotiating to access and assist people of concern, as can rules relating to the safety and security of humanitarians and objects relating to their relief work.

Promoting respect for IHL

Humanitarians can promote Respect for and encourage compliance with IHL

The laws of war function most effectively if there is a 'critical mass' of actors in a context that understand IHL and the significance of complying with it.⁴³ ICRC research, described in *The Roots of Restraint in War* report, has found that external entities are able to influence the behaviour of armed forces and armed groups.⁴⁴ Indeed, humanitarian organisations can positively contribute to respect for IHL and the humanitarian principles.

Humanitarians are in a unique position to inform and influence a range of stakeholders with regard to how IHL relates to humanitarian action, and to generally encourage greater respect for IHL. By highlighting the humanitarian consequences of conflict and urging all stakeholders to respect the laws of war, humanitarians can help mitigate harm to civilians, facilitate access to humanitarian assistance, and reduce the overall impact of armed conflict.

The presence of humanitarians and their ability to simply monitor a situation can also encourage parties to a conflict to abide by the laws of war. If violations of IHL do occur, humanitarians are also in a unique position to witness, document, and report on these violations, which can result in perpetrators of IHL breaches on all sides being held accountable and ensure justice for victims. Such action, however, must be carefully balanced with an organisation's mandate and role, neutrality, and access and security considerations.

Similarly, promotion of and adherence to the humanitarian principles helps to ensure principled humanitarian action, which contributes to the promotion and respect of IHL. Humanitarians consistently and collectively engaging in principled humanitarian action can benefit from the protections and prohibitions of IHL and leverage these laws to facilitate impartial humanitarian action. In doing so, they are in a unique position to illustrate the value of, and ultimately enhance respect for, the laws of war.



Australia, 2019. Event to promote respect for IHL on the 70th anniversary of the Geneva Conventions, including medical delegate and recipient of the Florence Nightingale Medal, Cristina De Leon. L-R Chair of the NSW Divisional Advisory Board, Sam Hardjono, Brigadier Neil Sweeney, Chair of the NSW IHL Advisory Committee, Nicole Urban, nurse Cristina De Leon, IHL expert Stephen Freeland, and human rights expert, Chris Sodoti. Photo: Australian Red Cross



North of Santander, Catatumbo, Colombia, 2018. The ICRC and the Colombian Red Cross deliver humanitarian aid for over 2000 people..
 Photo: ICRC, Margareth FIGUEROA.

Summary of IHL relating to Humanitarian Action

Under IHL in international and non-international armed conflicts, humanitarians can expect that parties to a conflict will:

- At all times, distinguish between civilians and combatants, and not direct attacks against civilians.⁴⁵
- At all times, distinguish between civilian objects and military objectives, and not direct attacks against civilian objects.⁴⁶
- Not use starvation of the civilian population as a method of warfare.⁴⁷
- Not attack, destroy, remove, or render useless objects indispensable to the survival of the civilian population.⁴⁸
- Treat everyone in their power humanely and without adverse distinction based on such criteria as race, colour, sex, language, religion, national origin or social status, and not engage in acts such as torture, degrading treatment, collective punishments, sexual violence, enforced disappearance, slavery, hostage taking and unfair trials, among other things.⁴⁹
- Respect and protect humanitarian relief personnel⁵⁰ and objects used for humanitarian relief operations.⁵¹
- Allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.⁵²
- Ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted.⁵³

To ensure the protection afforded to humanitarians under IHL is not compromised or called into question, humanitarians working in situations of armed conflict are expected to:

- Not directly participate in hostilities.⁵⁴
- Abide by the humanitarian principles of humanity, impartiality, neutrality, and independence.⁵⁵
- Deliver humanitarian relief to civilians in need impartially and without adverse distinction, regardless of sex, race, nationality, religion, political opinion, or any other similar criteria.⁵⁶

Case Studies of IHL Compliance and Humanitarian Action

'IHL in action: Respect for the law on the battlefield' is a database of real case studies documenting compliance with IHL in modern warfare. The database is hosted by the ICRC with a view to encourage the reporting, collection and promotion of instances of respect for IHL. The following are some case studies that illustrate IHL compliance and humanitarian action.⁵⁷

Providing Assistance to Conflict-Affected Civilians in South Sudan: 2014–2017⁵⁸

The case in brief

In December 2013, armed conflict erupted in South Sudan with devastating consequences for civilians. By August 2014, UN agencies estimated that more than 1.3 million people needed humanitarian assistance, many of them in States bordering Sudan. Land access to conflict-affected areas was dangerous, and airdrops were prohibitively expensive.

Basic IHL rules applicable to this situation:

- The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for all civilians in need, without distinction, subject to their right of control.
- The parties to the conflict must ensure that authorised humanitarian relief personnel have the freedom of movement they need to carry out their work. Only in case of imperative military necessity may their movements be temporarily restricted.

IHL compliance highlights

In July 2014, the governments of South Sudan and Sudan signed a Memorandum of Understanding to allow the cross-border transport of humanitarian assistance from Sudan to South Sudan. In August, following discussions with the UN, the two governments approved a WFP plan to deliver life-saving food supplies to conflict-affected people via a humanitarian corridor.

The humanitarian corridor duly opened in November 2014 and, by January 2016, owing to continued cooperation with and between the two governments, the WFP had safely transported 27,000 metric tonnes of food aid by truck and river barge to some 300,000 people in South Sudan's Upper Nile state. In 2017, amid warnings that a further 1 million conflict-affected people were at risk of starvation, the government of Sudan facilitated the opening of a second humanitarian corridor from central Sudan to South Sudan's Unity state, in addition to proposing a third corridor.



Lankien, South Sudan, 2017. The ICRC evacuates wounded from the Médecins Sans Frontières hospital to the ICRC mobile surgical team in Akobo.
Photo: ICRC/Mari Aftret Mortvedt



Abugrain, Libya, 2016. ICRC relief items are distributed to people displaced from Sirte. Photo: ICRC/Mohamed Abdulhakim Lagha

Providing Humanitarian Assistance in Libya: 2016⁵⁹

The case in brief

Libya's remote southwest area of Fezzan is home to various ethnic and tribal groups. Clashes between armed forces and non-state armed groups vying for control of resources, territory, and border traffic led to widespread criminal activity and insecurity. The insecurity prevented health services from bringing in essential supplies, contributing to a dire humanitarian situation.

Basic IHL rules applicable to this situation:

- The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for all civilians in need, without distinction, subject to their right of control.
- The parties to the conflict must ensure that authorised humanitarian relief personnel have the freedom of movement they need to carry out their work. Only in case of imperative military necessity may their movements be temporarily restricted.

IHL compliance highlights

On 16 June 2016, recognising the need to address the humanitarian situation, representatives of all Fezzan's ethnic and political groups signed an agreement mediated by the Community of Sant'Egidio. In particular, the signatories:

- committed to facilitating the delivery of essential humanitarian aid to all inhabitants of Fezzan 'without distinctions', by ensuring that humanitarian organisations could work in safety;
- agreed to work together to obtain the necessary support from the Libyan authorities, the international community and humanitarian organisations to bring aid to Fezzan;
- agreed, as a first step, to facilitate the delivery of urgent aid to eight health centres, on the understanding that this would build trust among the parties and foster cooperation on further humanitarian initiatives.

As a result of the agreement and consequent cooperation between the Libyan authorities, the Community of Sant'Egidio and the World Food Program (WFP), humanitarian personnel were able to supply one of Fezzan's main hospitals with vital medical supplies.



