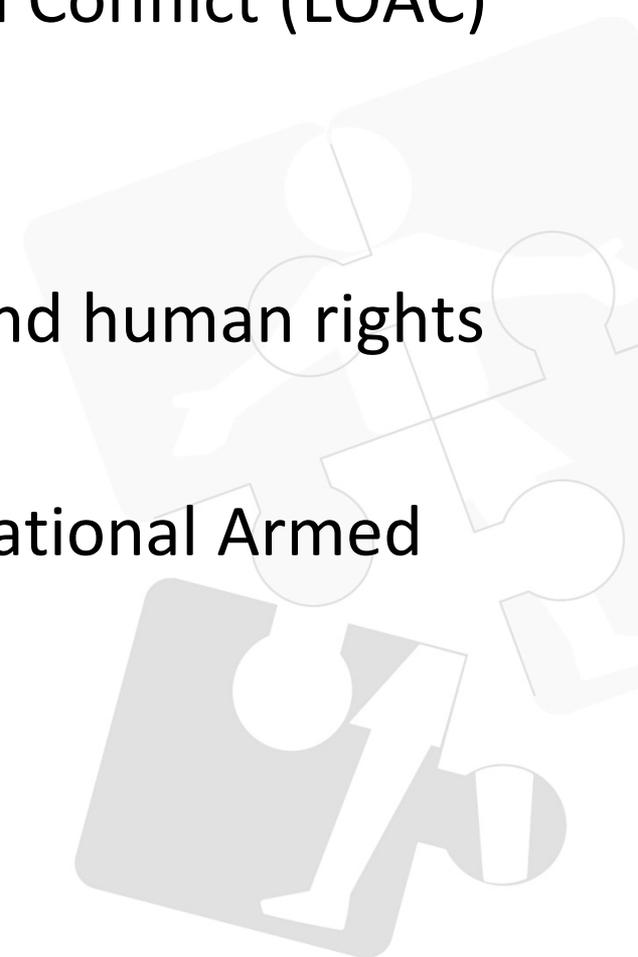


INTRODUCTION TO THE LAW OF ARMED CONFLICT (LOAC)



OUTLINE OF PRESENTATION

- Introduction to the Law of Armed Conflict (LOAC)
- Fundamental principles of LOAC
- Who is bound by LOAC
- The relationship between LOAC and human rights
- Why the LOAC must be obeyed
- Review of 15 rules for Non-International Armed Conflicts



THE LAW OF ARMED CONFLICT

What is the Law of Armed Conflict?

(also known as International Humanitarian Law)



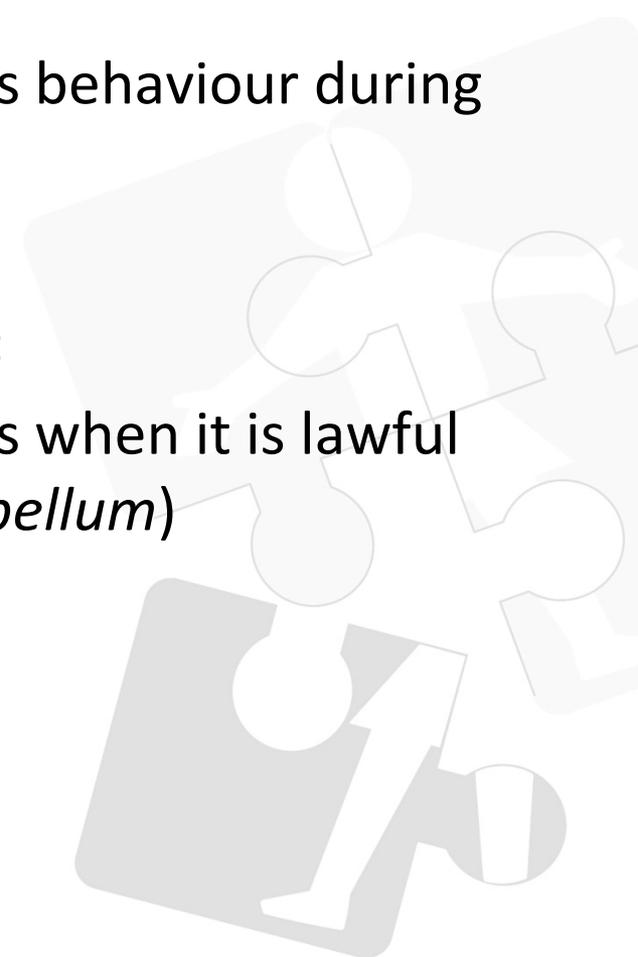
THE LAW OF ARMED CONFLICT

□ THE LAW OF ARMED CONFLICT IS:

The body of international law that regulates behaviour during armed conflict (*jus in bello*)

□ THE LAW OF ARMED CONFLICT IS NOT:

The body of international law that regulates when it is lawful to be involved in an armed conflict (*jus ad bellum*)



FUNDAMENTAL VALUES OF THE LAW OF ARMED CONFLICT

1. Balance between military necessity and humanity
2. Distinction between civilians/civilian objects and military objectives
3. Reciprocity is prohibited
4. All parties to conflict—State or non-State—are treated equally in their rights and obligations

MILITARY NECESSITY AND HUMANITY

IHL Strikes a Balance Between:

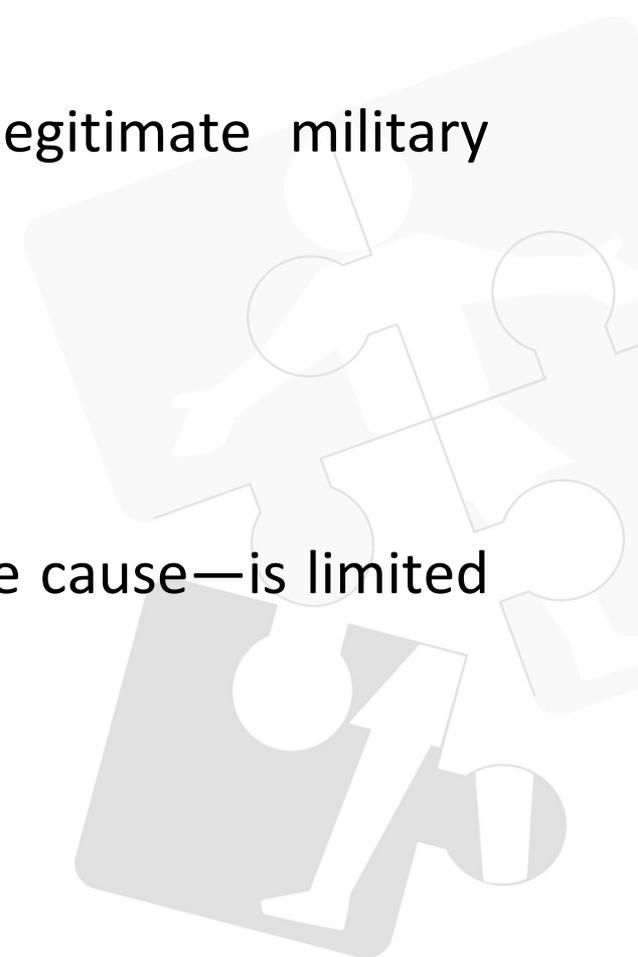
Military Necessity

- The use of armed force to attain legitimate military objectives is lawful

vs.

Humanity

- The use of armed force—no matter the cause—is limited by a universal sense of human dignity

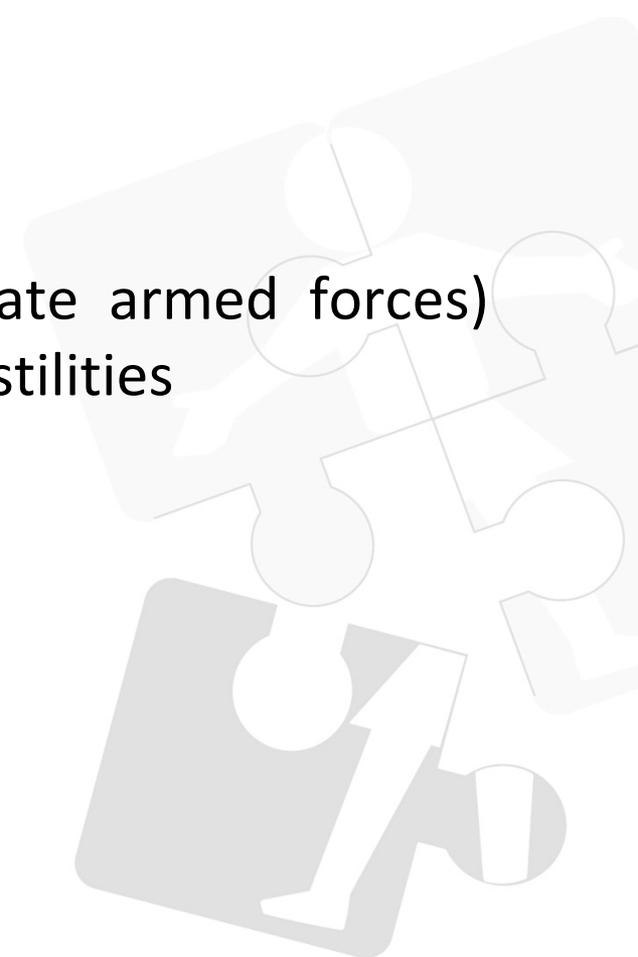


DISTINCTION

Only military objectives can be attacked, whether in offense or defence.

Military objectives are:

- ❑ fighters (members of state or non-state armed forces) and persons participating directly in hostilities
- ❑ objects of military value



RECIPROCITY (REPRISALS)

Violations of LOAC by one party to a conflict may not justify violations by another



WHO IS BOUND BY LOAC?

- LOAC applies not only to governments and their armed forces, but also to armed opposition groups



HISTORY OF IHL

- ❑ The first rules about humanity in armed conflicts date back 4,000 years
- ❑ In ancient India, the law of Manu incorporated rules that required compassion toward unarmed or injured adversaries
- ❑ Islam set out the need to respect justice and equality as a fundamental principle of its humanitarian thinking
- ❑ In 1864, the first Geneva Convention was adopted
- ❑ In 1949, the four Geneva Conventions as they stand today were adopted.
- ❑ In 1977, the two Additional Protocols were adopted
- ❑ In 2006, the ICRC produced a study of 161 Rules, most of which apply in all conflicts (including those involving ANSAs)

INTRODUCTION TO HUMANITARIAN NORMS: IHRL

International Human Rights Law refers to inalienable fundamental rights to which a person is inherently entitled.

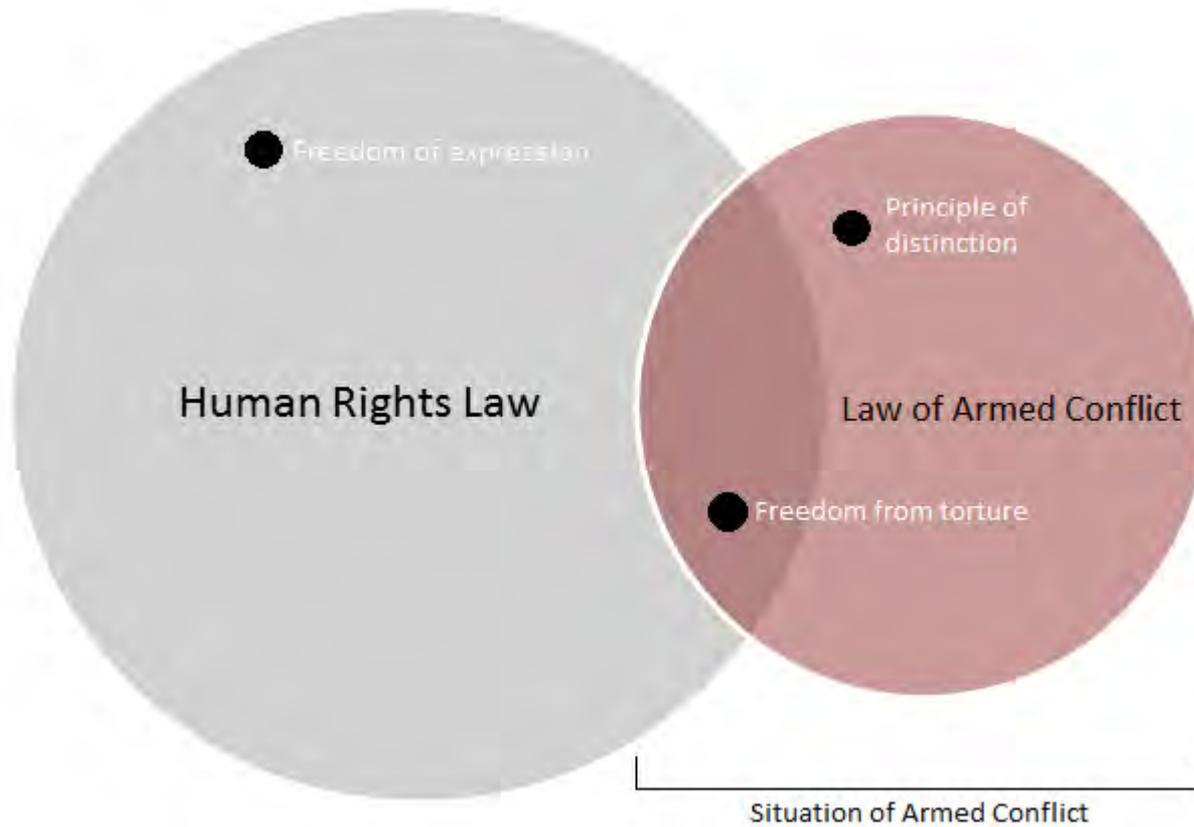
IHRL:

- ❑ Applies to all persons
- ❑ Applies at all times, i.e. both in peacetime and in situations of armed conflict
- ❑ May in some cases be limited or suspended, according to strict rules
- ❑ Some rights are absolute and may never be limited or suspended, eg. Prohibition of torture, cruel, inhumane or degrading treatment

LOAC AND INTERNATIONAL HUMAN RIGHTS LAW

- ❑ LOAC: applies only during armed conflict to limit its negative effects
- ❑ IHRL: applies at all times to ensure authorities respect and protect fundamental rights of individuals
- ❑ Many of the rules are the same
example: absolute prohibition on torture
- ❑ Some are different
example: IHRL protects freedom of expression

HUMANITARIAN NORMS



WHY LEARN LOAC

- ❑ Every fighter has a duty to know LOAC and ensure that LOAC is respected and obeyed.
- ❑ Decisions made in the heat of the moment need to comply with LOAC.
- ❑ Having a better understanding of LOAC makes it easier to make split second decisions that comply with LOAC.
- ❑ The responsibility to obey LOAC is a personal responsibility and a group responsibility.

REASONS TO COMPLY WITH LOAC?



REASONS TO COMPLY WITH LOAC

Principled

- ❑ Common values of human nature to protect the innocent
- ❑ Professionalism
- ❑ Chivalry
- ❑ Conscience

Pragmatic

- ❑ Military Effectiveness
- ❑ Reciprocity
- ❑ Reputation (Foreign and Domestic)
- ❑ Criminal Liability



SOLDIERS' RULES FOR NON-INTERNATIONAL ARMED CONFLICT

1. Only engage military objectives. Do not attack civilians or civilian objects.
2. When engaging military objectives, ensure that expected collateral damage is not excessive to the expected military advantage.
3. Take all feasible precautions to avoid or minimize collateral damage.
4. Do not use unlawful weapons or engage in unlawful methods of warfare.
5. Collect and care for the wounded and dead, whether friend or enemy.
6. Treat all people humanely and respect their fundamental rights. Provide for and do not harm those who surrender, are detained or are otherwise under your control.
7. Do not take hostages or use human shields.
8. Do not displace the civilian population unless required for their own security or imperative military reasons. Safeguard any civilian population that is displaced.

