INTERNATIONAL LAW
and
INTERNATIONAL HUMANITARIAN LAW
A BRIEF INTRODUCTION

INTERNATIONAL COMMITTEE
OF THE RED CROSS

Supriya Rao
ICRC New Delhi
Overview

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

IHL

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

IHL is also known as the law of armed conflict or the law of war.
Geneva Conventions (1949)

- CG I: The wounded and the sick on land
- CG II: The shipwrecked, wounded and the sick on sea
- CG III: Prisoners of war (POW)
- CG IV: Civilians
Additional Protocols of 1977 and 2005

- International Armed Conflicts (IAC)
- Non International Armed Conflicts (NIAC)
- Additional Distinctive Emblem
JUS IN BELLO and JUS AD BELLUM

**JUS IN BELLO**
*IHL*
Rules of international law applicable between the parties to an armed conflict and related to the armed conflict

**JUS AD BELLUM**
*Use of Force*
Rules of international law governing the resort to armed force
Principle justifying measures not forbidden by the L.O.W. and required to overpower the enemy.
Conduct of Hostilities

- **Rules on Distinction & proportionality**
  - as to persons
  - as to objects

- **Duty to take precautions**
Conduct of Hostilities - Distinction

• AP I - Art 48. Basic rule

• In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.
The Principle of Distinction

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

- **May not be attacked:**
  - Civilians (who are not directly participating in hostilities)
  - Medical and religious personnel of the armed forces and armed groups
Military objectives

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

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

Dual Use Targets?
• Airfield, Electricity Grid, highway – Civ obj or mil obj
Proportionality

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

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

and

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

- Assessment
- Verify targets
- Choice of means and method of attack
- Effective warning
- Precautions
WHEN DOES IHL APPLY

IHL is applicable in situations of
• international armed conflict
• non-international armed conflict

IHL is not applicable in situations including
• Internal disturbances

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

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

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

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

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

Red lion and sun ...
(recognized in 1929, not in use since 1980)
Use of the emblem

Protective use

Indicative use
Uses of the emblem

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

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

The rules for both are precise.
Misuse of Emblem
Respect for Emblem

Misuse diminishes its protective value

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

Diminishes the credibility of our Fundamental Principles.

Responsibility of the government to ensure respect the emblem.
Appropriate symbols

AMBULANCE

DOCTOR

PHARMACY

HOSPITALS

Only Red Cross Movement members and Army Medical Core can use the Red Cross
Use of Emblem in India

• India ratified Geneva Conventions in 1950

• Indian law regulating the use of emblem is the Geneva Conventions Act.

• Misuse of the emblem is a punishable offence in India.

• Punishment of Rs. 500, besides provision of forfeiture of goods/vehicles on which emblem is used without authorisation.
For more information...

- www.icrc.org