Département de Chalatenango, Comalapa, El Salvador, 1984. Medical consultation. Photo: ICRC/B. Ventura

Facilitating Safe Access to Immunisations for Children in El Salvador: 1984–85⁶⁰

The case in brief

Between 1980 and 1992, the Government of El Salvador and the Farabundo Martí National Liberation Front (FMLN), a non-state armed group, were engaged in armed conflict. By 1984, the impact of the fighting on health services had led to a crisis: unable to access routine health care, more than 40 per cent of children in conflict-affected areas were dying of preventable diseases.

Basic IHL rules applicable to this situation:

- The parties to the conflict must allow and facilitate rapid and unimpeded passage of impartial humanitarian relief for all civilians in need, without any adverse distinction, subject to their right of control.
- The parties to the conflict must ensure that authorised humanitarian relief personnel have the freedom of movement they need to carry out their work.
- Children affected by armed conflict are entitled to special respect and protection.

IHL compliance highlights

Alerted to the crisis by the United Nations Children's Fund (UNICEF) and religious leaders, the Government and the FMLN paused hostilities on a series of dates to facilitate a national children's vaccination campaign.

Recognising that the conflict was contributing to a rise in child mortality, and persuaded that children deserve special protection, both parties to the conflict agreed to cease hostilities on specific days in 1985 to facilitate three National Vaccination Days. With support from religious leaders, both parties explained the immunisation program's importance to their field commanders, who instructed their troops to observe the ceasefires. To ensure families countrywide were aware of the initiative, the President of El Salvador personally launched a large-scale public information campaign, conducted with support from religious leaders and national and international organisations. On the designated dates, both parties honoured their agreement, allowing children and health teams safe passage to and from the vaccination sites. Health workers, volunteers, and FMLN members administered the vaccinations. In total, 720,000 children under five years old received immunisations.

CHAPTER 3: IHL for Health Professionals

Why Health Professionals Need to Know about IHL

In addition to the laws of war that relate to humanitarians and humanitarian action, IHL also has specific rules relating to the protection of medical personnel and access to health care in armed conflicts.

The general principle governing the treatment of the wounded and sick of any party to the conflict is that they must be treated humanely and given, to the fullest extent practicable and with the least possible delay, the medical care required by their condition. This principle was incorporated into the first Geneva Convention of 1864, making it one of the oldest principles of humanitarian law.⁶¹ As explained below, a range of correlating rules relating to the protection of health care and health professionals stem from this core principle.

In 2011, the Health Care in Danger (HCiD) initiative⁶² was launched by the International Red Cross and Red Crescent Movement to address the issue of violence against patients, health care workers, facilities, and vehicles, and ensuring safe access to and delivery of health care in armed conflict and other emergencies.

The initiative began in response to an increasing number of attacks on health care facilities, health care personnel, and medical vehicles, and impediments to the wounded and the sick reaching health care services. Sadly, these issues have become common in conflicts and upheavals all over the world. They provoke far-reaching secondary consequences as health care professionals flee their posts, hospitals close, and vaccination campaigns come to a halt. These effects leave entire communities without access to adequate services, which can prompt people to flee, causing displacement. Violence also hampers the implementation of important preventive health care program (such as vaccination campaigns), which can have implications long into the future.⁶³

In this context, IHL knowledge is a valuable tool that can be leveraged by health professionals to facilitate the safe access to and delivery of health care in armed conflicts, and to protect their own safety. However, in order to benefit from the operation of IHL, health professionals also have a number of obligations they must abide by in conflict situations.



Sydney. A replica of a bomb-damaged ambulance on display, promoting the Health Care in Danger project during the 2013 Council of Delegates
Photo: ICRC/Isaac GRIBERG.

Protection of the Wounded and Sick

Rules relating to the Wounded and Sick

CIHL Rule 109: Search for, Collection and Evacuation of the Wounded, Sick and Shipwrecked

Whenever circumstances permit, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to search for, collect and evacuate the wounded, sick and shipwrecked without adverse distinction.

CIHL Rule 110: Treatment and Care of the Wounded, Sick and Shipwrecked

The wounded, sick and shipwrecked must receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. No distinction may be made among them founded on any grounds other than medical ones.

CIHL Rule 111: Protection of the Wounded, Sick and Shipwrecked against Pillage and Ill-Treatment

Each party to the conflict must take all possible measures to protect the wounded, sick and shipwrecked against ill-treatment and against pillage of their personal property.

Source: ICRC Customary IHL Database

The term 'the wounded and sick' includes all persons, whether military or civilian, who are in need of medical assistance and who refrain from any act of hostility. This includes maternity cases, newborn babies, and the infirm.⁶⁴

IHL requires that the wounded and sick must be protected and respected in all circumstances and treated humanely.⁶⁵ Wilfully killing the wounded or sick or causing great suffering or serious injury to their bodies or to their health constitute war crimes as grave breaches of the Geneva Conventions.⁶⁶

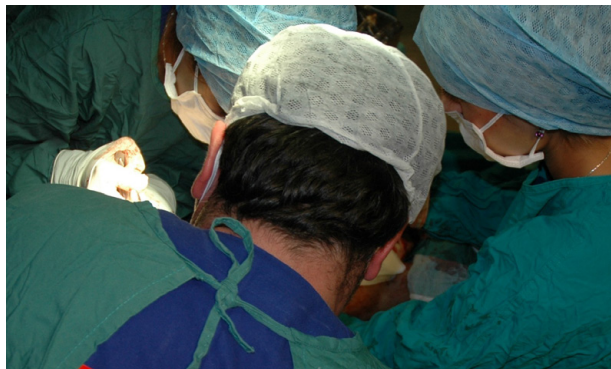
Unfortunately, violence against the wounded and sick often includes direct attacks, such as the execution of patients in ambulances or health

care facilities, as well as injuring, harassing, and intimidating patients or people trying to access health care. Attacks against the wounded and sick may also be indirect, such as impeding or frustrating a person's ability to access health care (through road closures or checkpoint delays for security reasons, for example). Medical care may also be deliberately denied or interrupted, or there may be discrimination in access to, and quality of, care.⁶⁷

Whenever circumstances permit, and particularly after an engagement, IHL requires that each party to the conflict must, without delay, take all possible measures to search for, collect, and evacuate the wounded, sick, and shipwrecked without adverse distinction.⁶⁸ The wounded, sick, and shipwrecked must receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. No distinction may be made among them on any basis other than their medical needs.⁶⁹ Each party to the conflict must take all possible measures to protect the wounded, sick and shipwrecked against ill-treatment and against pillage of their personal property.⁷⁰

The obligation to protect and care for the wounded, sick and shipwrecked is an obligation of means. Each party to the conflict must use its best efforts to provide protection and care for the wounded, sick and shipwrecked, including permitting humanitarian organisations to provide for their protection and care.⁷¹

Further to the rules relating to the wounded and sick, IHL also requires that the dead must be treated with respect, and that parties to a conflict must take all possible measures to prevent the dead from being pillaged or mutilated.⁷²



Muzaffarabad, Kashmir Region, 2005. Following an earthquake, the Turkish Red Crescent field hospital in Muzaffarabad plays a vital role to provide basic health care and treatment for the communities.

Photo: ICRC

Protection of Medical Personnel

Rules relating to Medical Personnel

CIHL Rule 25. Medical Personnel

Medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances. They lose their protection if they commit, outside their humanitarian function, acts harmful to the enemy.

CIHL Rule 26. Medical Activities

Punishing a person for performing medical duties compatible with medical ethics or compelling a person engaged in medical activities to perform acts contrary to medical ethics is prohibited.