SOLDIERS' RULES FOR NON-INTERNATIONAL ARMED CONFLICT

9. Respect civilian property. Do not loot or steal.
10. Respect women. Do not commit or permit rape or sexual abuse against anyone.
11. Ensure children have the aid and care they require. Never recruit children into your armed forces or use them in hostilities.
12. Respect and protect medical personnel and objects, including those bearing the Red Cross/Red Crescent/Red Crystal, and other symbols of humanitarian agencies.
13. Allow and facilitate impartial humanitarian relief for civilians in need.
14. Abstain from reprisals and acts of vengeance in violation of LOAC.
15. Prevent law of armed conflict violations by your own forces. If violations do occur, take appropriate steps to investigate and punish.

QUESTIONS?



RULE 1: DISTINCTION

**Only engage military objectives.
Do not attack civilians or civilian objects.**



DISTINCTION

DISTINCTION:

- ❑ Attacks may only be directed against military objectives
- ❑ Military objectives can be persons or objects



DISTINCTION: PERSONS

- ❑ Fighters must always distinguish between civilians and opposing forces in conducting operations.

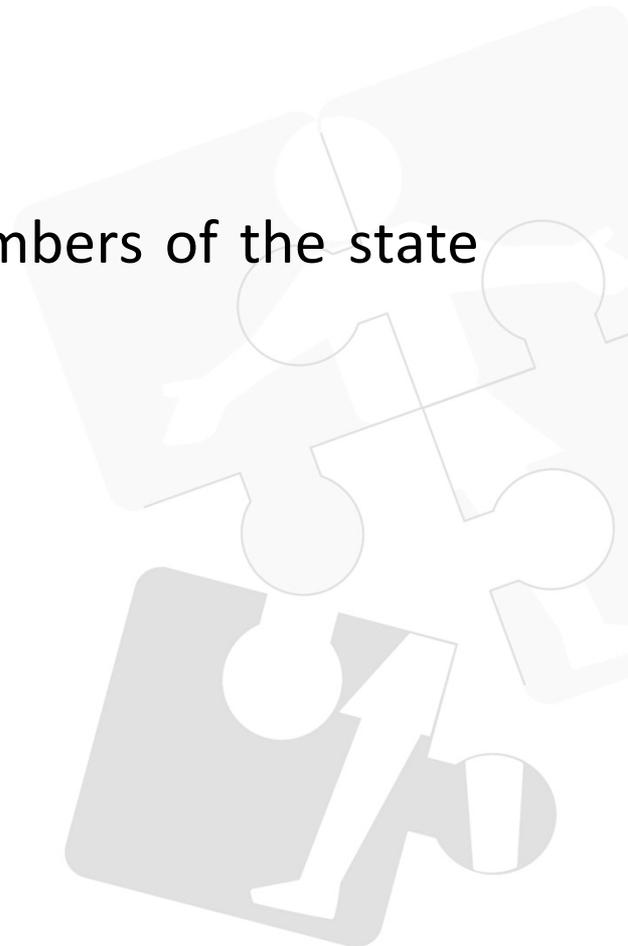
Attacks, in offence or defence, must only be directed at opposing forces.

- ❑ Fighters must distinguish themselves during operations in order to not be confused with civilians

DISTINCTION: PERSONS

CIVILIANS

Civilians are any persons who are not members of the state armed forces or organised armed groups

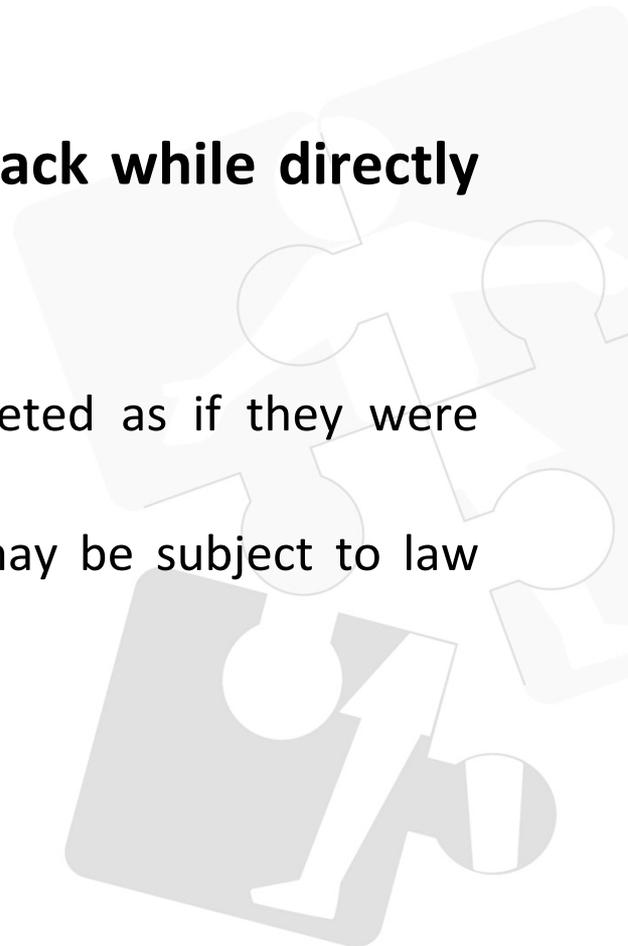


DISTINCTION: PERSONS

When do civilians lose protection?:

Civilians lose protection against direct attack while directly participating in hostilities (DPH)

- While DPH, civilians can be deliberately targeted as if they were fighters
- While not DPH, civilians are protected, but may be subject to law enforcement actions (for past or future actions)



DISTINCTION: PERSONS

DIRECT PARTICIPATION IN HOSTILITIES (DPH)

YES

- ❑ Engaging in military operations
- ❑ Planning tactical operations
- ❑ Tactical intelligence collection
- ❑ Deploying and returning from operations

NO

- ❑ Selling food or materials to an adversary
- ❑ Giving non-military information to an adversary
- ❑ Transporting food or non-military materials to an adversary
- ❑ Providing medical assistance to any party
- ❑ Financing a party to the conflict
- ❑ Working for the government or emergency services

DISTINCTION: PERSONS

DIRECT PARTICIPATION IN HOSTILITIES (DPH)

According to the ICRC:

In order to qualify as direct participation in hostilities a specific act must meet the following cumulative criteria:

- ❑ The act must be likely to adversely affect the military operations or military capacity of a party to an armed conflict or, alternatively, to inflict death, injury, or destruction on persons or objects protected against direct attack (threshold of harm), and
- ❑ There must be a direct causal link between the act and the harm likely to result either from that act, or from a coordinated military operation of which that act constitutes an integral part (direct causation), and
- ❑ The act must be specifically designed to directly cause the required threshold of harm in support of a party to the conflict and to the detriment of another (belligerent nexus).

DISTINCTION: PERSONS

WHO IS PROTECTED FROM ATTACK?

- ❑ **Civilians who are not DPH**
- ❑ **The following members of armed forces (State or non-State)**
 - Medical and religious personnel
 - Members of armed forces who have laid down their arms and those unable to fight (hors de combat)
 - ❑ Indication to surrender, detained, defenceless due to wounds, surrendering, AND
 - ❑ Refrains from any hostile act and escape attempt

DISTINCTION: PERSONS

WHO IS NOT PROTECTED FROM ATTACK?

- ❑ Members of armed forces (State or non-State)
Except those hors de combat
- ❑ Civilians for such time as they DPH

IN CASE OF DOUBT, PERSONS ARE PRESUMED TO BE CIVILIAN and therefore protected unless DPH



DISTINCTION: OBJECTS

MILITARY OBJECTS

- ❑ Objects which make an effective contribution to military action AND whose neutralisation offers a definite military advantage
- ❑ Includes vehicles, buildings infrastructure or terrain
- ❑ Can be directly attacked at any time in accordance with rules 2 and 3

DISTINCTION: OBJECTS

EXAMPLES OF MILITARY OBJECTIVES

- ❑ Military bases, ports and airfields
- ❑ Military vehicles, aircraft, ships, weapons and ammunition
- ❑ Command and control facilities

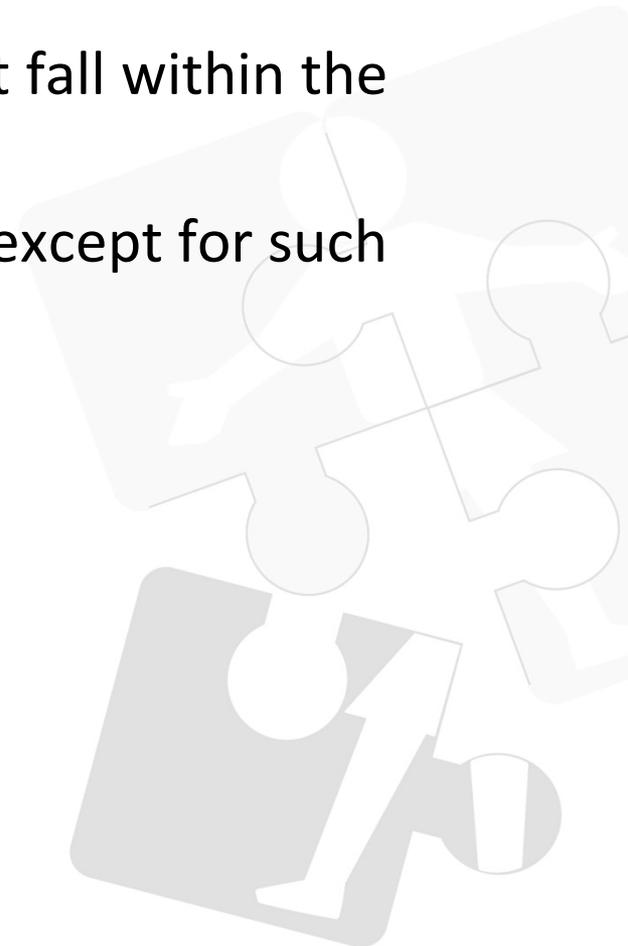


DISTINCTION: OBJECTS

CIVILIAN OBJECTS

- ❑ Civilian objects are all things that do not fall within the definition of military objectives
- ❑ They are not to be attacked unless and except for such time as they are military objectives

In cases of doubt, treat as a civilian object

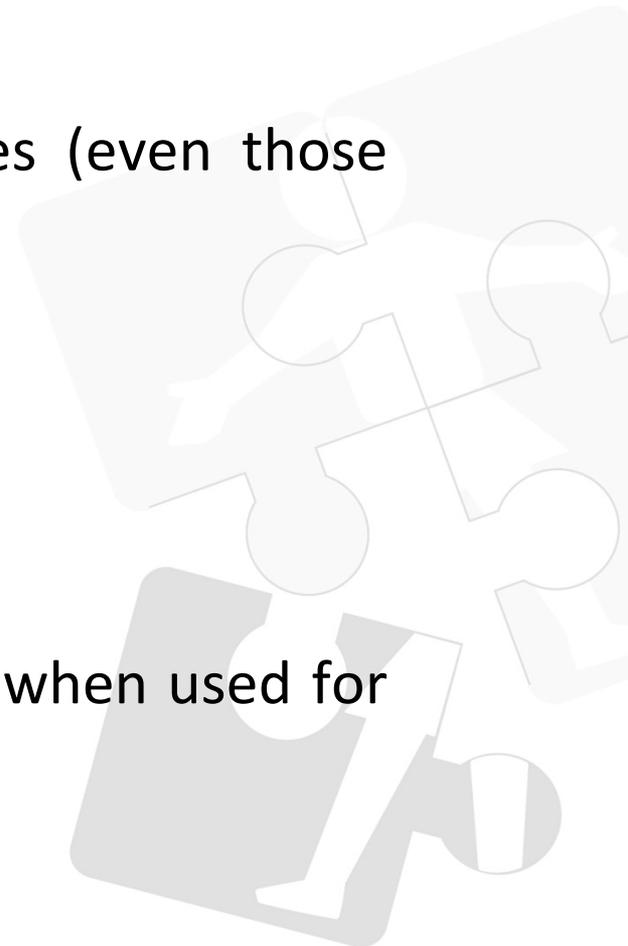


DISTINCTION: OBJECTS

EXAMPLES OF CIVILIAN OBJECTS

- ❑ Civilian housing
- ❑ Most government buildings
- ❑ Non-military manufacturers/ businesses (even those owned by military)
- ❑ Public spaces
- ❑ Places of worship
- ❑ Schools

Note: Civilian objects lose their protection when used for military purposes



DISTINCTION

DUAL USE OBJECTS

- **Some objects may have both military and civilian uses**

Such objects may be attacked based on their qualification as military objects, subject to rules 2 and 3

- **Examples:**

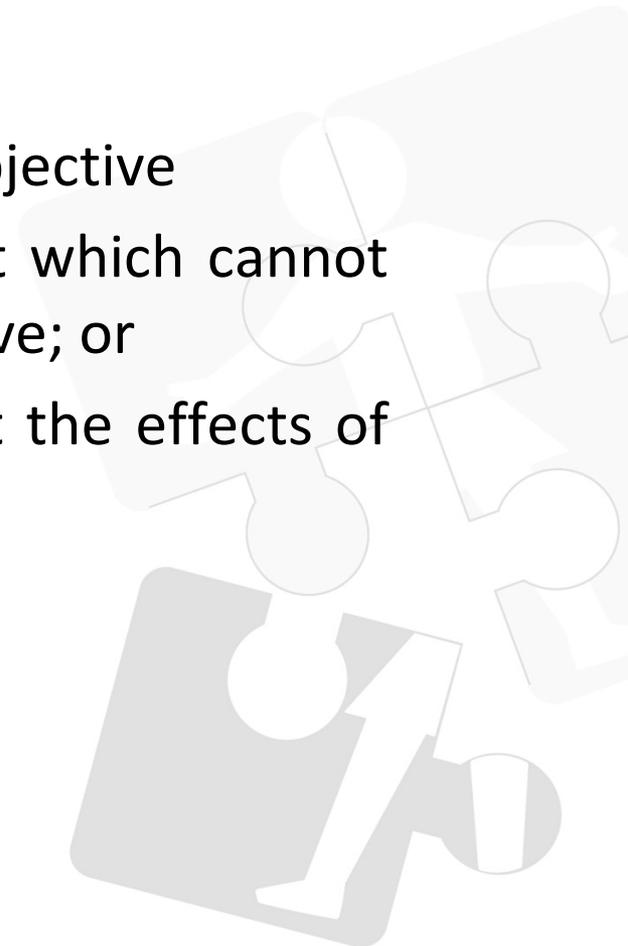
- Rail lines transporting military goods and civilian trains
- Power generating stations
- Telephone lines

DISTINCTION: INDISCRIMINATE ATTACKS

INDISCRIMINATE ATTACKS ARE PROHIBITED

Indiscriminate attacks are those that:

- ❑ Are not directed at a specific military objective
- ❑ Employ a method or means of combat which cannot be directed at a specific military objective; or
- ❑ Employ a method or means of combat the effects of which cannot be properly limited



DISTINCTION

QUESTIONS?



RULE 2: PROPORTIONALITY

When engaging military objectives, ensure that expected collateral damage is not excessive to the expected military advantage.



