

PROTECTION: Geneva Conventions and Human Rights

By the end of the presentation, you should be able:

1. to sketch the protective power of the Geneva Conventions and of humanitarian organisations in conflict areas
2. to identify in a given case study the advantages and limitations of International Humanitarian Law
3. to apply in a violent conflict situation the mandate, the functions and tools of health professionals for violence prevention, de-escalation and bridge building

"War is in no way a relationship of a man with a man, but a relationship between states, in which individuals are enemies only by accident; not as men, nor even as citizens, but as soldiers [...].

Since the object of war is to destroy the enemy state, it is legitimate to kill the latter's defenders as long as they are carrying arms; but as soon as they lay them down and surrender, they cease to be enemies or agents of the enemy, and again become mere men, and it is no longer legitimate to take their lives."

Jean-Jacques Rousseau (1712-1778)

International Humanitarian Law (IHL)

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Law of War

- A set of rules which place restrictions on the **use of weapons** and the **means of warfare**
- To **protect** people who are not or no longer taking part in warfare
- To protect human dignity and **limit human suffering** during war

IHL requires all parties to a conflict to

- Distinguish between combatants and civilians, and to refrain from attacking civilians
- Care for the wounded and sick and protect medical personnel
- Ensure that the dignity of prisoners of war and civilian internees is preserved by allowing visits from ICRC delegates

Even wars have limits

Four Geneva Conventions (1846,1949)

- I Wounded, sick combatants (field)
- II Wounded, sick combatants (navy)
- III Prisoners of War
- IV Civilians

Two Additional Protocols (1977)

distinguish between combatants and civilians, military and civilian targets in international and national armed conflict

IHL applies

- in international armed conflicts which involve at least two countries
- in armed conflicts that take place in one country (often between government and rebel forces)
- to all parties to a conflict, regardless who started it

Article 3 common to the four Geneva Conventions (applies ALL the time in EVERY and ANY conflict)

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the Conflict shall be bound to apply, as a minimum, the following provisions:

1) Persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- taking of hostages;
- outrages upon personal dignity, in particular humiliation and degrading treatment;
- the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2) The wounded, sick and shipwrecked shall be collected and cared for.

An impartial body, such as the International Committee of the Red Cross, may offer its services to the Parties to the Conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Extracts from the Geneva Conventions (GC)

I GC, Art. 42 – Parties to the conflict shall take the necessary steps to make the distinctive emblem [red cross on a white background] indicating medical units and establishments clearly visible to the enemy land, air or naval forces, in order to obviate the possibility of any hostile action.

I GC, Annex 1, Art. 2 – No persons residing, in whatever capacity, in a hospital zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Art. 5 – Hospital zones shall in no case be defended by military means.

IV GC, Art. 47 – Protected persons who are in occupied territory shall not be deprived, in any case or any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territory and the Occupying Power, nor by any annexation by the latter of the whole or part of the territory.

IHL

PROMOTE KNOWLEDGE
PREVENT VIOLATIONS
PROTECT, ASSIST VICTIMS
PROSECUTE VIOLATIONS

Further resources

- www.icrc.org International Committee of the Red Cross

Excellent site with IHL database on all conventions and treaties, tables of signatory states, good explanatory documents, questions and answers. Do explore!

- www.ifrc.org International Federation of Red Cross and Red Crescent Societies

Information on longer-term development work and policies of national Red Cross/Red Crescent organisations

- www.redcross.no Norwegian Red Cross

IHL resources in Norwegian (article on legal status of Guantanamo prisoner, for example).

Application information for those interested in international work; continuous recruitment (see: Engasjer deg! → Feltparbeider)

- www.msf.org Doctors Without Borders

In-depth reporting on humanitarian practices and ongoing conflicts; recruitment information (www.leger-uten-grenser.no)

- *A Memory of Solferino*, by Jean Henri Dunant, the first ever winner of the Nobel Peace Prize in 1901, - the book that prompted the foundation of the Red Cross.

- *The Warriors Honor: Ethnic War and the modern conscience*, by Michael Ignatieff. A collection of essays, among them *The Warriors Honor* about the work of the ICRC.

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