Source: ICRC Customary IHL Database

The term “medical personnel” refers to personnel *assigned, by a party to the conflict*, exclusively to the search for, collection, transportation, diagnosis, or treatment, including first-aid treatment, of the wounded, sick and shipwrecked, and the prevention of disease, to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary.⁷³

The term medical personnel includes:

- medical personnel of a party to the conflict, whether military or civilian, including those described in the First and Second Geneva Conventions, and those assigned to civil defence organisations;
- medical personnel of ICRC, National Red Cross or Red Crescent Societies, or other voluntary aid societies duly recognised and authorised by a party to the conflict; and
- medical personnel made available to a party to the conflict for humanitarian purposes by a neutral or other State which is not a party to the conflict; by a recognised and authorised aid society of such a State; or by an impartial international humanitarian organisation.⁷⁴

It is important to note that under IHL, only medical personnel *assigned to medical duties by a party to the conflict* in this way enjoy protected status as medical personnel.⁷⁵ Other persons performing medical duties (i.e., civilian health professionals) are still entitled to protection against attack as civilians, as long as they do not take a direct part in hostilities, but they have no right under IHL to display the distinctive emblems unless expressly authorised by the authorities and under their control. Similarly, civilian health professionals engaging in humanitarian relief work can benefit from the laws of war relating to humanitarians and humanitarian action (as described in Chapter Two).

Violence against medical personnel in conflicts tends to involve killing, injuring, kidnapping, harassment, threats, intimidation, robbery, or arresting people for performing their medical duties.

Under IHL, medical personnel exclusively assigned to medical duties or purposes must always be respected and protected, unless they commit, outside of their humanitarian function, acts that are harmful to the enemy.⁷⁶ This means that medical personnel may not be directly attacked, threatened or hindered in their activities, but also that they and their particular role must be actively protected and supported by the parties to a conflict.⁷⁷

Medical personnel must not be punished for performing medical duties compatible with medical ethics and cannot be compelled to perform acts contrary to medical ethics.⁷⁸ Parties to an armed conflict may not impede the provision of care by preventing the passage of medical personnel. They must facilitate access to the wounded and sick and provide the necessary assistance and protection to medical personnel.⁷⁹ Health care personnel may not be compelled to give any information that would prove harmful to the wounded and the sick, or to their families, except as required by law.⁸⁰

If medical personnel undertake ‘acts that are harmful to the enemy’, such as hostile acts beyond self-defence, they lose the protection afforded to them under IHL and can be lawfully targeted. In general, taking a direct part in hostilities, outside the humanitarian function of medical personnel, is considered an act harmful to the enemy.⁸¹



Cabo Delgado Province, Pemba, Mozambique, 2021. A patient and staff member at Ingonane Health Centre. Photo: ICRC/Daphné Lucas

For example, if medical teams are incorporated into combat units and their medical personnel take a direct part in hostilities, they are not entitled to protection. However, caring for enemy wounded and sick military personnel or simply wearing a military uniform or bearing a military insignia cannot be considered a hostile act. Similarly, it is not considered a hostile act if medical personnel are near to or escorted by military personnel, or if medical personnel are in possession of small arms and ammunition taken from patients and not yet handed over to the proper service.⁸²

Medical personnel are allowed to carry and use 'light individual weapons' to defend themselves or to protect the wounded and sick in their charge without losing their protection under IHL.⁸³ 'Light individual weapons' are weapons that are generally carried and used by individuals, such as pistols or military rifles. Heavier weapons that cannot easily be transported by an individual or which must be operated by a number of people are not permitted by humanitarian law.⁸⁴ If medical personnel use such weapons in combat against enemy forces acting in conformity with the law of war, notably to resist capture, they forfeit their protection.⁸⁵

Medical personnel who have fallen into the hands of an adverse party are not to be regarded as prisoners of war irrespective of whether they are civilians or members of the armed forces. Medical personnel of enemy nationality may be retained to the extent required to meet the medical needs of prisoners of war but must be released as soon as their services are no longer indispensable for that purpose. As long as they are retained, such personnel are entitled, as a minimum, to the same benefits and protection as prisoners of war. Personnel seconded by neutral States or international organisations may not be detained and must be released as soon as a route for their return is open and military considerations permit.⁸⁶

Protection of Medical Units and Health Care Facilities

Rules relating to Medical Units

CIHL Rule 28: Medical Units

Medical units exclusively assigned to medical purposes must be respected and protected in all circumstances. They lose their protection if they are being used, outside their humanitarian function, to commit acts harmful to the enemy.

Source: ICRC Customary IHL Database

The term “medical units” refers to establishments and other units, whether military or civilian, organised for medical purposes, be they fixed or mobile, permanent or temporary. It includes health care facilities such as hospitals and other similar units, blood transfusion centres, preventive medicine centres and institutes, medical depots, and the medical and pharmaceutical stores of such units.⁸⁷

Violence against health care facilities can include bombing, shelling, looting, forced entry, shooting into, encircling or other forceful interference with the running of health care facilities (such as depriving them of electricity and water).⁸⁸

Attacks on health care facilities may be deliberate to gain military advantage by depriving opponents and those perceived to support them of medical assistance for injuries sustained. Some attacks might also be intended to terrorise a local population by targeting a protected facility. Occasionally, attacks have been mounted to rescue wounded comrades detained while being treated in hospital.

Attacks may also be motivated by political, religious, or ethnic reasons, rather than for military advantage, or for criminal motives, such as the looting of drugs and medical equipment.⁸⁹

Damage to health care facilities may also be unintentional, such as “collateral damage” from an attack against a nearby military object. This occurs most frequently when military operations are carried out in densely populated, urban areas.⁹⁰

IHL requires that medical units, such as hospitals and other facilities organised for and exclusively assigned to medical purposes, must be respected and protected in all circumstances.⁹¹ Medical units may not be attacked and access to them may not be limited. Parties to an armed conflict must take measures to protect medical units from attacks, such as ensuring that they are not situated in the vicinity of military objectives.⁹²

Medical units will lose the protection to which they are entitled if they are used, outside their humanitarian function, to commit acts harmful to the enemy, such as sheltering able-bodied combatants or storing arms and ammunition. However, this protection can be suspended only after due warning has been given with a reasonable time limit and only after that warning has gone unheeded.⁹³

Hospital and Safety Zones and Neutralised Zones

IHL provides for the establishment, with the agreement of the parties to a conflict, of special zones and localities for the protection of the wounded, the sick and other particularly vulnerable groups from the effects of war.⁹⁴

Hospital zones and localities are organised specifically with the aim of protecting the wounded and sick from the effects of war. Also protected are personnel entrusted with the organisation and administration of such zones and localities and with the care of the wounded and sick. Safety zones and localities may be created to extend the same protection to particularly vulnerable groups within the civilian population.

Neutralised zones are generally temporary in nature and are established in a combat zone to protect the wounded, the sick, and civilians from the surrounding hostilities.

While the 1949 Geneva Conventions do not expressly specify the scope of protection afforded to hospital, safety or neutralised zones and localities, attacks against such zones are prohibited under customary IHL.⁹⁵



ICRC-run Weapon Traumatology Training Centre (WTTC), Tripoli, Lebanon, 2015. A specialist in maxillofacial surgery is operating on a patient suffering multiple injuries.. Photo: ICRC/Marwan Tahtah



Surgery being performed at the ICRC hospital in Kigali, Rwanda, 1994. Photo: ICRC//Thierry Gassmann

Case study: The ICRC hospital in Kigali, Rwanda, during the 1994 genocide

The following case study was published in the ICRC report “Health Care in Danger: Making the Case”.⁹⁶

An extraordinary example of success in ensuring respect for the sanctity of a hospital, its personnel, and patients, occurred in the Rwandan capital, Kigali, during the 1994 genocide. As the organised slaughter of the Tutsi minority and those deemed to support them continued relentlessly for three months, the ICRC and Médecins Sans Frontières (MSF) teams saved ten thousand lives in a compound protected only by the Red Cross flag. They ventured onto the streets to collect the wounded, with only their badge, their courage, and the strength of their arguments to prevent the wounded from being torn from the back of ambulances.