REMINDER RULE 1

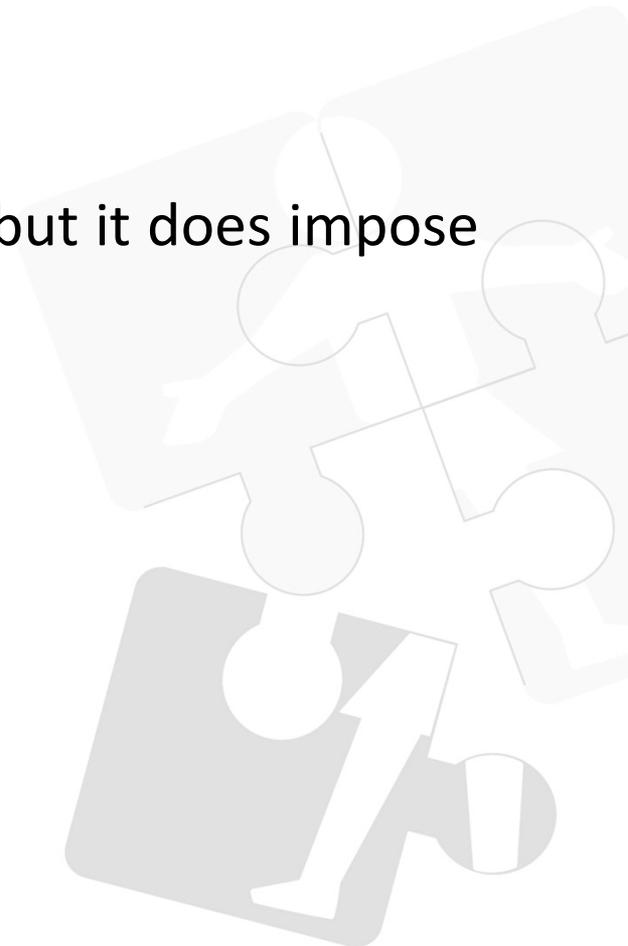
1. Attacks may only be directed at military objectives (persons or objects)



PROPORTIONALITY

When attacking military objectives:

LOAC does not prohibit collateral damage, but it does impose limitations



PROPORTIONALITY

PROPORTIONALITY TEST

Is the attack expected to cause collateral damage which would be excessive in relation to the concrete and direct military advantage anticipated?

If yes, the attack must not be conducted as planned

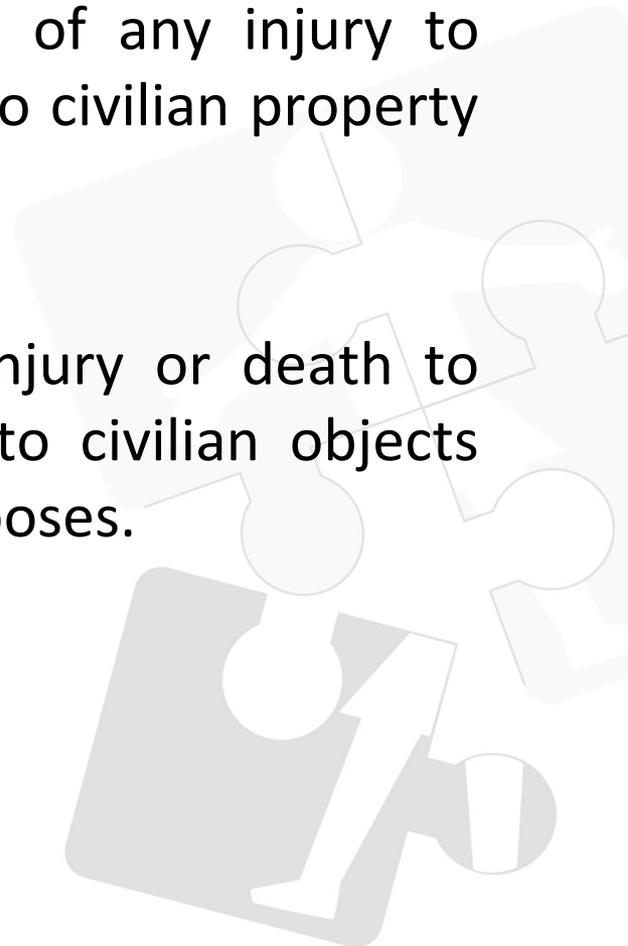
Military Advantage > Collateral Damage

(civilian casualties + damage to civilian objects)

PROPORTIONALITY

COLLATERAL DAMAGE

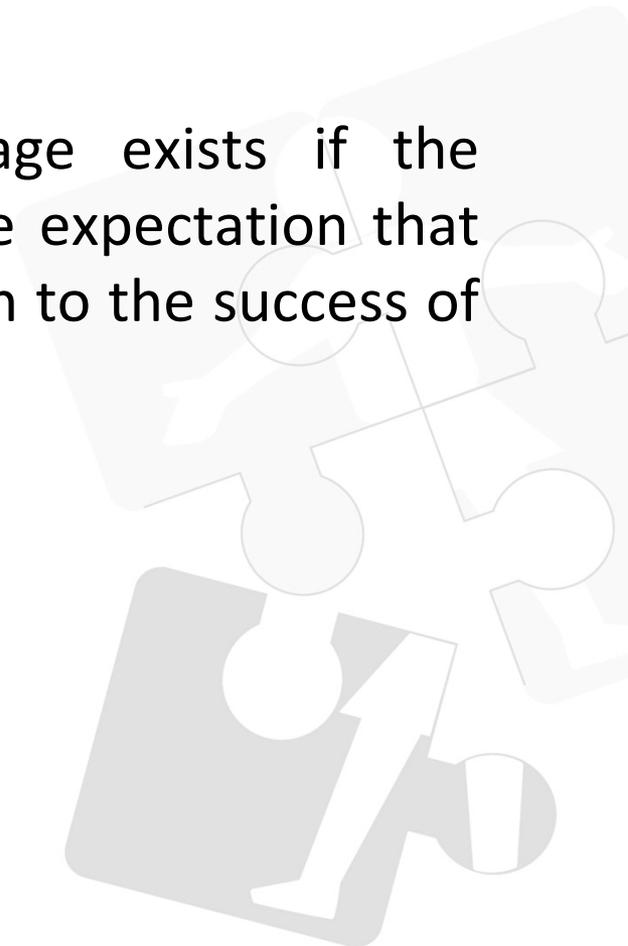
- ❑ Collateral damage is the combination of any injury to civilians, death to civilians or damage to civilian property resulting from the use of force.
- ❑ Collateral damage does not include injury or death to civilians while they DPH, or damage to civilian objects which were being used for military purposes.



PROPORTIONALITY

CONCRETE AND DIRECT MILITARY ADVANTAGE

A concrete and direct military advantage exists if the commander has an honest and reasonable expectation that the attack will make a relevant contribution to the success of the overall operation



PROPORTIONALITY

PROPORTIONALITY TEST (a second look)

Is the attack expected to cause collateral damage which would be excessive in relation to the concrete and direct military advantage anticipated?

If yes, the attack must not be conducted as planned

Military Advantage > Collateral Damage

(civilian casualties + damage to civilian objects)

PROPORTIONALITY

QUESTIONS?



RULE 3: PRECAUTIONS

Take all feasible precautions to avoid or minimize collateral damage.



REMINDER RULES 1 AND 2

1. Attacks may only be directed at military objectives (persons and objects): Distinction
2. Expected military advantage must not be excessive to expected collateral damage: Proportionality



PRECAUTIONS IN CONDUCTING ATTACKS

PRECAUTIONS IN CONDUCTING THE ATTACK

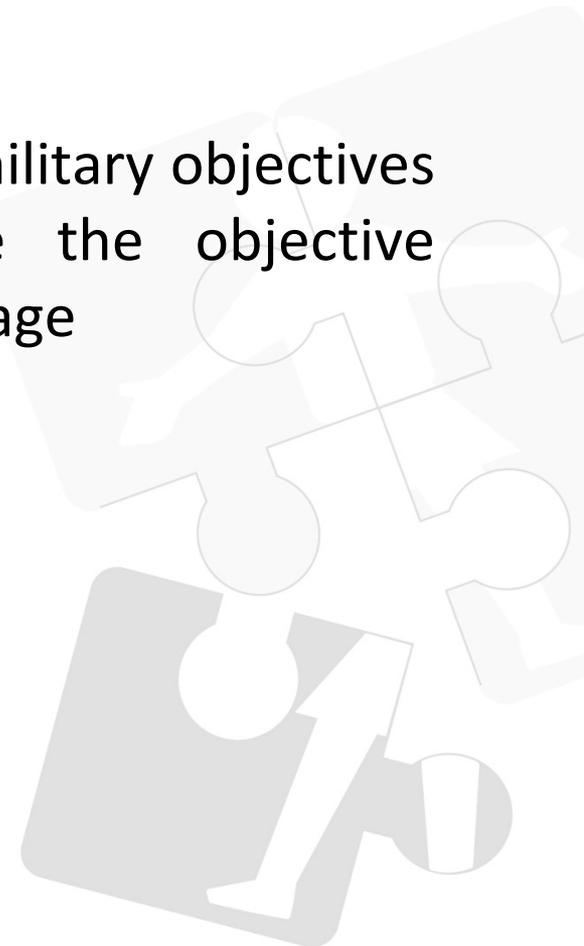
Do everything feasible:

- ❑ To verify that the targets to be attacked are military objectives
- ❑ To choose means and methods of warfare to avoid / minimize collateral damage
- ❑ To refrain from launching an attack that does not meet the proportionality test
- ❑ To give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit

PRECAUTIONS IN CONDUCTING ATTACKS

CHOICE OF OBJECTIVES

When a choice is possible between several military objectives to achieve a similar advantage, choose the objective expected to result in the least collateral damage

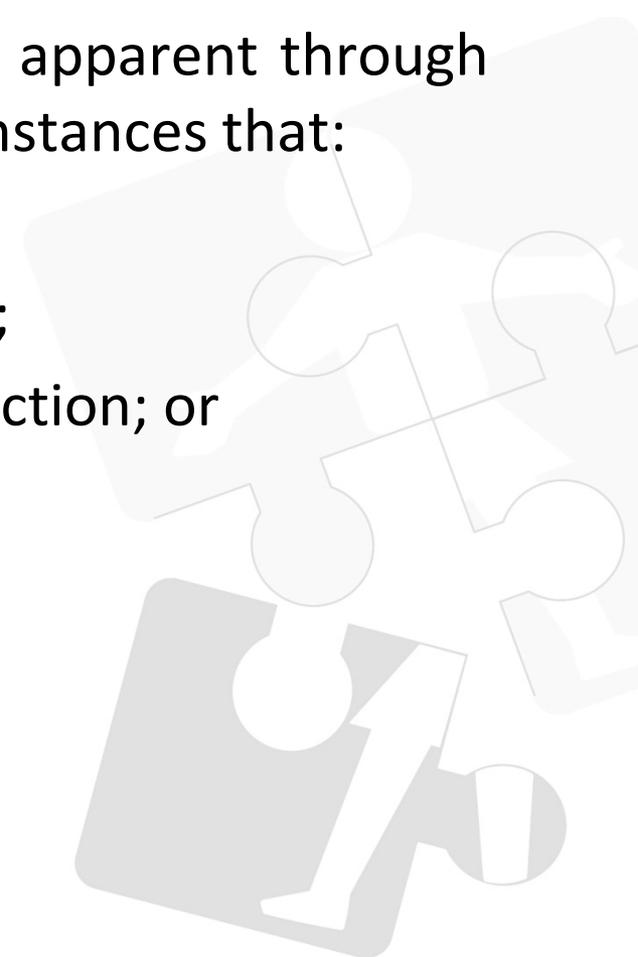


PRECAUTIONS IN CONDUCTING ATTACKS

CANCELLATION OR SUSPENSION OF ATTACK

Cancel or suspend an attack if it becomes apparent through either new information or change of circumstances that:

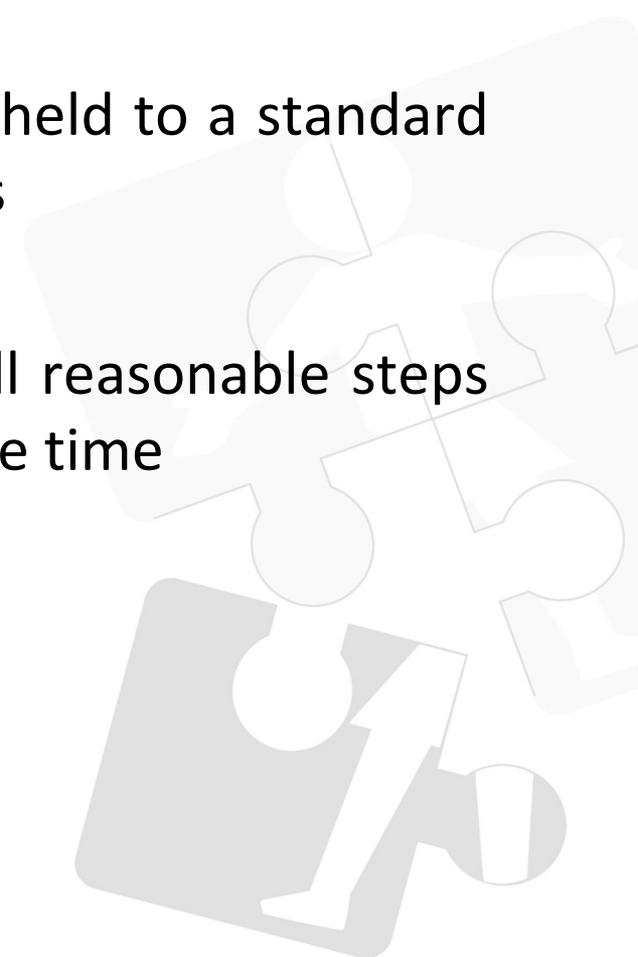
- ❑ The objective is not a military objective;
- ❑ The objective is subject to special protection; or
- ❑ Collateral damage would be excessive



PRECAUTIONS IN CONDUCTING ATTACKS

STANDARD OF CARE IN ATTACKS

- ❑ Commanders and planners will not be held to a standard of perfection in reaching their decisions
- ❑ They are, however, required to take all reasonable steps based on the circumstances ruling at the time

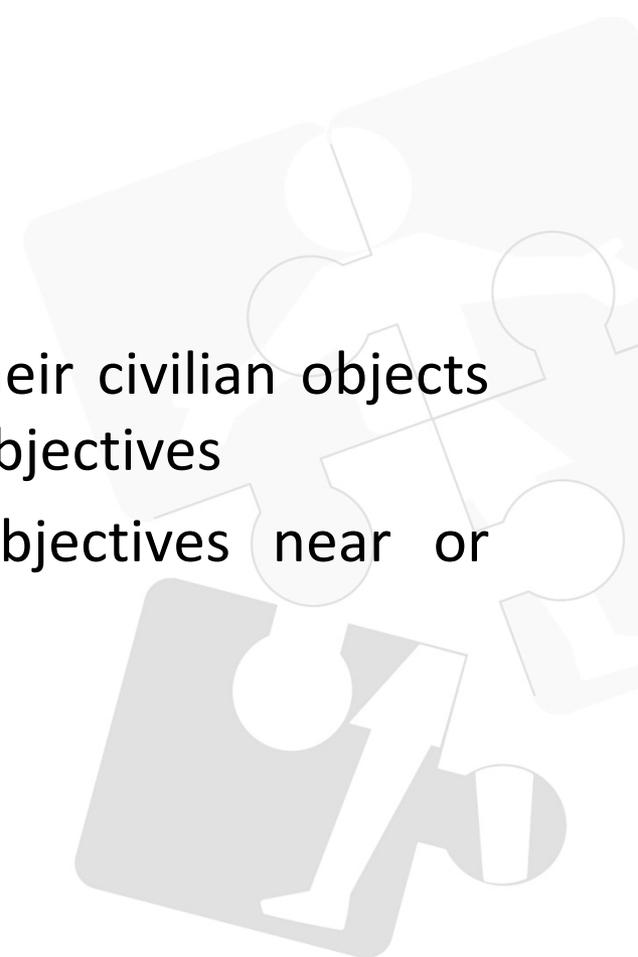


PRECAUTIONS AGAINST ENEMY ATTACKS

TAKE STEPS TO AVOID CIVILIAN CASUALTIES CAUSED BY THE ENEMY

To the maximum extent feasible:

- ❑ Remove the civilian population and their civilian objects from the vicinity of your own military objectives
- ❑ Avoid locating your own military objectives near or amongst the civilian population



PRECAUTIONS AGAINST ENEMY ATTACKS



Photo: http://www.fas.org/irp/cia/product/iraq_human_shields/index.html

PRECAUTIONS AGAINST ENEMY ATTACKS



Photo: http://www.fas.org/irp/cia/product/iraq_human_shields/index.html

PRECAUTIONS AGAINST ENEMY ATTACKS



Photo: http://www.fas.org/irp/cia/product/iraq_human_shields/index.html

RULES 1-3: MODEL TARGETING CHECKLIST

1. Do you have authority to conduct this attack?

If yes proceed to 2. If no DO NOT ATTACK

2. Is the objective included on a no-strike list?

If no, proceed to 3. If yes DO NOT ATTACK

3. Does the target make an effective contribution to enemy military action?

If yes proceed to 4. If no DO NOT ATTACK

4. Will its destruction or neutralization, in current circumstances, offer a definite military advantage?

If yes proceed to 5. If no DO NOT ATTACK

5. Is the attack expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof (i.e. collateral damage)?

If yes proceed to 6. If no, proceed to 11.

