

Introduction to International Humanitarian Law

International humanitarian law (IHL), which is also known as the law of war or the law of armed conflict, is a set of rules which seek – 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.

The rules which underpin IHL can be found in treaties between States, such as the universally-ratified Geneva Conventions of 1949, and customary international law, which emerges from general State practice that is followed out of a sense of legal obligation. IHL applies to armed conflicts, but it does not regulate whether a State may actually use force; this is governed by an important, but different, part of international law set out in the United Nations Charter.

Universal nature, and underlying principles

IHL is a practical set of rules for the battlefield. It has its roots in ancient civilisations and religions. It is intended to be a universal and neutral body of law. IHL aims to strike a balance between legitimate military action and the humanitarian objective of reducing human suffering, particularly among civilians. The principles of humanity, military necessity, distinction, proportionality, and precautions form the bedrock of the law as it applies to the conduct of hostilities.

Humanity

Humanity forbids the infliction of suffering, injury or destruction not actually necessary for the accomplishment of 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 which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

Precautions

In the conduct of 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 minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.

The Fundamental Rules of IHL

The Fundamental Rules of International Humanitarian Law applicable in armed conflicts may be summarised as follows. These rules, as worded below, are not legally binding but are used to increase understanding of IHL.

1. Persons *hors de combat* (out of combat/action) and those who do not take a direct part in hostilities are entitled to respect for their lives and physical and moral integrity. They shall in all circumstances be protected and treated humanely without any adverse distinction.
2. It is forbidden to kill or injure an enemy who surrenders or who is *hors de combat*.
3. The wounded and sick shall be collected and cared for by the party to the conflict which has them in power. Protection also covers medical personnel, establishments, transports and *matériel*. The emblem of the red cross, red crescent, and red crystal are the signs of such protection and must be respected.
4. Captured combatants and civilians under the authority of an adverse party are entitled to respect for their lives, dignity, personal rights and convictions. They shall be protected against all acts of violence and reprisals. They shall have the right to correspond with their families and to receive relief.
5. Everyone shall be entitled to benefit from fundamental judicial guarantees. No one shall be held responsible for an act he or she has not committed. No one shall be subjected to physical or mental torture, corporal punishment or cruel or degrading treatment.
6. Parties to a conflict and members of their armed forces do not have an unlimited choice of methods and means of warfare. It is prohibited to employ weapons or methods of warfare of a nature to cause unnecessary losses or excessive suffering.
7. Parties to a conflict shall at all times distinguish between the civilian population and combatants in order to spare civilian population and property. Neither the civilian population as such nor civilian persons shall be the object of attack. Attacks shall be directed solely against military objectives.

International Humanitarian Law has grown out of an international acceptance of the need for constraints in the waging of war. Its basic rules reflect a universal humanitarian instinct and overlap with human rights law (although the two bodies of international law are distinct and differ in significant ways).