The hospital was threatened several times, and was damaged by rocket fire more than once, but was never forcibly entered by those scouring the city for more victims. It even inspired some killers to stop before fleeing the city when they knew they were defeated. Some militiamen brought a Tutsi nurse they had held for the last three months to the hospital to release her. “We have decided not to kill her despite the fact that she is a Tutsi,” they said to the head of the ICRC’s delegation, Philippe Gaillard. “As a nurse she will be more useful in your hospital than dead.”

Protection of Medical Transports and Vehicles

Rules relating to Medical Transports

Rule 29. Medical Transports

Medical transports assigned exclusively to medical transportation must be respected and protected in all circumstances. They lose their protection if they are being used, outside their humanitarian function, to commit acts harmful to the enemy.

Source: ICRC Customary IHL Database

The term “medical transports” refers to any means of transportation, whether military or civilian, permanent, or temporary, assigned exclusively to medical transportation under the control of a competent authority of a party to the conflict. This includes means of transportation by land, water, or air, such as ambulances, hospital ships, and medical aircraft. These vehicles, ships and aircraft must be exclusively assigned to the transportation of the wounded, sick, and shipwrecked, medical personnel, religious personnel, medical equipment, or medical supplies.⁹⁷

IHL requires that any means of transportation assigned exclusively to the conveyance of the wounded and sick, medical personnel, and/or medical equipment or supplies must be respected and protected in the same way as medical units. If they are being used, outside their humanitarian function, to commit acts harmful to the enemy, they will also lose their protection.

If medical transports fall into the hands of an adverse party, that party becomes responsible for ensuring that the wounded and sick in their charge are cared for.⁹⁸

Perfidy

Acts inviting the confidence of an adversary to lead them to believe they are entitled to, or are obliged to grant, protection under the rules of international humanitarian law applicable in armed conflict, with intent to betray that confidence, constitute perfidy.

The abuse of trust that occurs through the misuse of the protective emblems or protected facilities and vehicles, can spiral into a vicious circle that undermines the whole purpose of creating neutral entities in conflict. For example, when ambulances are misused, whether to trick the enemy or for some other purpose, they fall under suspicion and are, at best, subjected to the same delays and impediments as other vehicles or, at worst, become the object of attack. In both instances, they lose the advantage meant to preserve life in conflict, to the detriment of the wounded and the sick who require urgent medical attention.⁹⁹

Parties to an armed conflict who use medical units or transports with the intent of leading the opposing parties to believe they are protected, while using them to launch attacks or carry out other acts harmful to the enemy, commit acts of perfidy. If such an act of perfidy results in death or serious injury to individuals belonging to an adverse party, it constitutes a war crime.¹⁰⁰



West Beirut, Lebanon, 1982. “FLORA” hospital ship used to evacuate 167 wounded Palestinians under the auspices of the ICRC.

Photo: ICRC/Louis Esteves

Summary of IHL relating to Health Care

Under IHL in international and non-international armed conflicts, health professionals can expect that parties to a conflict will:

- Whenever circumstances permit, and particularly after an engagement, without delay, take all possible measures to search for, collect and evacuate the wounded, sick, and shipwrecked without adverse distinction.¹⁰¹
- Ensure that the wounded, sick, and shipwrecked receive the medical care and attention required by their condition to the fullest extent practicable and with the least possible delay. No distinction may be made among them on any grounds other than medical ones.¹⁰²
- Ensure that medical personnel, medical units, and medical transports are protected and respected in all circumstances.¹⁰³
- Take all possible measures to protect the wounded, sick, and shipwrecked against ill-treatment and pillage of their personal property.¹⁰⁴
- Ensure the dead are treated with respect and protected against mutilation and pillage.¹⁰⁵
- Not compel medical personnel to perform medical activities contrary to the rules of medical ethics.¹⁰⁶
- Not punish medical personnel for carrying out medical activities compatible with medical ethics.¹⁰⁷
- Not compel medical personnel to give any information that would prove harmful to the wounded, sick, or their families, except as required by law.¹⁰⁸

To ensure the protection afforded to health professionals under IHL is not compromised or called into question, health professionals working in situations of armed conflict are expected to¹⁰⁹:

- Not directly participate in hostilities or to commit acts harmful to the enemy. However, 'medical personnel'¹¹⁰ are permitted to carry 'light individual weapons' to defend themselves and the wounded and sick in their care.¹¹¹
- Treat patients humanely and impartially, regardless of sex, race, nationality, religion, political opinion or any other similar criteria.¹¹²



Dnipro, Ukraine, 2022. An ICRC medical team supports local paramedic staff to evacuate patients. Photo: ICRC/Francisco Javier Pavon Molina

Putumattalan, Sri Lanka, 2009. An ICRC team evacuates wounded civilians by ferry to Trincomalee.

Photo: ICRC/Zurab BURDULI



Case Studies of IHL Compliance and Humanitarian Action

Evacuating the Wounded and Sick in Sri Lanka: 2009¹¹³

The case in brief

In 2009, there was an escalation of violence in a longstanding armed conflict between Sri Lankan government forces and the Liberation Tigers of Tamil Eelam (LTTE), a non-state armed group. Fierce fighting in the north of the island caused thousands of casualties and left medical facilities without the staff and supplies required to properly treat the wounded and sick. Civilians became trapped in conflict-affected coastal areas without safe routes of escape.

Basic IHL rules applicable to this situation:

- Whenever possible, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to search for, collect and evacuate the wounded, sick and shipwrecked without adverse distinction.
- The wounded, sick and shipwrecked must receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. No distinction may be made among them founded on any grounds other than medical ones.
- The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for all civilians in need, without distinction, subject to their right of control.
- The parties to the conflict must ensure that authorised humanitarian relief personnel have the freedom of movement they need to carry out their work.

IHL compliance highlights

Recognising its humanitarian obligations towards conflict-affected civilians and wounded and sick combatants, the Sri Lankan Navy established comprehensive evacuation measures in cooperation with the ICRC, deploying naval personnel and vessels with standby rescue and medical teams in conflicted-affected seas.

Between 10 February and 14 April 2009, Sri Lankan naval ferries chartered by the ICRC safely evacuated more than 7,000 people from Putumattalan, a conflict-affected area lacking functioning medical facilities, to Trincomalee. There, wounded and sick evacuees were able to receive appropriate treatment at adequately equipped hospitals staffed by Health Ministry and specialist ICRC medical personnel.

CHAPTER 4: The Distinctive Red Cross, Red Crescent and Red Crystal Emblems

Rules relating to the Distinctive Emblems

CIHL Rule 30. Persons and Objects Displaying the Distinctive Emblem

Attacks directed against medical and religious personnel and objects displaying the distinctive emblems of the Geneva Conventions in conformity with international law are prohibited.

CIHL Rule 59. Improper Use of the Distinctive Emblems of the Geneva Conventions

The improper use of the distinctive emblems of the Geneva Conventions is prohibited.