6. Do your orders prohibit collateral damage?

If no, proceed to 7. If yes DO NOT ATTACK

RULES 1-3: MODEL TARGETING CHECKLIST

7. Is there an alternative military target available with the same military advantage, with less risk of collateral damage?

If no, proceed to 8. If yes return to 1 for new target

8. Have all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects been taken?

If yes proceed to 9. If no, do so, and then reassess 8.

9. Where circumstances permit, has an effective advance warning been given of attacks that may affect the civilian population?

If yes proceed to 10. If no, issue warning before proceeding to 10.

10. Is the attack 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?

If yes DO NOT ATTACK. If no, proceed to step 11.

11. ATTACK PERMITTED - BUT CONTINUE TO MONITOR. IF CIRCUMSTANCES CHANGE, RE-ASSESS THE ATTACK.

PRECAUTIONS

QUESTIONS?



RULE 4: MEANS & METHODS OF WARFARE

Do not use unlawful weapons or engage in unlawful methods of warfare.



WEAPONS

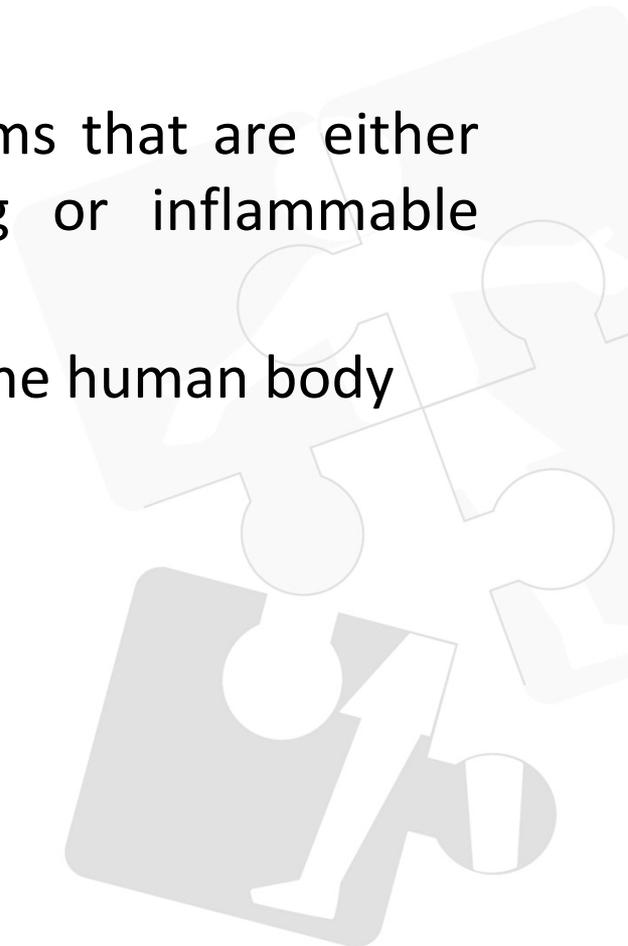
The use of weapons or ammunition that cause unnecessary suffering is unlawful



WEAPONS

The following types of ammunition are prohibited:

- ❑ Projectiles of a weight below 400 grams that are either explosive or charged with exploding or inflammable substances
- ❑ Bullets that expand or flatten easily in the human body
- ❑ Bullets that have been dipped in poison



WEAPONS

CHEMICAL WEAPONS

The use of asphyxiating, poisonous or other gases in armed conflict is prohibited at all times and under all circumstances



WEAPONS

BIOLOGICAL WEAPONS

The use of bacteriological/ biological weapons is prohibited



WEAPONS

POISON

The use of poison or poisoned weapons is prohibited



WEAPONS

LANDMINES

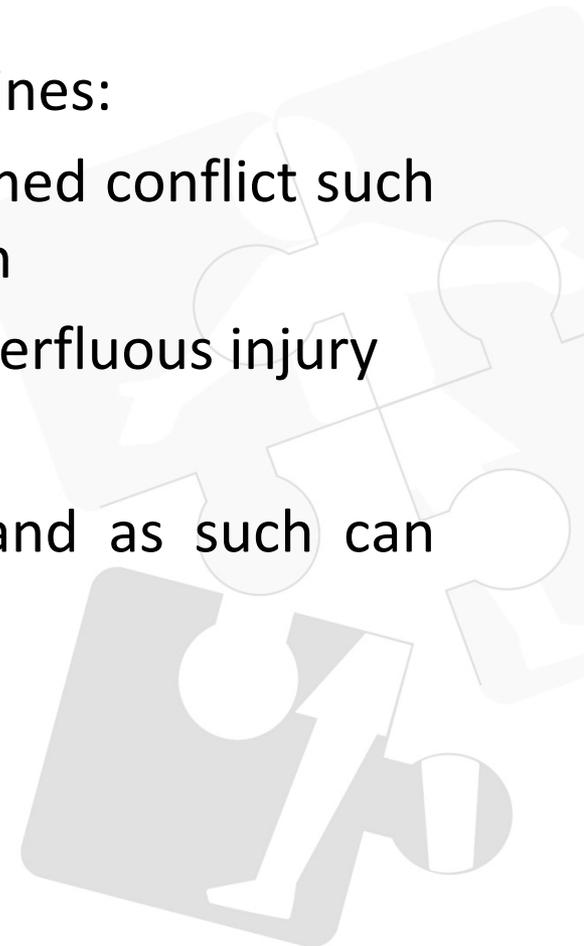
- **For State signatories to the Ottawa Convention and ANSA signatories to the Geneva Call Deed of Commitment:**
 - Ban on the use, development, production, acquisition, retention and transfer of anti-personnel mines is banned
 - Efforts towards mine action
- **Under customary international law:**
 - The use of landmines and IEDs is restricted
 - Special care to minimize indiscriminate effects
 - Recording of placement
 - Removal and/or making harmless
- **Restrictions apply in States which are party to the Convention on Conventional Weapons**

WEAPONS

MOVING TOWARDS A BAN ON ANTI-PERSONNEL LANDMINES

The use of victim activated Anti-Personnel Mines:

- ❑ Violates basic principles of the law of armed conflict such as those of proportionality and distinction
- ❑ Has indiscriminate effects and causes superfluous injury
- ❑ Has significant impact on civilians
- ❑ Last long after hostilities have ended and as such can have long-term impacts



WEAPONS

THE USE OF BOOBY TRAPS IS RESTRICTED

- ❑ Must be directed only at military objectives
- ❑ Must not be attached to or associated with:
 - ❑ Internationally recognized protective emblems and signs
 - ❑ Sick, wounded or dead persons (military and civilian)
 - ❑ Burial or cremation sites or graves
 - ❑ Medical facilities, equipment, supplies or transportation
 - ❑ Children's toys or objects designed for feeding, health, hygiene, clothing or education of children
 - ❑ Food or drink
 - ❑ Kitchen utensils or appliances (except those in military establishments, locations or supply depots)
 - ❑ Objects of a religious nature
 - ❑ Historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples
 - ❑ Animals or their carcasses

WEAPONS

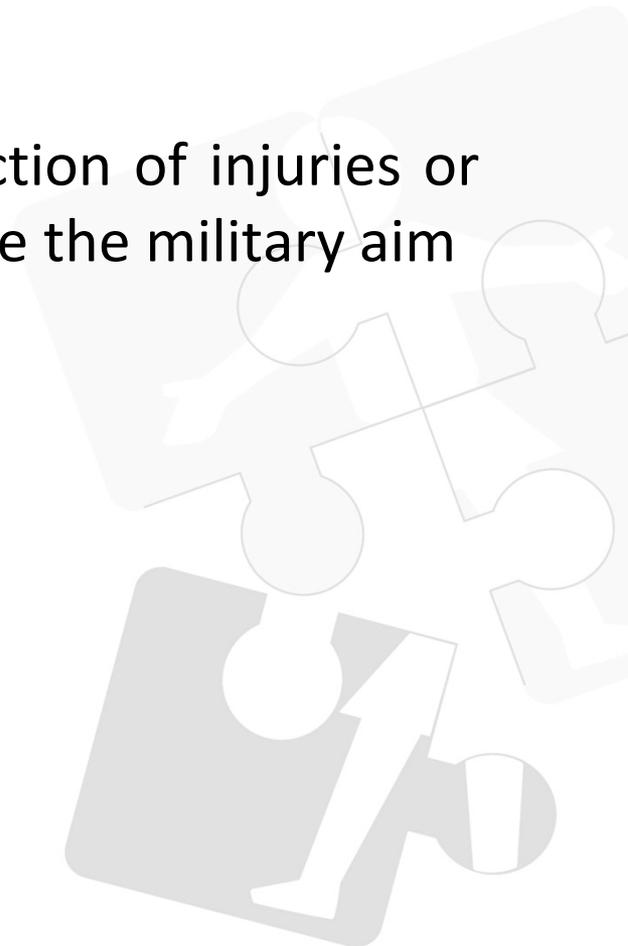
It is prohibited to use the natural environment as a weapon



UNNECESSARY SUFFERING

THE INFLICTION OF UNNECESSARY SUFFERING IS PROHIBITED

"Unnecessary suffering" refers to the infliction of injuries or suffering beyond what is required to achieve the military aim



USE OF LAWFUL WEAPONS

Lawful weapons cannot be used in a manner that has indiscriminate effects or that causes unnecessary suffering

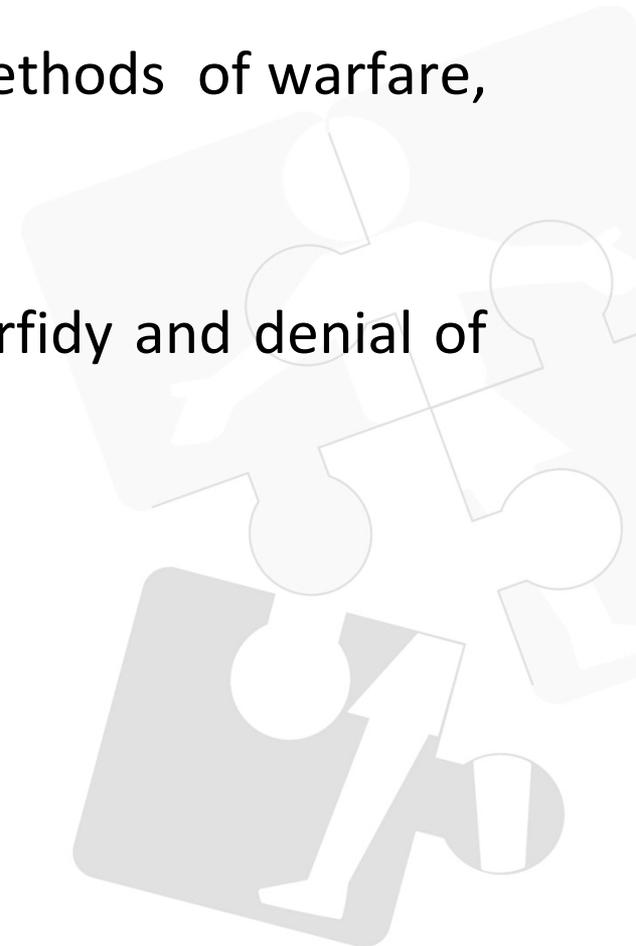


METHODS OF WARFARE

INTRODUCTION

The law of armed conflict allows certain methods of warfare, such as ruses, surprise and camouflage

Other methods are prohibited, such as perfidy and denial of quarter



METHODS OF WARFARE

RUSES

- A ruse is a lawful act or plan that is designed to deceive the enemy
Eg: ambushes, camouflage, misinformation
- Ruses must not infringe any rule of the LOAC
In particular, ruses must be consistent with the rules on perfidy (see next slide)

METHODS OF WARFARE

PERFIDY

- ❑ It is prohibited to kill, injure or capture adversaries by resort to perfidy
- ❑ The following acts constitute perfidy if used while a hostile act is being committed:
 - ❑ Faking an intent to negotiate under a flag of truce or to surrender
 - ❑ Faking incapacitation by wounds or sickness
 - ❑ Faking protected civilian status
 - ❑ Faking protected status by the use of distinctive signs, emblems or uniforms of the United Nations or of neutral or other states not parties to the conflict
 - ❑ Concluding an agreement to suspend combat with the intention of attacking the enemy by surprise
 - ❑ Improper use of flags, emblems, insignia or uniforms of the adversary

METHODS OF WARFARE

IMPROPER USE OF EMBLEMS, SIGNS, AND SYMBOLS

It is prohibited:

- ❑ To make improper use of the distinctive emblems of the Red Cross, Red Crescent or Red Crystal
- ❑ To make improper use of the other emblems, signs or signals provided for by the Geneva Conventions or Additional Protocols
- ❑ To deliberately misuse other internationally recognized protective emblems, signs or signals including the flag of truce and the protective emblem of cultural property
- ❑ To make improper use of the distinctive emblems of the United Nations and its organizations

METHODS OF WARFARE

DO NOT ATTACK THOSE WHO ARE *HORS DE COMBAT*

A person is *hors de combat* if:

- ❑ He or she is in the power (eg: a captive) of the enemy
- ❑ He or she is defenceless because of unconsciousness, shipwreck, wounds or sickness; or
- ❑ He or she clearly expresses an intention to surrender

So long as he or she abstains from hostile acts and doesn't attempt to escape

METHODS OF WARFARE

DENIAL OF QUARTER

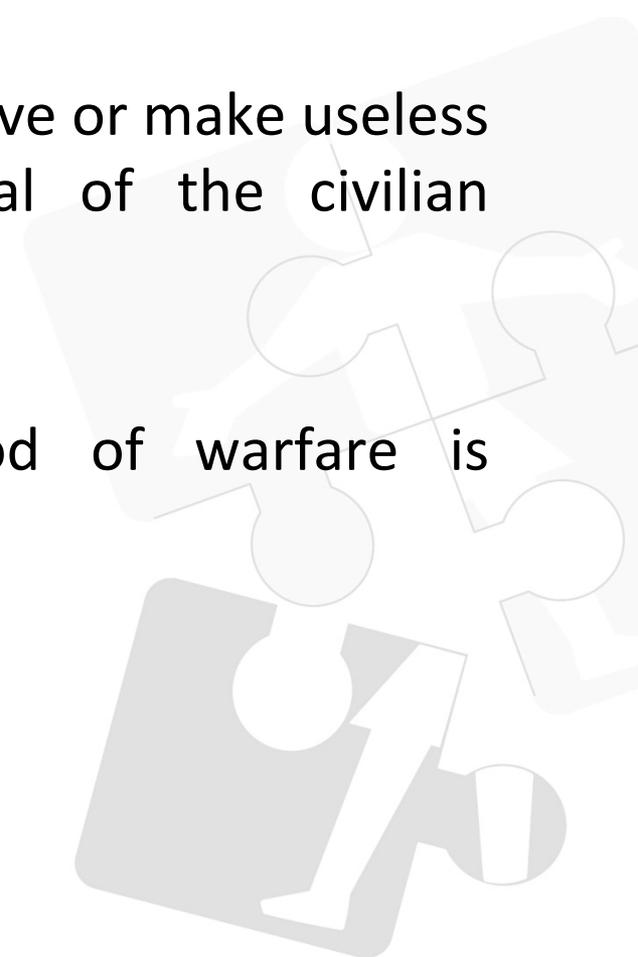
- ❑ It is unlawful to order that there will be no survivors from opposing forces
- ❑ It is unlawful to threaten such behaviour



METHODS OF WARFARE

SURVIVAL OF THE CIVILIAN POPULATION

- ❑ It is prohibited to attack, destroy, remove or make useless objects indispensable to the survival of the civilian population, whatever the motive
- ❑ Starvation of civilians as a method of warfare is prohibited



METHODS OF WARFARE

OBJECTS WITH SPECIAL PROTECTION

- Do not attack works or installations containing dangerous forces that would cause severe losses to the civilian population, including:
 - Nuclear Power Facilities
 - Dams

If such attacks may cause the release of such forces and result in severe collateral damage
- Exceptions may be made if the object is regularly used for military purposes and if such attack is the only feasible option

METHODS OF WARFARE

OBJECTS WITH SPECIAL PROTECTION

Cultural Objects and Places of Worship

- ❑ Avoid damaging buildings dedicated to religion, science, education, charity and historic monuments
- ❑ It is prohibited to attack property of great importance to the cultural heritage of every people, unless imperatively required by military necessity
- ❑ It is prohibited to use such property for purposes likely to expose it to damage, unless required by military necessity
- ❑ Cultural property must be protected

METHODS OF WARFARE

OBJECTS WITH SPECIAL PROTECTION

Natural Environment

- ❑ It is prohibited to use methods and means of warfare which may cause severe and long-term damage to the natural environment and effect the health of the community
- ❑ Take care to avoid or minimize incidental damage to the environment

MEANS AND METHODS OF WARFARE

QUESTIONS?