Source: ICRC Customary IHL Database

Under the Statute of the International Criminal Court, “intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law” constitutes a war crime in both international and non-international armed conflicts.¹¹⁶

Protective Use of the Emblems

Under IHL, the protective emblem can only be displayed by people in certain roles or on certain objects. It should be clearly displayed in a large format so as to be clearly visible, without any accompanying wording or lettering. During an armed conflict, the authorised users of a protective emblem include:

- military medical personnel, units, establishments, and transports;
- National Red Cross and Red Crescent Societies’ medical personnel, units and transports that have been recognised by the State and authorised to assist the medical services of the armed forces;
- State-certified civilian medical units (personnel, facilities, and transports) authorised to display the emblem; and
- medical personnel in occupied territory.

Humanitarians and health professionals providing assistance during an armed conflict who do not meet these criteria are not authorised to wear a protective emblem.

The red cross, red crescent and red crystal are international emblems of neutrality and protection in situations of armed conflict. The emblems identify people or facilities engaged in the provision of medical or humanitarian assistance, and in any language, they mean ‘Don’t Shoot!’.



Mont-Blanc Bridge, Geneva, Switzerland, 2007. Flags on the occasion of the 30th International Conference of the Red Cross and Red Crescent.
Photo: IFRC, Jorge PEREZ

These emblems have two distinct functions. Firstly, they serve as the visible sign of the protection afforded during armed conflict to the medical personnel, units, and transports of armed forces and to religious personnel (protective use).¹¹⁴ Secondly, the emblems show that a person or an object is linked to the International Red Cross and Red Crescent Movement (indicative use).¹¹⁵



Zepa, Bosnia Herzegovina, 1993. Medical evacuations to Zenica.
Photo: ICRC, Ana Feric

Indicative Use of the Emblems

National Societies, such as Australian Red Cross, can also use the emblem in peacetime to indicate that a person or object is linked to the International Red Cross and Red Crescent Movement, is providing peacetime humanitarian services, and works in accordance with the International Red Cross and Red Crescent Movement's Fundamental Principles.¹¹⁷ Emblems used indicatively by National Societies should be displayed in small format and accompanied by the name or initials of the National Society. In Australia, this usage is permitted under delegated authority from the Minister for Defence in accordance with the *Geneva Conventions Act 1957* (Cth). The emblem is used as part of the Australian Red Cross logo and not applied prominently on buildings or vehicles. The ICRC and the IFRC have a separate authorisation to display the emblem and are permitted to display it at all times.¹¹⁸



Aswan, Egypt, 2023. The ICRC donates electronic and logistic equipment to the Egyptian Red Crescent to allow people from Sudan to stay in contact with their relatives. Photo: ICRC/Nada Deyaa

Misuse of the Emblems

Any use of the emblem not prescribed by IHL is considered to be improper.¹¹⁹ Generally speaking, the emblems tend to be misused in three ways:

- Imitation: use of a sign that owing to its shape and colour, may be confused with one of the emblems;
- Improper use: use of an emblem in a way that is inconsistent with the relevant rules of IHL, by unauthorised people or bodies (such as pharmacies or doctors' private clinics), or for purposes that are inconsistent with the Fundamental Principles of the International Red Cross and Red Crescent Movement;

- Perfidy: use of an emblem during an armed conflict to feign protected status and invite the confidence of an adversary with the intention of betraying this confidence. Perfidious use of the emblem (to protect or hide combatants, for example) constitutes a war crime when it results in death or serious injury.¹²⁰ Perfidy is a particularly reprehensible misuse of the emblem, as it may lead an adversary to abandon respect for protected health care personnel and facilities altogether.¹²¹

It is in the interests of all Australians, military and civilian, to ensure the emblems' protective status in situations of armed conflict is understood and respected.

In Australia, hospitals and street signs pointing to hospitals should use a white cross on a blue background, not a red cross. First aid stations and kits should be marked with a white cross on a green background, not a red one. The intention is simple – to keep the red cross apart and use it only for its true purpose. Every time the red cross emblem is misused, the protective status of the emblem is reduced, and the lives of those who depend on the emblem's protection during armed conflict are placed in greater danger. Protection of, and respect for, the red cross, red crescent and red crystal emblems is therefore a vital component of IHL.

The Geneva Conventions oblige States to adopt national legislation governing the use of the emblems in times of war and times of peace. In Australia, the emblems are protected under the *Geneva Conventions Act 1957* (Cth). Any use of the emblems without the authorisation of the Minister for Defence is a criminal offence under section 15 of this legislation. This internationally mandated protection is distinct from intellectual property rights; copyright law does not apply, and the emblem, or a design including the emblem, cannot be registered as a trademark.

Any suspected misuse of the emblem in Australia, including those online, should be reported to Australian Red Cross.¹²²

CHAPTER 5: Understanding the Red Cross and Red Crescent Movement



Opera House, Sydney, 2013. Red cross and red crescent symbols formed by volunteers of the Australian Red Cross during the 2013 Council of Delegates. Photo: CR Australie

What is the International Red Cross and Red Crescent Movement?

The International Red Cross and Red Crescent Movement is the largest humanitarian network in the world, active across the globe with more than 80 million staff, volunteers, and members worldwide. Its mission is to alleviate human suffering, protect life and health, and uphold human dignity, especially during armed conflicts and other emergencies.

The International Red Cross and Red Crescent Movement is made up of three components:

- The International Committee of the Red Cross (ICRC);
- The International Federation of Red Cross and Red Crescent Societies (IFRC or the Federation); and
- 191 member Red Cross and Red Crescent Societies (National Societies).¹²³

All three components of the International Red Cross and Red Crescent Movement are governed by its Statutes and Regulations and are guided by seven Fundamental Principles¹²⁴; humanity, impartiality, neutrality, independence, voluntary service, unity, and universality.

The principle of 'humanity' reflects the mission of the International Red Cross and Red Crescent Movement to 'prevent and alleviate human suffering wherever it may be found'.

The principles of 'impartiality' and 'neutrality' require the International Red Cross and Red Crescent Movement to not discriminate in its work, distinguishing only on the basis of need, and to not take sides in controversies of any kind, either in its speech or actions at any time or place. Neutrality ensures the International Red Cross and Red Crescent Movement has the confidence of all and can provide humanitarian support to all. Embodying the principle of neutrality at all times ensures the International Red Cross and Red Crescent Movement can provide assistance to civilians and wounded or detained fighters during hostilities without being perceived as interfering in the conflict.

The principle of independence means that the International Red Cross and Red Crescent Movement must resist, and be seen to resist, any interference – including political, ideological or economic – capable of diverting it from acting in accordance with any of its principles, particularly the principles of humanity, impartiality and neutrality.¹²⁵

These first four Fundamental Principles informed the development of the humanitarian principles of humanity, impartiality, neutrality, and independence, which now guide humanitarian action globally and are reinforced explicitly and implicitly by IHL. Humanity and impartiality are substantive principles, or the 'goals' of humanitarian action, while neutrality and independence are operational principles, or the 'tools' for humanitarian actors.¹²⁶

Finally, voluntary service, unity and universality are organisational principles that are unique to the International Red Cross and Red Crescent Movement and provide the institutional foundations that enable principled humanitarian action.¹²⁷



Derna, Libya, 2023. The ICRC and the Libyan Red Crescent provide emergency assistance to thousands of households affected by flooding. Photo: ICRC

What are the Roles of the International Red Cross and Red Crescent Movement's Different Components?

The International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (IFRC), and the National Societies are independent bodies. Each has its own individual status and exercises no authority over the others. However, they have agreed mechanisms for ensuring their actions are well coordinated and fit a common policy framework.



ICRC

The ICRC is an impartial, neutral, and independent organisation. Its exclusively humanitarian mission is to protect the lives and dignity of victims of war and other situations of violence and to provide them with assistance. During situations of conflict, the ICRC has the role of “co-convenor” with affected National Societies, responsible for directing and coordinating the International Red Cross and Red Crescent Movement’s international relief activities. It also promotes the importance of international humanitarian law and draws attention to universal humanitarian principles.

In order to fulfil its humanitarian mandate and mission, the ICRC enjoys a status equivalent to that of an international organisation and has international legal personality in carrying out its work.¹²⁸

As the custodian of the Geneva Conventions, the ICRC has a permanent mandate under international law to speak with all sides of a conflict to advocate respect for the rules of war; call for the protection of civilians; work to ensure aid reaches those in need (including by facilitating and supporting the humanitarian work of Movement members in line with the provisions of the law); visit prisons, organise relief operations, reunite separated families and undertake other humanitarian activities during armed conflicts.

The ICRC also works to meet the needs of internally displaced people, raise public awareness of the dangers of mines and explosive remnants of war, and trace people who have gone missing during conflicts.¹²⁹

IFRC

Like the ICRC, the IFRC is a global humanitarian organisation with the status of an international organisation. Its mission is to inspire, encourage, facilitate, and promote at all times all forms of humanitarian activities by National Societies.

In 2024, the IFRC had 191 member National Societies, of which Australian Red Cross is one. Each National Society recognises the constitutional authority of the IFRC’s Governing Board to set policy in agreed humanitarian fields, and to support cooperation between National Societies and with other institutions.

The IFRC acts before, during, and after disasters and health emergencies to meet the needs and improve the lives of vulnerable people. It co-convenes with National Societies to respond to catastrophes around the world. Its relief operations are combined with development work, including disaster preparedness programs, health and care activities, and the promotion of humanitarian values. It also supports programs on risk reduction and fighting the spread of communicable diseases, such as HIV, tuberculosis, influenza, and malaria.¹³⁰

National Societies

National Societies provide a range of services including disaster relief and health and social programs. In wartime, they may assist the civilian population and support the medical services of the armed forces. National Societies rely heavily on volunteers, particularly at the community level, to perform their humanitarian and development work. All National Societies have the specific mandate to act as auxiliaries to the public authorities of their own countries in the humanitarian field.¹³¹

The Australian Red Cross Society (Australian Red Cross) began as a branch of the British Red Cross on 13 August 1914, following the outbreak of World War I. Australian Red Cross was recognised as a National Society in 1927 and incorporated by Royal Charter in 1941.

The Charter establishes Australian Red Cross as 'a voluntary aid society, auxiliary to the public authorities in the humanitarian field' and reinforces the obligation for the National Society to act, amongst other things, in times of armed conflict on behalf of all war victims and prevent and alleviate human suffering with complete impartiality.

The International Red Cross and Red Crescent Movement's Way of Working

The International Red Cross and Red Crescent Movement seeks to influence decision makers and opinion leaders to act, at all times, in the interests of vulnerable people. It does this with full respect for the International Red Cross and Red Crescent Movement's Fundamental Principles, particularly the principle of neutrality, primarily by engaging in confidential humanitarian diplomacy with authorities and parties to conflicts.

Compliance with the principle of neutrality and the International Red Cross and Red Crescent Movement's relatively confidential way of working should not be equated with silence or indifference. Humanitarians can, and have, publicly condemned actions without compromising their neutrality, but the decision of whether or how to speak out must be weighed against considerations of access, security, and acceptance. When the International Red Cross and Red Crescent Movement does publicly denounce parties for their conduct in wartime, it is when all avenues for persuasion are exhausted, and when it is in the interests of the victims to do so.¹³²

Similarly, National Societies, in their involvement in humanitarian advocacy, focus their work upon respect for all and assistance without discrimination, rather than any engagement in politics. Advocacy is always undertaken with a focus on the humanitarian impact of decisions or policies.¹³³

The Work of the International Red Cross and Red Crescent Movement in Conflict Situations

Both the International Red Cross and Red Crescent Movement and modern IHL originated to help alleviate suffering during armed conflicts. This historical relationship has continued since 1863. The most important IHL treaties, the 1949 Geneva Conventions and their Additional Protocols, contain numerous provisions that give elements of the International Red Cross and Red Crescent Movement specific roles they are legally entitled to perform during times of armed conflict. For example, under IHL, the ICRC has the right to visit prisoners of war during an international armed conflict, and National Societies (such as Australian Red Cross) must be allowed to carry out humanitarian activities. This legal connection between an international humanitarian organisation and a specific area of international law is unique and provides the International Red Cross and Red Crescent Movement with a legal mandate to assist victims during times of armed conflict.

Through its continued engagement in IHL, the International Red Cross and Red Crescent Movement ensures that this area of law remains relevant during contemporary conflicts. In particular, the ICRC monitors IHL issues around the world and uses its considerable technical expertise in IHL to work with States to clarify, develop, and strengthen the law. National Societies promote the implementation of IHL within their own countries by discussing and supporting the adoption of relevant instruments, commenting on draft legislation, explaining to legislators and the public the need to implement IHL by adapting national legislation, raising awareness of protection of the emblems, monitoring use of the emblems, reporting misuses of the emblem to the relevant government authority, and taking part in military training and exercises. The operational and practical work of the International Red Cross and Red Crescent Movement in assisting victims during times of armed conflict around the world adds credibility to the legal connection between the International Red Cross and Red Crescent Movement and IHL.¹³⁴



Gereida, Sudan, 2007. Dissemination session with Sudan Liberation Army (SLA) branch fighters.. Photo: ICR/Boris Heger

The International Red Cross and Red Crescent Movement is also capable of a unique combination of local, national, and international responses, which is vital in conflict-affected communities. Each component of the International Red Cross and Red Crescent Movement has different strengths and skills, and at times, these are used individually to address the needs of those affected by conflict, violence, and other emergencies. It is the very combination of skills and strengths that allows the International Red Cross and Red Crescent Movement to identify and implement solutions at individual, community, national, and international levels in a way which is often unique when compared with other humanitarian actors. Acting and designing programs that leverage the comparative advantages of its different components enables the International Red Cross and Red Crescent Movement to address even sensitive protection related issues at their source while also mitigating their immediate and long-term impact on conflict affected populations.¹³⁵

Glossary and Acronyms

For further details and definitions, please see the ICRC Casebook A to Z at https://casebook.icrc.org/a_to_z

Adverse distinction: IHL prohibits unfavourable discrimination based on race, gender, nationality, religious belief, political opinion or any other similar criteria in the treatment of prisoners of war, civilians, and persons *hors de combat*. The notion of “adverse” distinction implies that while unfavourable discrimination is prohibited, a distinction may be made to prioritise those in the most urgent need of care. Therefore, no distinction may be made among the wounded, sick and shipwrecked, for example, on any grounds other than medical.

Armed conflict: An armed conflict is said to exist when there is an armed confrontation between the armed forces of two or more States (international armed conflict) or between governmental authorities and organised armed groups or between such groups within a State (non-international armed conflict). Other situations of violence, such as internal disturbances and tensions, do not amount to armed conflicts.

Customary International Humanitarian Law (CIHL): Such rules are established by way of repetitive and uniform practice of States involved in armed conflicts or of third States concerning armed conflicts, in the belief that the behaviour that is practiced is obligatory.

Civilians: Under IHL, the category of civilians is opposable to that of “combatants.” In an international armed conflict, all persons who are not combatants are civilians. In non-international armed conflicts, there is no combatant status. Members of armed groups with a continuous fighting function may, according to doctrine, be targeted like combatants. All other persons must not be directly targeted.