RULE 5: SICK & WOUNDED

Collect and care for the wounded and dead, whether friend or enemy.



SICK AND WOUNDED

COLLECTION OF THE WOUNDED AND SICK

- Search for and collect the wounded, sick and shipwrecked
 - Wounded and sick civilians as well as members of the opposing force must be collected and cared for when found
 - Priority may be based only on need
- When possible, make arrangements to permit removal and exchange of the sick and wounded

SICK AND WOUNDED

WOUNDED AND SICK STATUS

- Any person
 - Whether or not he or she has taken part in the armed conflict (ie civilian, military, member of an armed non-State actor);
 - Who is in need of medical assistance or care; and
 - Who refrains from acts of hostility
- Shall be provided with the best medical treatment practical under the circumstances, respected and protected
- They shall not be the object of attack

SICK AND WOUNDED

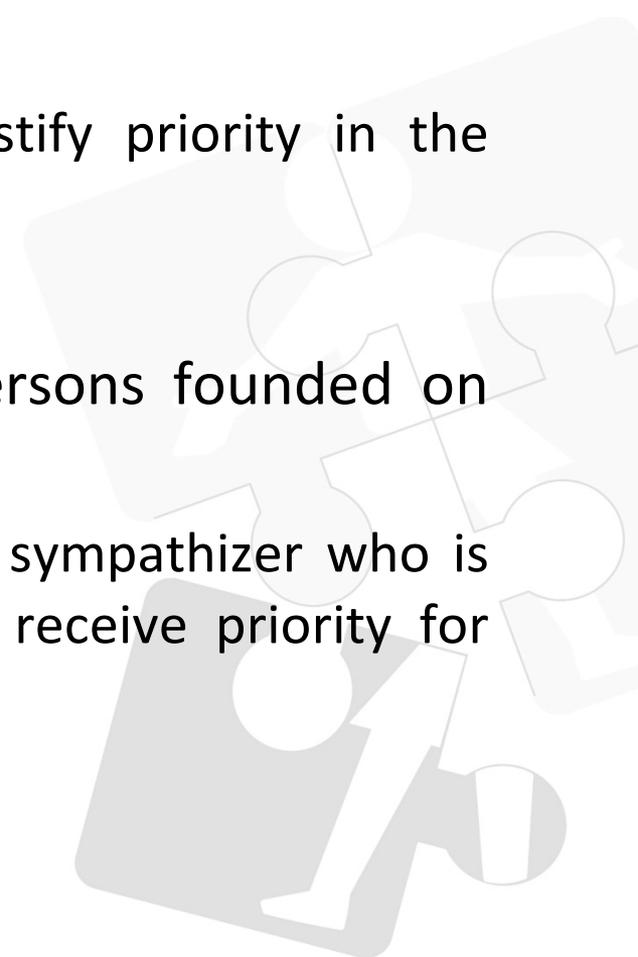
PRIORITY OF CARE

- Triage Principle Applies

Only urgent medical reasons will justify priority in the order of treatment to be administered

- No distinction is permitted among persons founded on any grounds other than medical

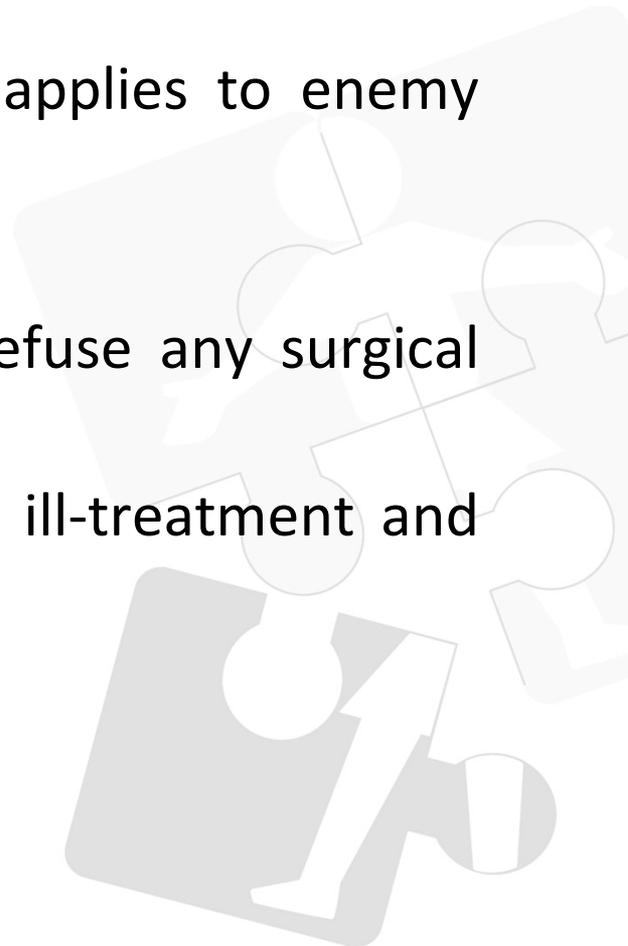
This means that an enemy fighter or sympathizer who is injured worse than a comrade must receive priority for medical care



SICK AND WOUNDED

STANDARD OF TREATMENT AND CARE

- ❑ Same standard of medical treatment applies to enemy fighters, civilians and comrades
- ❑ No medical experiments are permitted
- ❑ A wounded person has the right to refuse any surgical operation
- ❑ Protect the sick and wounded against ill-treatment and pillage of their personal property



MISSING AND DEAD

THE MISSING AND DEAD

- ❑ Search for missing persons from both sides, and provide family members with any information as to their fate
- ❑ Search for, protect and pay proper respect for the dead
- ❑ Agreements should be sought to return the remains of the dead and personal effects

SICK & WOUNDED

QUESTIONS?



RULE 6: FUNDAMENTAL GUARANTEES & DETENTION

Treat all people humanely and respect their fundamental rights.

Provide for and do not harm those who surrender, are detained or are otherwise under your control.



FUNDAMENTAL GUARANTEES

APPLICABILITY

Fundamental guarantees apply to:

- ❑ All civilians under the authority of a party to the conflict and who do not take a direct part in hostilities
- ❑ All who are *hors de combat*, i.e.:
 - ❑ Anyone who is in the power of an adverse party;
 - ❑ Anyone who is defenceless because of unconsciousness, shipwreck, wounds or sickness; or
 - ❑ Anyone who clearly expresses an intention to surrender.

FUNDAMENTAL GUARANTEES

HUMANE TREATMENT:

- ❑ No exhaustive definition
- ❑ Notably including: respect for the dignity of a person, prohibition of ill-treatment
- ❑ Also expressed under other specific rules for certain categories of persons (women, children, people deprived of their liberty)
- ❑ The principle exists in both LOAC and IHRL, and has developed over time under the influence of changes in society

FUNDAMENTAL GUARANTEES

PROHIBITION OF ADVERSE DISTINCTION

- ❑ Prohibition of distinction based on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth....
- ❑ Implies that a distinction may be made to give priority to those in most urgent need of care

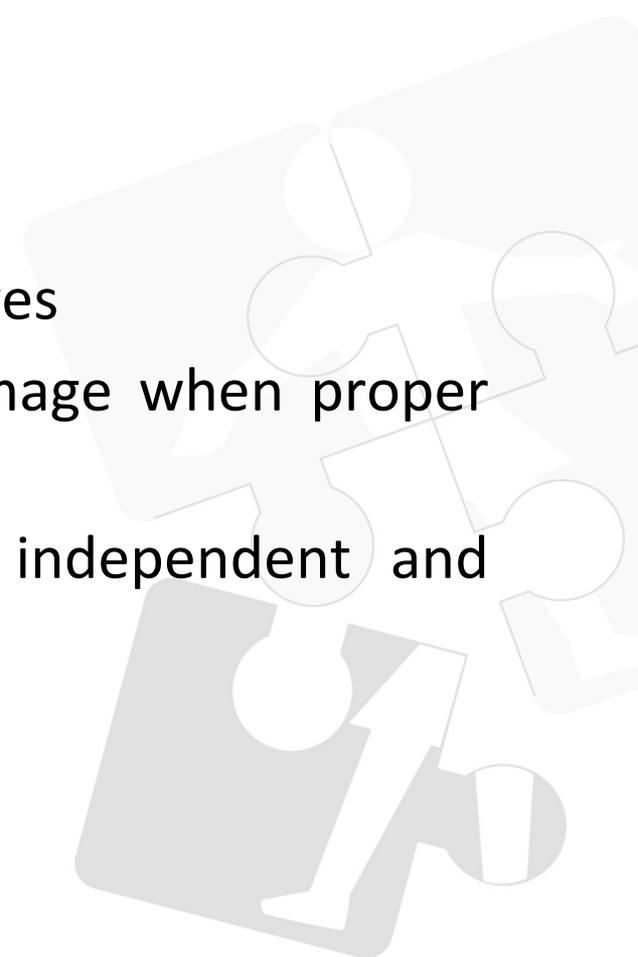
FUNDAMENTAL GUARANTEES

PROHIBITION OF MURDER

Unlawful killing of persons

Exceptions:

- ❑ Persons who qualify as military objectives
- ❑ Persons killed as lawful collateral damage when proper precautions undertaken
- ❑ Persons sentenced to death by an independent and impartial court

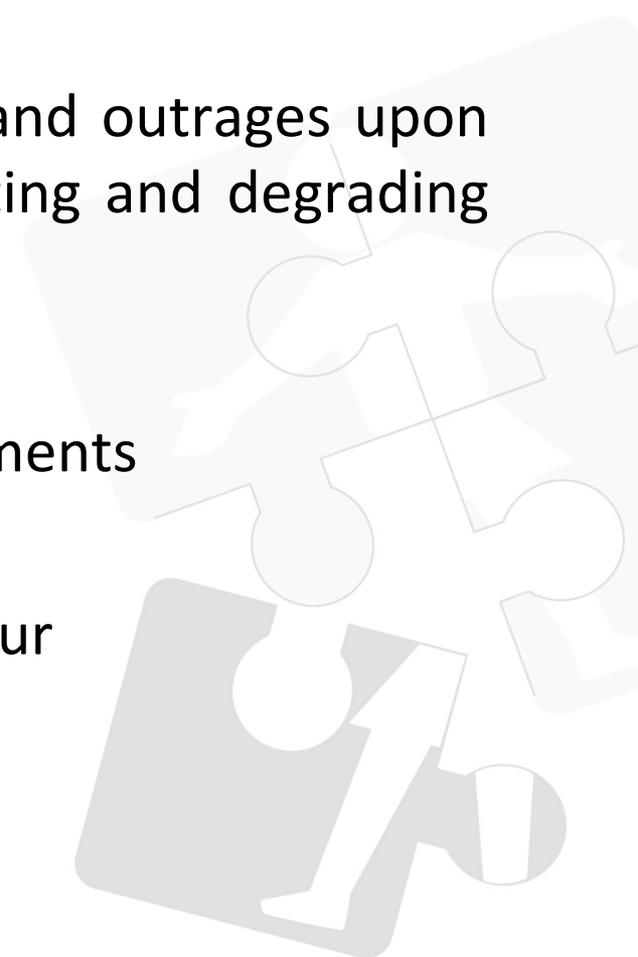


FUNDAMENTAL GUARANTEES

TORTURE AND ABUSE

Prohibition of:

- ❑ Torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment
- ❑ Corporal punishment
- ❑ Mutilation, medical or scientific experiments
- ❑ Slavery and slave trade
- ❑ Uncompensated or abusive forced labour
- ❑ Enforced disappearance



FUNDAMENTAL GUARANTEES

RESPECT FOR RELIGIOUS CONVICTIONS & PRACTICES

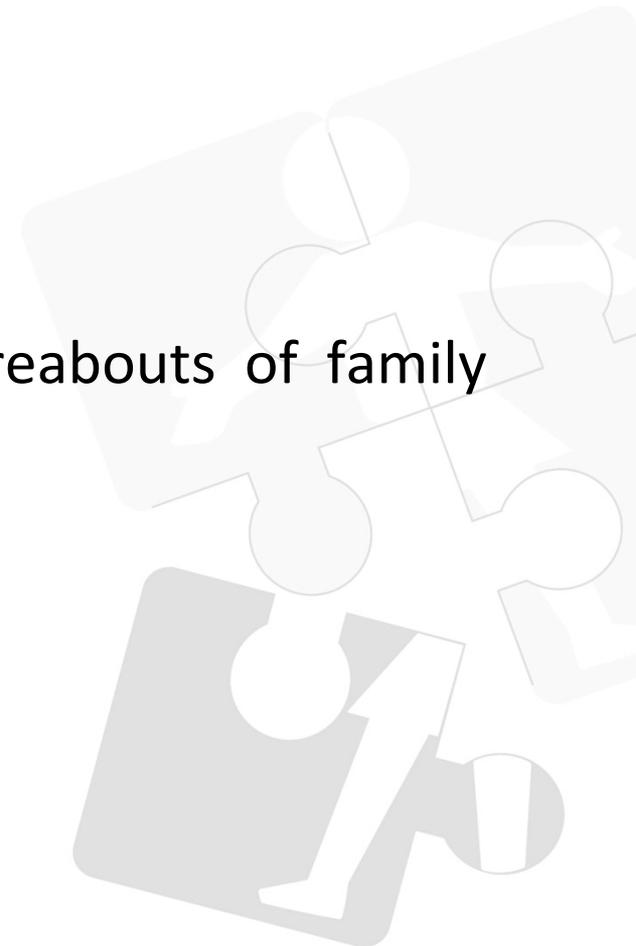
- ❑ Prohibition of any form of persecution, harassment or discrimination because of person's religious convictions
- ❑ Respect for religious convictions & practices include:
 - ❑ Access to places of worship
 - ❑ Access to religious personnel
- ❑ Limitations are only permitted if needed to maintain order and security or promote the rights and freedoms of others

FUNDAMENTAL GUARANTEES

RESPECT FOR FAMILY LIFE

As far as possible, it includes:

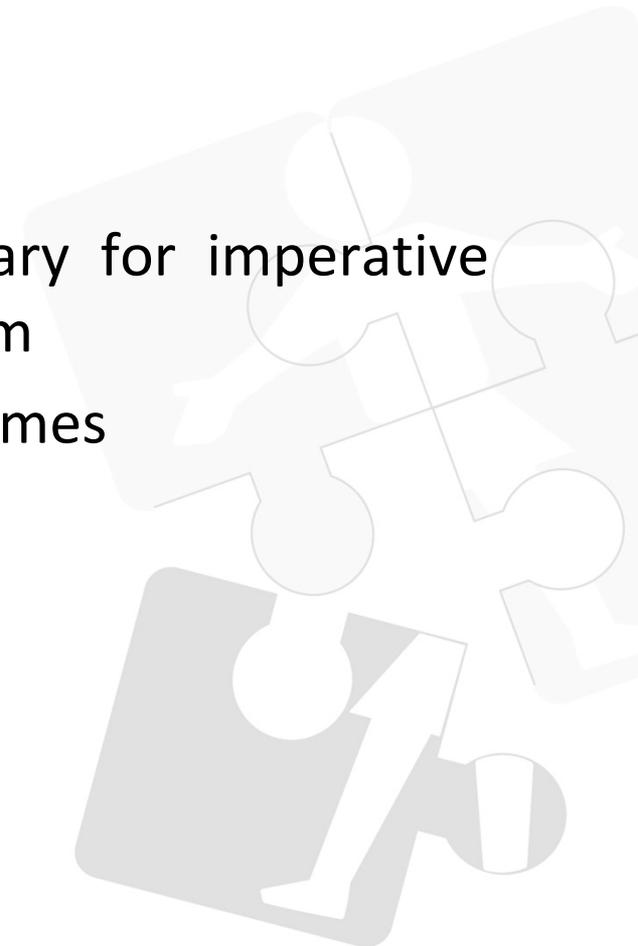
- ❑ Maintenance of family unit
- ❑ Contact between family members
- ❑ Provision of information on the whereabouts of family members



DETENTION

SURRENDER

- ❑ Do not attack those who surrender
- ❑ You may disarm them and if necessary for imperative reasons of security you may detain them
- ❑ They must be treated humanely at all times



DETENTION

THE DETAINING PARTY:

- ❑ Is responsible for the well-being of the detainee for the duration of detention
- ❑ May not transfer a detainee to any other entity if there is credible reason to believe the detainee will be ill-treated
- ❑ Must release the detainees as soon as the reasons for the deprivation of their liberty cease to exist

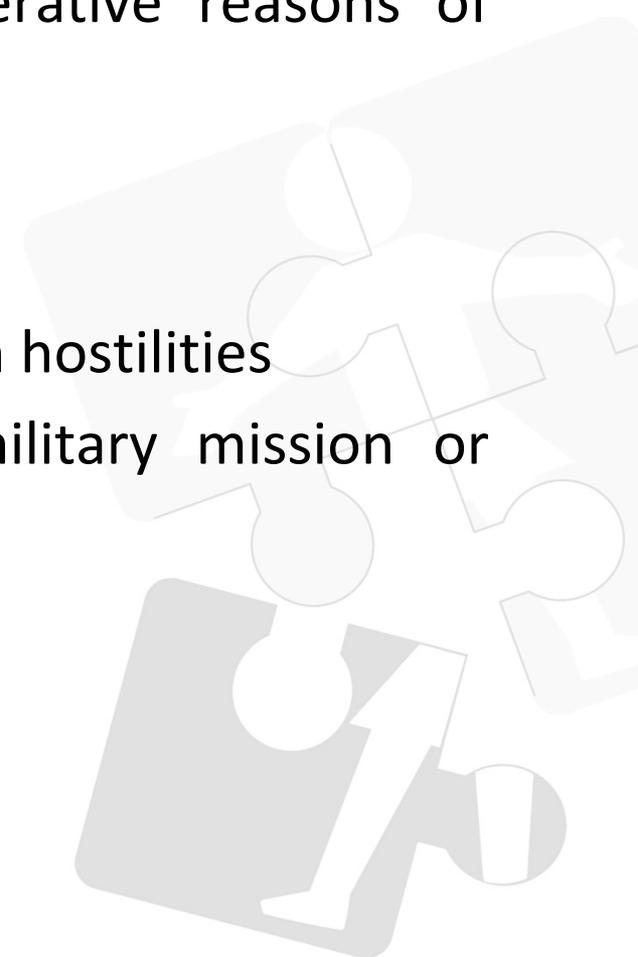
DETENTION

REASONS FOR DETENTION

Persons may be detained only for imperative reasons of security

Examples:

- ❑ To prevent their further participation in hostilities
- ❑ To prevent interference with the military mission or civilian security



DETENTION

STANDARD OF CARE

Detainees shall:

- ❑ Be treated humanely
- ❑ Be protected from danger
- ❑ Not be forced to engage in activities having a military character or purpose
- ❑ Be protected against acts of violence, insults or intimidation
- ❑ Be provided with adequate shelter
- ❑ Be given any immediate first aid or medical attention necessary

Except in the case of family units, women must be detained in separate quarters from men, and must be protected from rape and sexual abuse

DETENTION

PUNISHMENT OF DETAINEES FOR PRIOR ACTS

No detainee may be convicted or sentenced without a fair trial by an independent and impartial tribunal affording all essential judicial guarantees.



FUNDAMENTAL GUARANTEES & DETENTION

QUESTIONS?



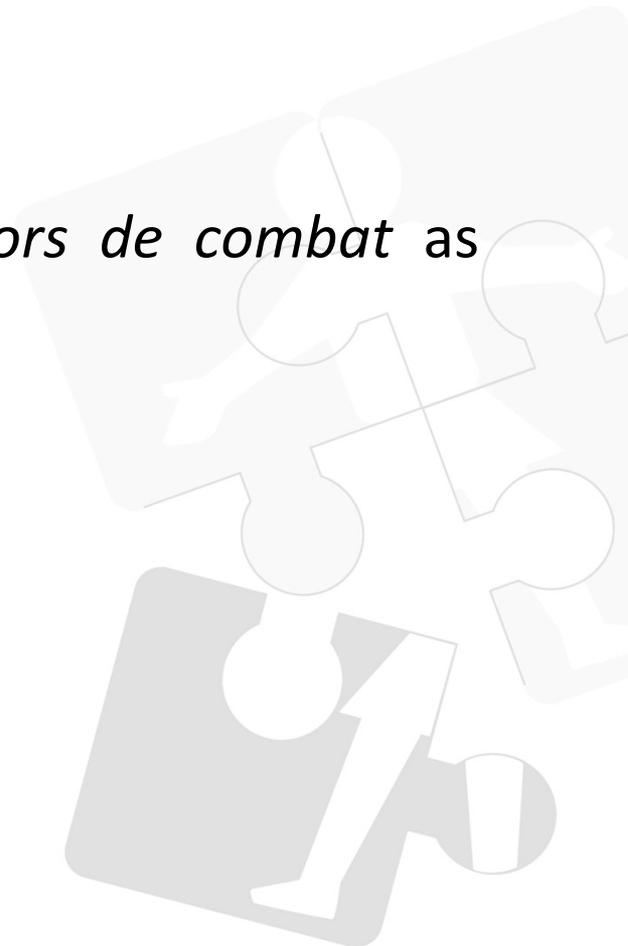
RULE 7: HOSTAGES AND HUMAN SHIELDS

Do not take hostages or use human shields.



GENERAL RULES

- ❑ The taking of hostages is prohibited
- ❑ Using civilians or persons who are *hors de combat* as human shields is prohibited



HOSTAGES

TAKING OR KEEPING HOSTAGES IS PROHIBITED

- A hostage is a person who has been seized or detained:
 - Under the threat of death, ill treatment, or continued detention,
 - In order to compel a third party to do (or not do) something in exchange for the release of the hostage.

- A hostage is not a person who has been legitimately detained for security reasons

HUMAN SHIELDS: OWN MILITARY ASSETS

DO NOT USE HUMAN SHIELDS

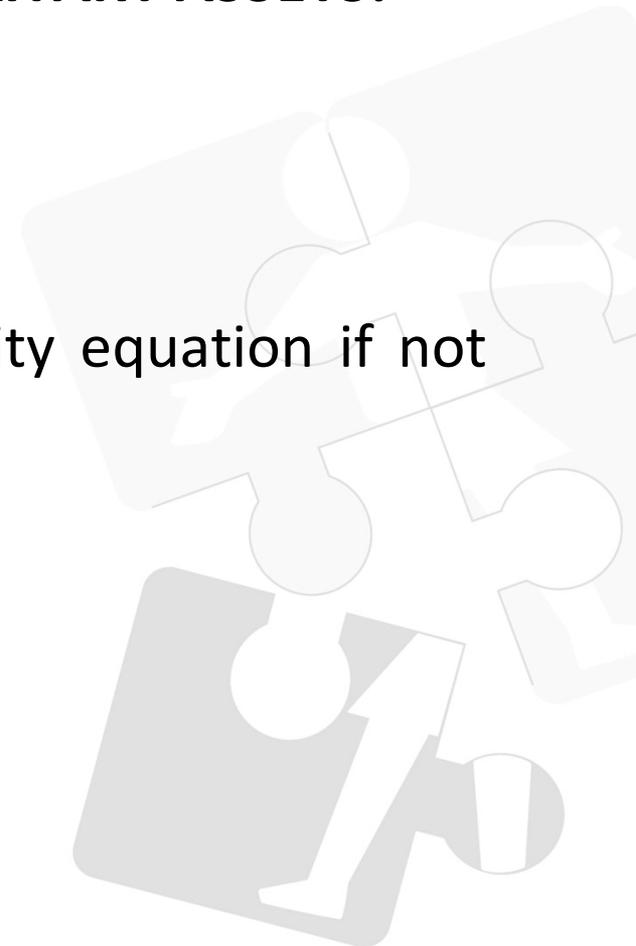
- Human Shields are persons who are held or moved to certain points or areas in order to render those places immune from enemy attack.
- It is prohibited to use human shields even if they volunteer.

Feasible measures must be taken to remove persons acting as human shields from the vicinity of military objects

HUMAN SHIELDS: ENEMY MILITARY ASSETS

HUMAN SHIELDS PROTECTING ENEMY MILITARY ASSETS:

- ❑ Retain civilian protections, unless DPH
- ❑ Must be considered into proportionality equation if not DPH



HOSTAGES & HUMAN SHIELDS

QUESTIONS ?



RULE 8: DISPLACEMENT

Do not displace the civilian population unless required for their own security or for imperative military reasons.

Safeguard any civilian population that is displaced.



GENERAL RULES

- ❑ Civilians must not be forced out of their homes except for reasons of imperative military requirement, or for their own security and safety
- ❑ Take all possible measures to care for and protect displaced persons



DISPLACEMENT: IMPERATIVE MILITARY REASONS

- ❑ Civilians may be displaced for imperative military reasons
Imperative military reason means that an essential mission cannot be accomplished without moving the civilians away from the area of operations
- ❑ Once the operation is complete the civilian population must be permitted to return to their homes

DISPLACEMENT: SECURITY OF CIVILIANS

- ❑ Civilians may be moved from their residences when their own security is at risk

Security must not be used as excuse for military or political objectives

- ❑ Once the safety and security issue has been resolved, civilians must be permitted to return to their residences

DISPLACED PERSONS

SAFEGUARDING DISPLACED PERSONS

- When displacement occurs, all possible measures shall be taken to ensure that the civilian population have satisfactory conditions of shelter, hygiene, health, safety and nutrition
- The obligation arises both:
 - When a party finds it necessary to displace populations for security reasons or imperative military necessity
 - When a displaced population arrive in territory under the authority of a party

DISPLACEMENT

QUESTIONS ?



RULE 9: PROPERTY

**Respect civilian property.
Do not loot or steal.**



GENERAL RULE

- ❑ Enemy property must not be confiscated or destroyed, except for reasons of imperative military necessity.
- ❑ Private property cannot be confiscated for individual gain or personal benefit, ie pillage.



CIVILIAN PROPERTY

PROPERTY OF OPPOSING FORCES

- ❑ The seizure and use of military equipment belonging to the opposing forces, such as weapons, ammunition and other military equipment is not prohibited
- ❑ Private items such as watches and jewellery belong to individuals, not the opposing forces. These items shall not be taken

PROPERTY

QUESTIONS?



RULE 10: SEXUAL VIOLENCE

Respect women.

Do not commit or permit rape or sexual abuse against anyone.



RESPECT OF WOMEN

- General protection: women are entitled to all fundamental guarantees that must be granted to all protected persons
- Special protection: health and assistance needs of women affected by armed conflict must be respected
 - Particular care to be granted to pregnant women and mothers of young children
 - Eg: provide food, clothing, medical treatment, evacuation if possible
 - Avoid pronouncing, and do not implement, death penalty
- Women fighters and women who DPH may be targeted in accordance with Rule 1

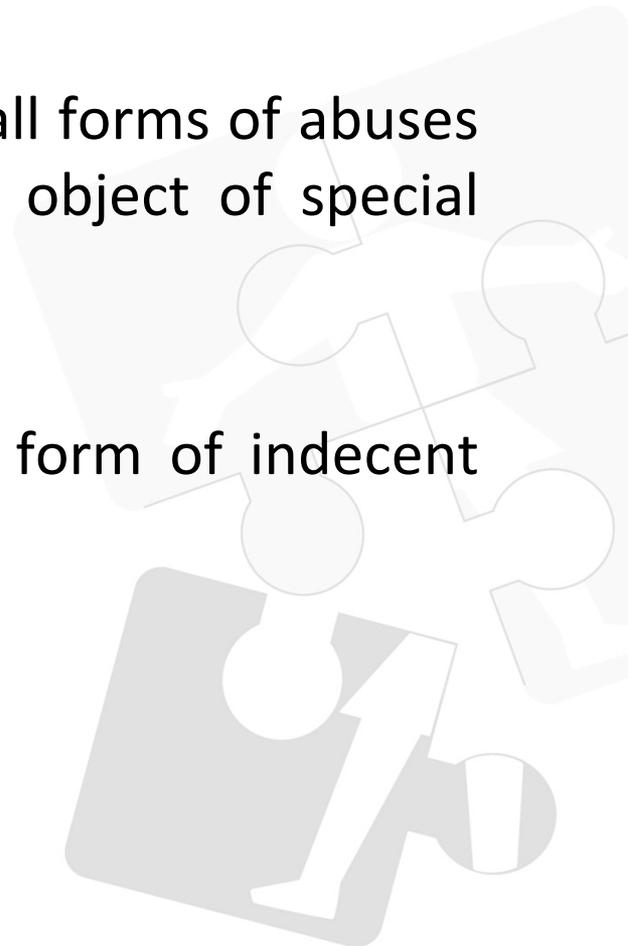
SEXUAL VIOLENCE

- ❑ Outrages upon personal dignity, including humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault are prohibited.
- ❑ Such acts are strictly prohibited whether carried out, threatened or attempted.
- ❑ This includes acts carried out as deliberate policy, orders or opportunistic acts, against anyone, whether civilians or members of armed forces.

SEXUAL VIOLENCE

SEXUAL VIOLENCE AGAINST CHILDREN

- ❑ Children are particularly vulnerable to all forms of abuses and sexual violence, and shall be the object of special respect.
- ❑ Children must be protected from any form of indecent assault.



SEXUAL VIOLENCE

ACCOUNTABILITY

- All acts of sexual violence must be reported, investigated and sanctioned



SEXUAL VIOLENCE

QUESTIONS ?



RULE 11: CHILDREN

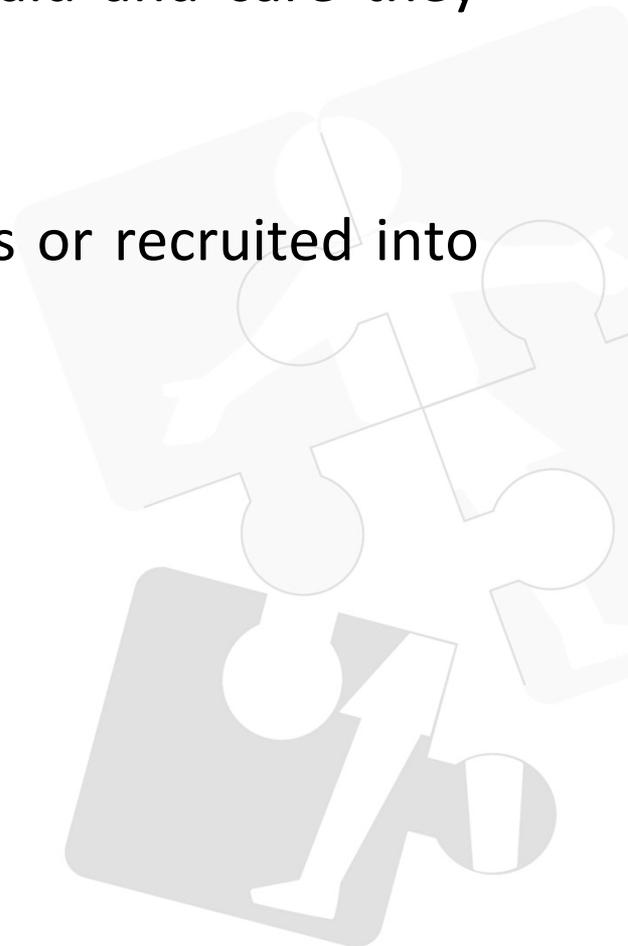
Ensure children have the aid and care they require.