Civilian Objects: Any object which is not a military objective. A civilian object must not be attacked unless it is used in a way that renders it a military objective. It may not be the target of reprisals. In case of doubt whether an object which is normally a civilian object (e.g., a place of worship, a house or other dwellings, a school) is a military objective, it must be considered as a civilian object.

Collateral damage: The unintended damage inflicted on humans, structures, animals, and the natural environment that are not the target of an attack.

Combatants: Describes those persons with a right to directly participate in hostilities between States. The following persons are combatants in an international armed conflict:

- a. Members of the armed forces, except medical personnel and religious personnel.
- b. Members of other militias and members of other volunteer corps, including those of organised resistance movements, belonging to a Party to the conflict, provided that such militias or volunteer corps, including such organised resistance movements, fulfil the following conditions:
 1. they are commanded by a person responsible for his subordinates;
 2. they wear a fixed distinctive sign recognisable at a distance;
 3. they carry their arms openly; and
 4. they conduct their operations in accordance with the laws and customs of war.
- c. Members of the regular armed forces who profess allegiance to a government or authority not recognised by the other Party to the conflict.
- d. Participants in a *levée en masse* (that is, inhabitants of a territory which has not been occupied, who on the approach of the enemy spontaneously take up arms to resist the invading troops without having had time to organise themselves into regular armed forces).

Derogations: The term derogation is used to refer, generally, to the suspension or suppression of a law under particular circumstances.

Direct participation in hostilities: Refers to conduct which, if carried out by a civilian, suspends his protection against the dangers arising from military operations. Most notably, for the duration of his direct participation in hostilities, a civilian may be directly attacked as if he were a combatant. See here for more information.¹³⁶

Emblems: IHL relies on the use of certain emblems to identify and thus protect medical services in armed conflicts. The emblems are also used by components of the the International Red Cross and Red Crescent Movement for identification purposes. The two main uses of the emblem are their “protective” and “indicative” uses. Used protectively, the emblems serve as a visible sign in armed conflict of the protection accorded to medical services, equipment, and buildings under IHL. Used indicatively, the emblems are employed by National Societies around the world to identify themselves as part of the International Red Cross and Red Crescent Movement. See Chapter Four for more information.

Grave Breaches: The Geneva Conventions and Additional Protocol I identify a limited set of violations – the grave breaches – which are particularly serious violations that give rise to specific obligations of repression for States. Grave breaches must be prosecuted by parties to the Geneva Conventions on the basis of the principle of universal jurisdiction. Together with other serious violations of IHL, grave breaches constitute war crimes.

Hors de combat: A combatant is *hors de combat* if:

- a. they are in the power of an adverse party;
- b. they clearly express an intention to surrender; or
- c. they have been rendered unconscious or are otherwise incapacitated by wounds or sickness and are therefore incapable of defending themselves.

Provided that in any of these cases they abstain from any hostile act and do not attempt to escape, they may not be made the object of attack.

Hostages: are persons who, irrespective of their status, have been detained under circumstances in which death or injury to themselves or those close to them, or continued unlawful detention is threatened, in order to compel a third party to do or to abstain from doing any act in exchange for the release or safety of the hostage or others threatened. Carrying out, or threatening to carry out, an act of hostage-taking is prohibited under international humanitarian law and constitutes a grave breach in international armed conflicts and a war crime in non-international armed conflicts.

Hostilities: The term refers to the physical, armed clashes between parties to a conflict.

Humanitarian Assistance: IHL recognises that the civilian population of a State affected by an armed conflict is entitled to receive humanitarian assistance. It regulates, in particular, the conditions for providing humanitarian assistance in the form of food, medicines, medical equipment, or other vital supplies to civilians in need.

Humanitarian Organisations: Entities with a mission to prevent and/or alleviate human suffering in armed conflicts. They are usually involved in searching for, collecting, and transporting the wounded and sick, missing and dead; providing medical treatment to the wounded and sick; assisting prisoners of war; and assisting the civilian population through the provision of humanitarian relief. They are also sometimes referred to in IHL as impartial humanitarian bodies.

Humanity: The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and ensure respect for the human being. It promotes mutual understanding, friendship, co-operation and lasting peace amongst all people.

Impartiality: Making no discrimination as to nationality, race, religious beliefs, class or political opinions, The International Red Cross and Red Crescent Movement endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

Independence: The International Red Cross and Red Crescent Movement is independent. National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the International Red Cross and Red Crescent Movement.

Indiscriminate attacks: An attack of a nature to strike military objectives and civilians or civilian objects without discrimination, i.e. an attack which:

- a. is not directed at a specific military objective (or person);
- b. employs a method or means of warfare which cannot be directed at a specific military objective (or person); or
- c. employs a method or means of combat the effects of which cannot be limited as required by international humanitarian law.

Indiscriminate attacks are prohibited and include:

- a. an attack by bombardment, by any means or method 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 similar concentration of civilians or civilian objects;
- 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 tangible and direct military advantage anticipated.

Individual criminal responsibility: Each member of the armed forces is directly responsible for breaches they commit and can be held individually responsible before a criminal court for violations of the laws of war.

Internally Displaced Persons (IDPs): Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflicts, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.

International Armed Conflict (IAC): International Armed Conflict. Occurs when one or more States have recourse to armed force against another State, regardless of the reasons or the intensity of this confrontation. No formal declaration of war or recognition of the situation is required.

The existence of an international armed conflict, and as a consequence, the possibility to apply International Humanitarian Law to this situation, depends on what actually happens on the ground.

It is based on factual conditions. Apart from regular, inter-state armed conflicts, Additional Protocol I extends the definition of international armed conflicts to include armed conflicts in which peoples are fighting against colonial domination, alien occupation, or racist regimes in the exercise of their right to self-determination.

International Committee of the Red Cross (ICRC): The ICRC is an impartial, neutral, and independent organisation. Its exclusively humanitarian mission is to protect the lives and dignity of victims of war and other situations of violence and to provide them with assistance. During situations of conflict, the ICRC is responsible for directing and coordinating the International Red Cross and Red Crescent Movement's international relief activities. It also promotes the importance of international humanitarian law and draws attention to universal humanitarian principles.

International Federation of Red Cross and Red Crescent Societies (IFRC): The IFRC is a global humanitarian organisation with the status of an international organisation. Its mission is to inspire, encourage, facilitate, and promote at all times all forms of humanitarian activities by National Societies.

International Humanitarian Law (IHL): International Humanitarian Law (IHL), also known as 'laws of war' or the 'laws of armed conflict', is a unique branch of international law that seeks, for humanitarian reasons, to limit the effects of armed conflict. It protects individuals who are not, or are no longer, participating in the hostilities and restricts the means and methods of warfare.

International Red Cross and Red Crescent Movement: The International Red Cross and Red Crescent Movement is a global humanitarian network of 80 million people that helps those facing disaster, conflict and health and social problems. It consists of the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and the 191 National Red Cross and Red Crescent Societies.

Means of warfare: The term encompasses weapons, weapons systems or platforms employed for the purposes of attack in an armed conflict. This term generally refers to the physical means that belligerents use to inflict damage on their enemies during combat.

As such, the term encompasses all weapons, and includes weapons systems as well as delivery platforms.

Methods of warfare: The tactics or strategy used in hostilities to defeat the enemy by using available information together with weapons, movement, and surprise.

Medical ethics/duties: A set of ethical rules and principles to be respected by all persons giving medical care. The obligation to respect the principles of medical ethics is repeated in the statement of the general protection which international law recognises as due to medical duties. This states that:

- a. no person may be punished for carrying out medical activities compatible with medical ethics, regardless of the circumstances or persons benefiting therefrom, and
- b. persons engaged in medical activities shall not be compelled to perform acts or to carry out work contrary to the rules of medical ethics, to other medical rules designed for the benefit of the wounded and sick or to provisions of international law, or to refrain from performing acts or from carrying out work required by those rules and provisions.

Medical personnel: Persons assigned exclusively, whether for a permanent or temporary period, to medical purposes, namely the search for, collection, transportation, diagnosis or treatment of the wounded, sick and shipwrecked, or to the prevention of disease, or to the administration or operation of medical units or medical transports. Medical personnel comprise military and civilian medical personnel (doctors and paramedical personnel) including that of the Red Cross or Red Crescent, and civil defence personnel.

Medical treatment: Refers to the treatment that must be provided for wounded and sick persons who do not (i.e. civilians) or no longer (i.e. wounded, sick and shipwrecked, combatants, prisoners of war) participate in the hostilities of an armed conflict.

Military advantage: The advantage or gain that a party to the conflict anticipates will result from an attack. The term is used in the law of targeting, specifically to define the associated notions of "military objective" and "proportionality". The advantage anticipated from an attack must be military in nature. If not, the principle of military necessity is flouted.

Military necessity: Permits measures which are actually necessary to accomplish a legitimate military purpose and are not otherwise prohibited by international humanitarian law.

Military Objectives: "Military objectives" are limited to those objects which:

- a. by their nature, location, purpose, or use make an effective contribution to military action, and
- b. whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage.

National Societies: National Red Cross and Red Crescent Societies exist in 191 countries, embodying the work and principles of the International Red Cross and Red Crescent Movement. National Societies act as auxiliaries to their national authorities in the humanitarian field, which means they have a specific mandate to support the public authorities in their humanitarian work. They provide a range of services including disaster relief, and health and social programs. In wartime, they may assist the civilian population and support the medical services of the armed forces. National Societies rely heavily on volunteers, particularly at the community level, to perform their humanitarian and development work.

Non-International Armed Conflict (NIAC): Armed conflicts in which one or more non-State armed groups are involved. Depending on the situation, hostilities may occur between governmental armed forces and non-State armed groups or between such groups only.

Neutral State: A State that has chosen to be neutral either permanently or only in a particular international armed conflict, or in certain cases in a non-international armed conflict.

Non-state actors: Also known as 'organised armed groups'. An organised armed group is the armed wing of a non-state party to a non-international armed conflict, and may be comprised of either:

- a. dissident armed forces (for example, breakaway parts of state armed forces); or
- b. other organised armed groups which recruit their members primarily from the civilian population but have developed a sufficient degree of military organisation to conduct hostilities on behalf of a party to the conflict.

Occupation: A territory is considered occupied when it is actually placed under the authority of the adverse foreign armed forces. The occupation extends only to the territory where such authority has been established and can be exercised. A State's territory may therefore be partially occupied, in which case the laws and obligations of occupation apply only in the territory that is actually occupied. When a State consents to the presence of foreign troops, there is no occupation.

Perfidy: Acts inviting the confidence of an adversary to lead him to believe he is entitled to, or is obliged to grant, protection under the rules of international humanitarian law applicable in armed conflict, with intent to betray that confidence, constitute perfidy.

Protected objects: Civilian objects that are protected under IHL, such as schools, hospitals, and houses. This extends to humanitarian, religious, and medical objects, as well as the environment. In addition, cultural property benefits from an additional protection.

Protected persons: The following persons are protected by international humanitarian law:

- a. wounded, sick, and shipwrecked members of the armed forces who have ceased to take part in the hostilities;
- b. prisoners of war;
- c. civilian persons who, because of a conflict or occupation, are in the power of a Party whose nationality they do not possess;
- d. medical and religious personnel;
- e. *parlementaires*;
- f. civil defence personnel;
- g. personnel assigned to the protection of cultural property.

Prisoners of war (POWs): Prisoners of War are combatants who have fallen into the hands of the enemy, or specific non-combatants to whom the status of prisoner of war is granted by international humanitarian law.

Ratification: Ratification defines the international act whereby a State indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act.

Relief: See Humanitarian Assistance.

Relief organisations and societies: See Humanitarian Organisations.

States: The 'state' as a 'person' of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states (Art 1, Montevideo Convention on the Rights and Duties of States). In non-legal terms, the term 'State' is often used in international law to describe what is more commonly called a country or a nation.

Safety zones: Zones and localities organised to protect, from the effects of war, wounded and sick from the armed forces, medical personnel and the personnel employed in the organisation and administration of these zones and localities or assigned to care for the persons therein assembled.

Safe havens: See safety zones.

Sanctions: An action carried out by one or more states toward another one to force the latter to comply with its legal obligations. In domestic law, a sanction relates to the penalty annexed to a violation of a law as a mean of enforcing it. In IHL more particularly, the term 'sanctions' may be applied:

- a. to the sanctions applicable to civilian internees and prisoners of war responsible for breaches of the laws, regulations and general orders to which they are subject;
- b. to the sanctions applicable to persons who have committed war crimes or other breaches of international humanitarian law; or
- c. to the sanctions applicable to commanders responsible for failure to act.

Starvation: A forbidden method of warfare involving deliberately depriving civilian persons of food. It is, for example, prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, etc., for the specific purpose of denying them their sustenance value to the civilian population or to the adverse party, in order to starve civilians, cause them to move away, or for any other motive.

Treaty: The term "treaty" is regularly used as a generic term embracing all instruments binding at international law concluded between international entities, regardless of their formal designation.

Unnecessary suffering (or superfluous injury): Refers to the effects of certain methods or means of warfare which uselessly aggravate the suffering of already disabled persons. International humanitarian law forbids such methods and means.

War crimes: These are particularly serious violations of IHL, endangering protected persons and/or objects, or breaching important international values, for which the individual criminal responsibility of perpetrators may be engaged. War crimes can be committed in both international and non-international armed conflicts, although the list of possible war crimes is not identical for both types of conflicts.

Wilful killing: Being put to death as a reprisal, or executed, or where death occurs through a fault of omission (for example, not providing prisoners of war with sufficient food). The act or omission must have been wilful and there must have been an intention to cause death by it.

Endnotes

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- 9 Civilian objects are objects that are not military objectives. See the chapter Protections of IHL – Civilians and Civilian Objects below for further information.
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- 13 What is a refugee? UNHCR Australia, <https://www.unhcr.org/au/what-refugee#:~:text=Refugees%20are%20people%20who%20have%20fled%20war%2C%20violence%2C%20conflict%20or,possessions%2C%20jobs%20and%20loved%20ones>, accessed 26 October 2023.
- 14 Article 1D of the 1951 Convention states that the 1951 Convention “shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the (UNHCR) protection or assistance”. Palestinian refugees, within the sense of UN General Assembly Resolution 194 (III) of 11 December 1948 and other UN General Assembly Resolutions, do not fall within the scope of the 1951 Convention. However, if such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall be entitled to the benefits of the 1951 Convention. See The UN and Palestinian Refugees, UNWRA, <https://www.unwra.org/userfiles/2010011791015.pdf>, accessed 26 February 2024.
- 15 Article 1A, 1951 Convention and 1967 Protocol Relating to the Status of Refugees, <https://www.unhcr.org/au/media/convention-and-protocol-relating-status-refugees>, accessed 26 October 2023.
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