Never recruit children into your armed forces or use them in hostilities.



GENERAL RULES

- ❑ Children are to be provided with the aid and care they require
- ❑ Children must not be used in hostilities or recruited into the armed wing of ANSAs



CHILDREN: AID AND CARE

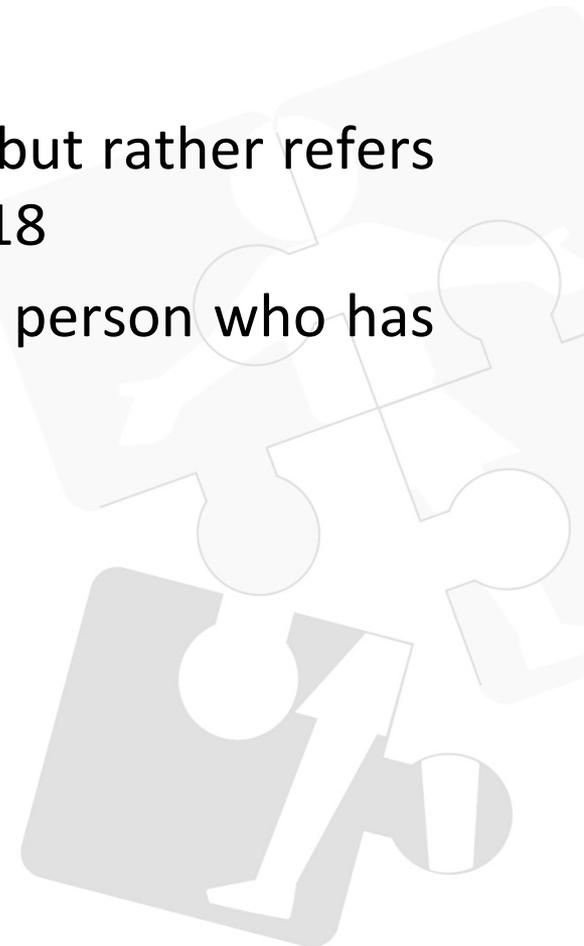
CHILDREN MUST:

- ❑ Be provided with access to education, food and health care, and where possible, sport and leisure activities
- ❑ Be protected against all forms of sexual violence
- ❑ Where-ever possible, be temporarily evacuated from areas of combat for safety reasons
- ❑ If separated from their families, be re-united as quickly as possible
- ❑ Be separated from adults while deprived of liberty, unless they are members of the same family
- ❑ Not be subjected to the death penalty for acts committed while a child

CHILDREN: AGE DEFINITION

DEFINITION OF CHILDREN:

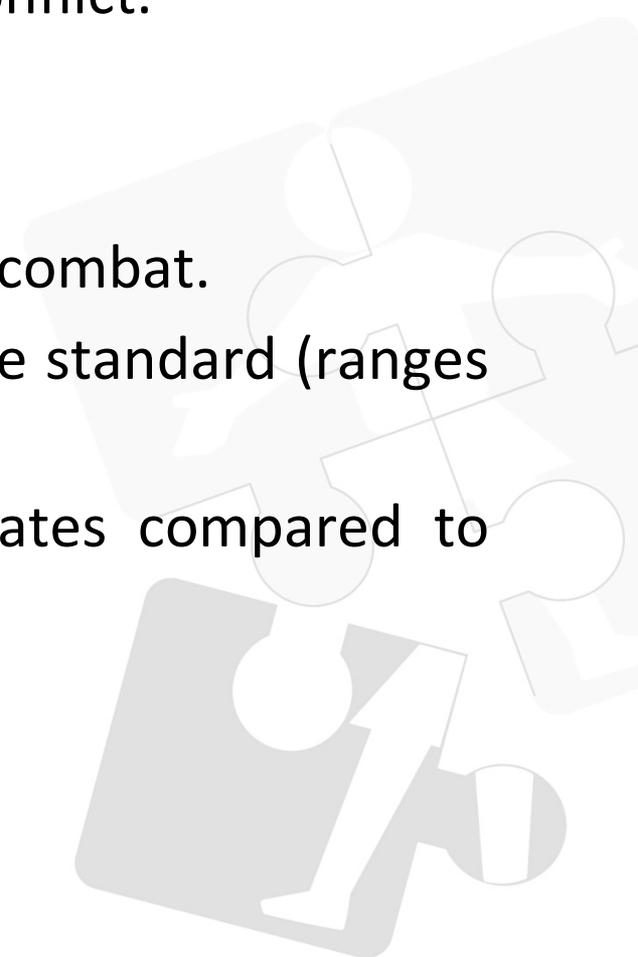
- ❑ LOAC does not define the age of a child, but rather refers to children of certain ages, such as 15 or 18
- ❑ Human Rights Law defines a child as any person who has not reached the age of 18 years



CHILD RECRUITMENT AND USE

LOAC and Human Rights Law prohibit the recruitment and use of children in hostilities by parties to conflict.

- ❑ Consent of the child not relevant.
- ❑ Use in hostilities covers more than just combat.
- ❑ There is inconsistency between the age standard (ranges from 15-18).
- ❑ Different standards may apply for States compared to “armed groups”.



SUMMARY OF INTERNATIONAL LAW ON MINIMUM RECRUITMENT/USE AGES

	AP1	AP2	CRC	AfCRWC AfWP	ICC	ILO182	OPAC	SLSpCt	Custom
Government									
Compulsory	15*	15	15*	18	15	18	18	15	15+
Voluntary	15*	15	15*	18	15	n/a	16+	15	15+
Use/participation	15	15	15	18	15	?	18	15	15+
Armed Group									
Compulsory	n/a	15	n/a	n/a	15	n/a	18	15	15+
Voluntary	n/a	15	n/a	n/a	15	n/a	18	15	15+
Use/participation	n/a	15	n/a	n/a	15	n/a	18	15	15+

* In recruiting those between 15 and 18 years, “States Parties shall endeavour to give priority to those who are oldest”.

Additional issues include:

Armed conflict – international – non-international – no armed conflict

Participation - Direct participation - Active participation in hostilities

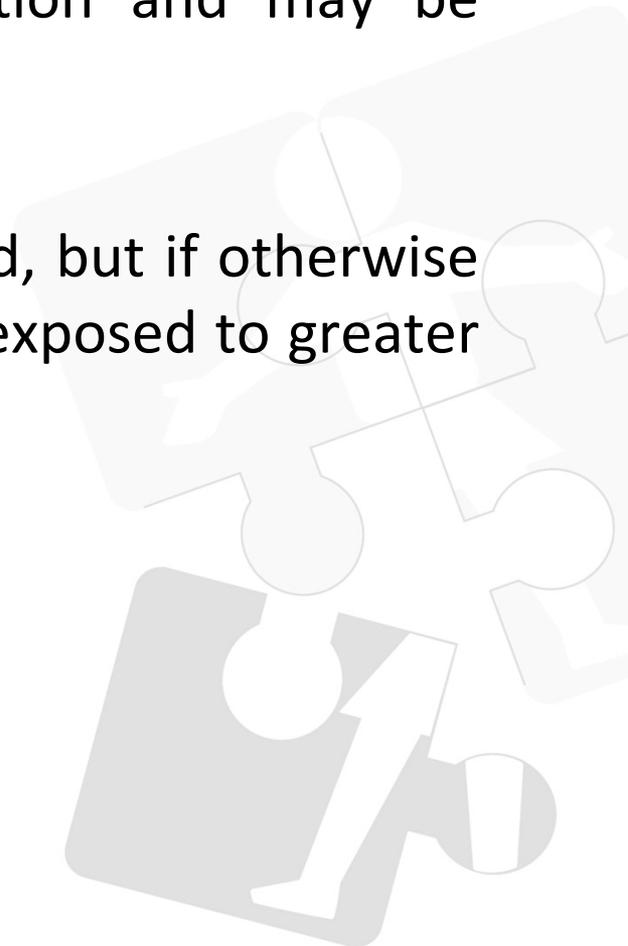
Armed Force – Armed Group

Best Interest of the Child

Credit: This slide has been adapted from one provided by Rachel Brett, Quaker UN Office.

CHILD RECRUITMENT AND USE: IMPACT

- ❑ Children who DPH lose their protection and may be targeted by opposing forces
- ❑ Children who do not DPH are protected, but if otherwise associated with armed forces, may be exposed to greater risk of collateral damage



CHILDREN: *DEED OF COMMITMENT*

Under the Geneva Call *Deed of Commitment*, signatories commit to:

- ❑ Prohibit recruitment and use in hostilities of persons under 18
- ❑ Prohibit forced association of children under 18
- ❑ Make determined efforts to provide children with the aid and care they require
 - ❑ Possibly in cooperation with Geneva Call and humanitarian assistance organizations

CHILDREN

QUESTIONS ?



RULE 12: EMBLEMS

Respect and protect medical personnel and objects, including those bearing the Red Cross/Red Crescent/Red Crystal, and other symbols of humanitarian agencies.



DISTINCTIVE EMBLEMS



The distinctive emblems of the Geneva Conventions (red cross/crescent/crystal) are used to indicate medical and religious personnel and objects entitled to special protection

- ❑ Medical and religious personnel
- ❑ Medical units and transports

The distinctive emblem is also used by personnel of the ICRC

DISTINCTIVE EMBLEMS

- ❑ All parties to conflict should display one of the distinctive emblems on their medical/religious personnel, facilities and transports.
- ❑ The distinctive emblem indicates that the facility/vehicle or person bearing it is employed in medical/religious functions only.
 - ❑ Also used by personnel of the ICRC
- ❑ The protection afforded by the cover of the distinctive symbols is complete unless the protection is being used for improper purposes.
- ❑ Improper use of the emblems is unlawful and may amount to perfidy if used to kill, injure or capture the enemy.

MEDICAL PERSONNEL

- Medical personnel are military or civilian persons assigned by a party to the conflict exclusively for medical purposes
 - Such assignment can be permanent or temporary
- Medical personnel must be respected and protected in all circumstances
 - They lose such protection if they commit acts harmful to the enemy.
- Permanent military personnel who are captured should be returned unless needed to carry out medical duties

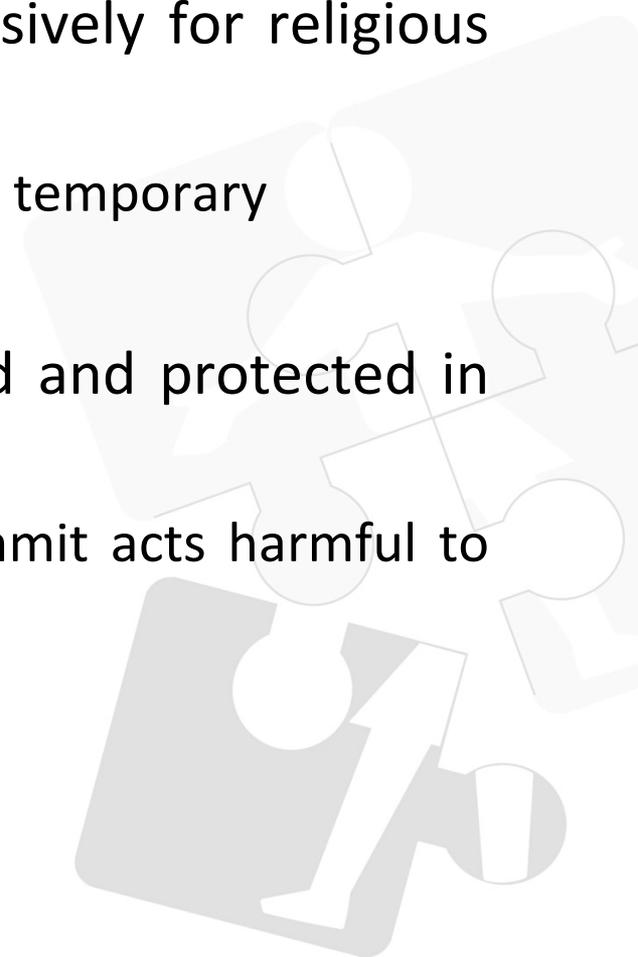
RELIGIOUS PERSONNEL

- Religious personnel are military or civilian personnel attached to a party to a conflict exclusively for religious duties

Such assignment may be permanent or temporary

- Religious Personnel must be respected and protected in all circumstances

They lose such protection if they commit acts harmful to the enemy



MEDICAL UNITS AND TRANSPORTS

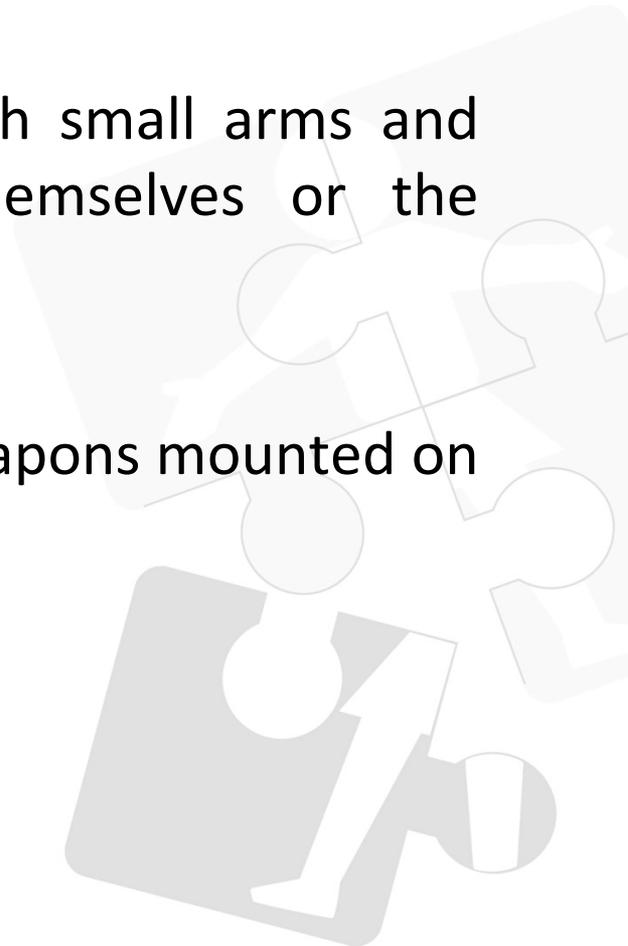
Medical units and transports shall not be the object of attack UNLESS:

- They are used to commit, outside their humanitarian duties, acts harmful to the enemy
 - In such cases, the protection shall cease only after due warning, and a reasonable time period for compliance
- Medical units should, if possible, be situated so that attacks against military objectives will not endanger them
- Under no circumstances shall medical units or transports be used in an attempt to shield military objectives from attack

MEDICAL PERSONNEL: SELF-DEFENSE

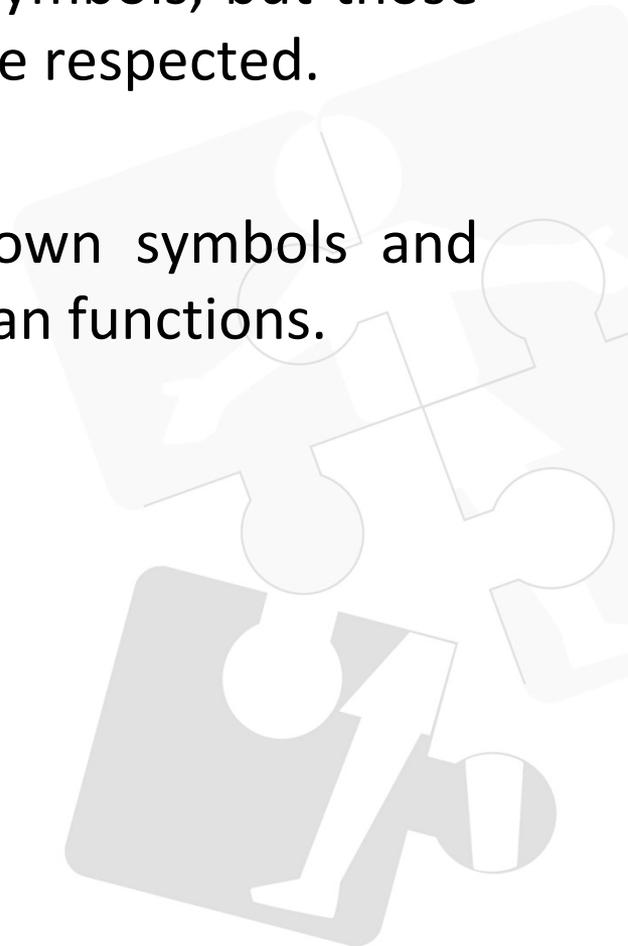
ARMING MEDICAL PERSONNEL AND TRANSPORTS

- ❑ Medical personnel may be armed with small arms and may use those arms to defend themselves or the wounded and sick under their care
- ❑ Medical transports should not have weapons mounted on them



HUMANITARIAN ORGANIZATIONS NOT ASSIGNED BY PARTIES TO CONFLICT

- Other humanitarian agencies providing medical services are not entitled to use the distinctive symbols, but those providing impartial medical care must be respected.
- Many such organizations have their own symbols and carry out medical and other humanitarian functions.
Eg. Doctors Without Borders



EMBLEMS

QUESTIONS ?



RULE 13: HUMANITARIAN ASSISTANCE

**Allow and facilitate
impartial humanitarian
relief for civilians in need.**



HUMANITARIAN AGENCIES

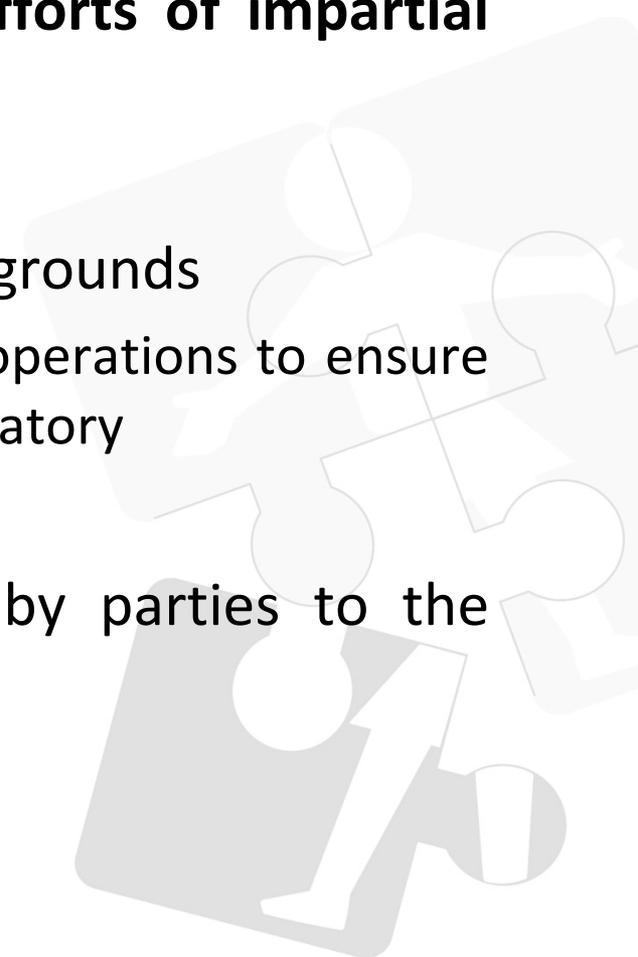
- Humanitarian agencies provide relief to civilian populations in need during emergencies, disasters or armed conflicts
 - Food, Water, Shelter, Medical assistance, Clothing, etc
- Humanitarian agencies do not take sides in armed conflict
 - Priority of assistance may be based only upon need and class of civilian
 - children, pregnant women, disabled may be prioritized
 - sympathizers of one party may not be prioritized
- Humanitarian agencies may be local or international

HUMANITARIAN ASSISTANCE

When unable to provide for the basic needs of civilian populations, allow and facilitate relief efforts of impartial humanitarian organizations.

- Access may not be denied on arbitrary grounds
BUT parties to conflict may oversee such operations to ensure they are in fact impartial and non-discriminatory

- Relief may not be diverted for use by parties to the conflict



FREEDOM OF MOVEMENT

- ❑ Ensure freedom of movement of authorized humanitarian personnel in carrying out essential functions.
- ❑ May only be restricted temporarily for reasons imperative military necessity.



HUMANITARIAN ASSISTANCE

QUESTIONS?



RULE 14: REPRISALS & VENGEANCE

**Abstain from reprisals
and acts of vengeance in
violation of LOAC.**



RECIPROCITY

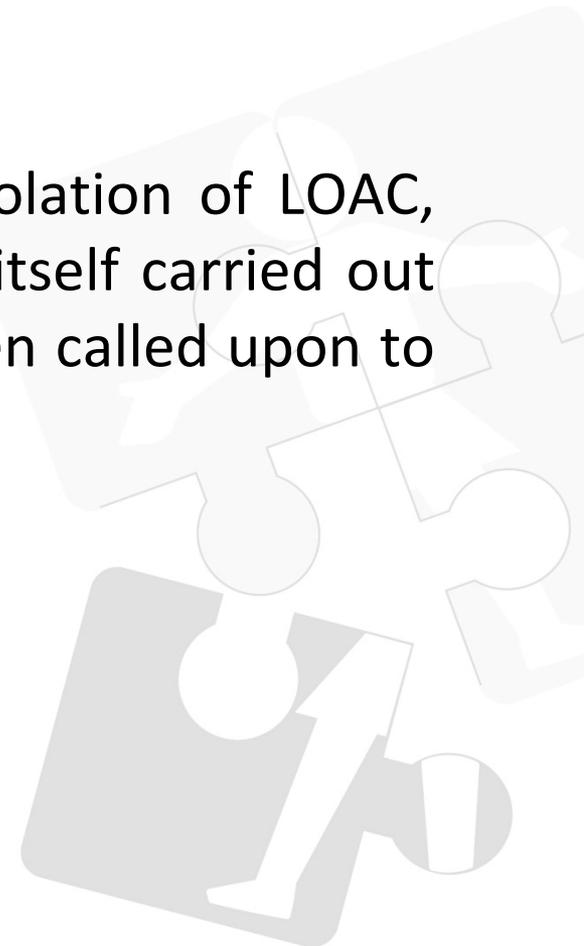
Each party to armed conflict must respect LOAC even if its adversary does not.



REPRISALS

Reprisals are prohibited.

- A reprisal is a limited and deliberate violation of LOAC, resorted to after the adverse party has itself carried out illegal acts and has refused to desist when called upon to do so

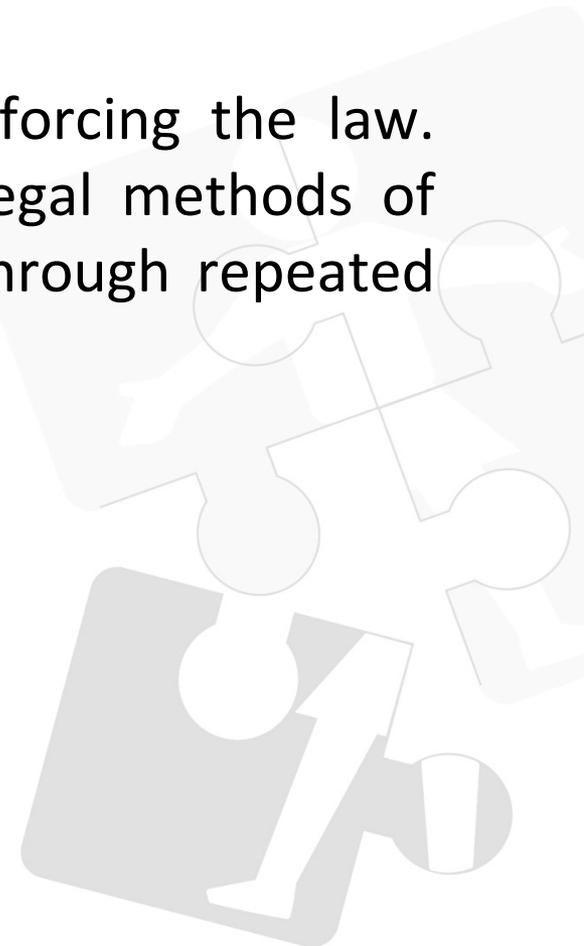


REPRISALS

Reprisals are ineffective at stopping violations of the LOAC

“Reprisals are an unsatisfactory way of enforcing the law. They tend to be used as an excuse for illegal methods of warfare and carry a danger of escalation through repeated reprisals and counter reprisals”

- LOAC Manual of Kenya -

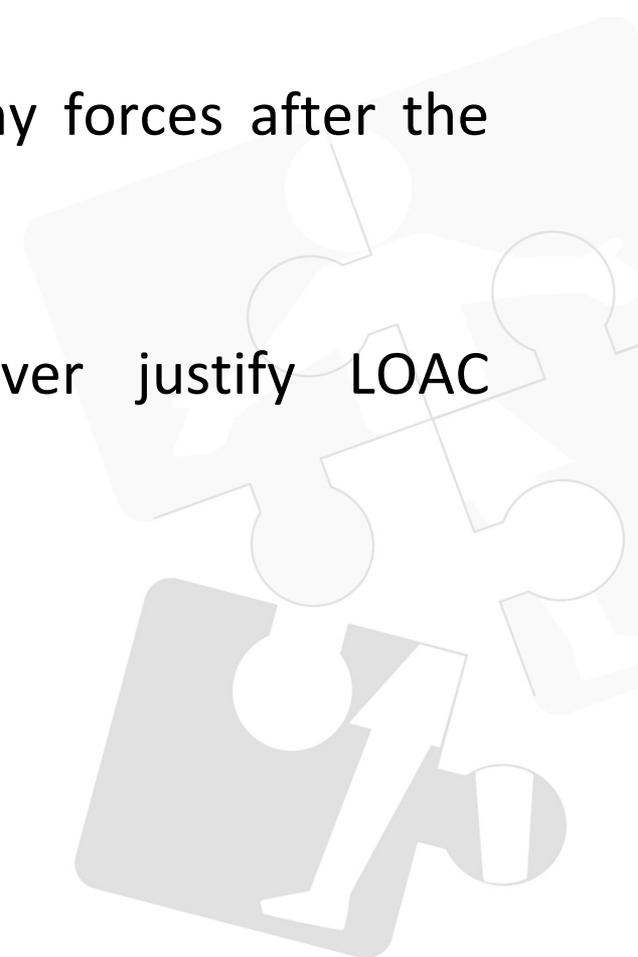


VENGEANCE

Acts of vengeance do not necessarily violate LOAC, for example:

- Launching an attack directed at enemy forces after the enemy forces kill your commander

However, acts of vengeance may never justify LOAC violations



REPRISALS & VENGEANCE

QUESTIONS?



RULE 15: COMPLIANCE

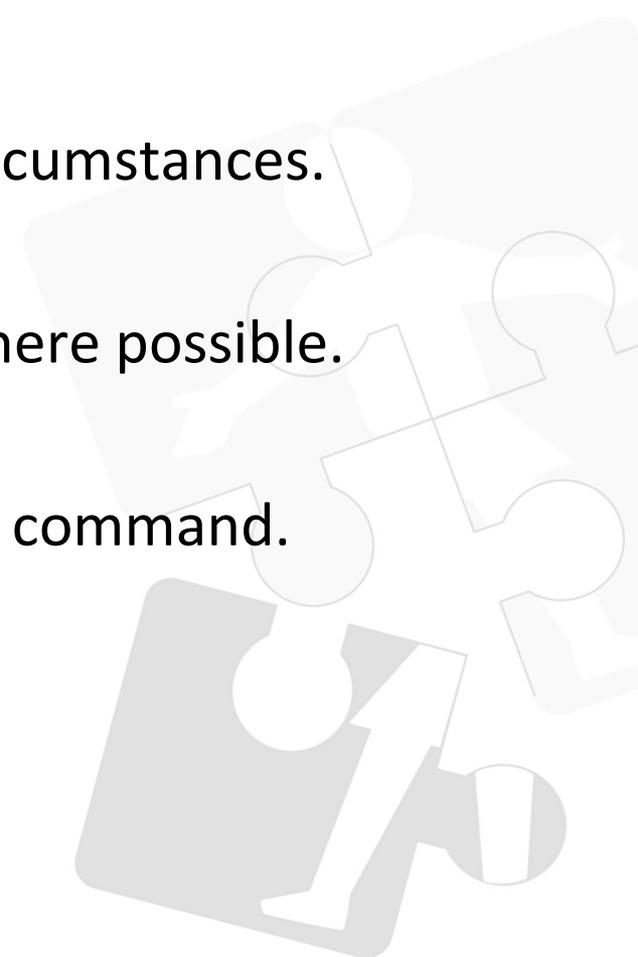
**Prevent Law of Armed Conflict violations by your own forces.
If violations do occur, take appropriate steps to investigate and punish.**



COMPLIANCE

GENERAL RULE

- ❑ Respect and abide by the LOAC in all circumstances.
- ❑ Prevent violations before they occur where possible.
- ❑ Report LOAC violations to your chain of command.



COMPLIANCE

REQUIREMENT TO OBEY THE LOAC

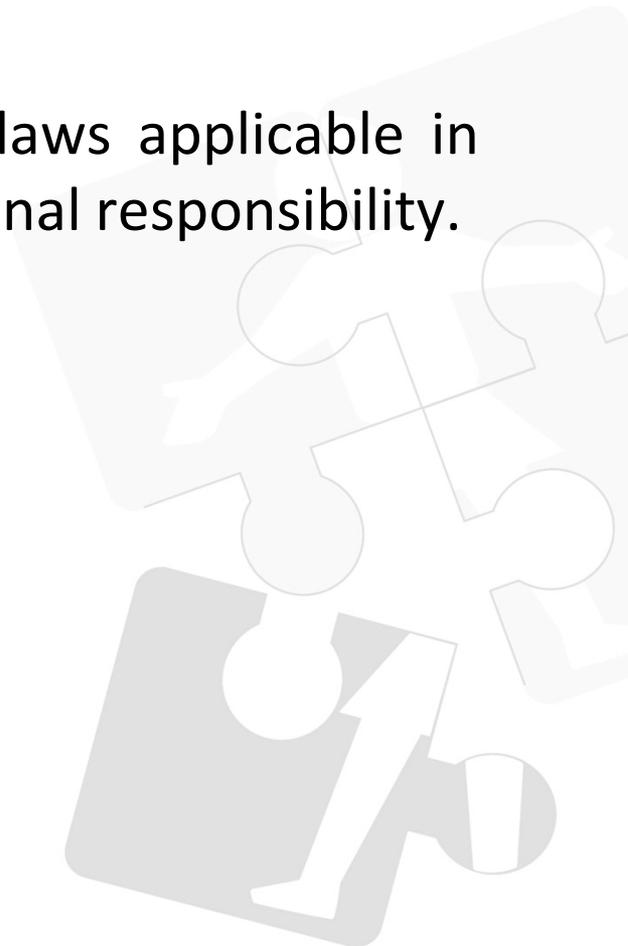
- ❑ All personnel involved in armed conflict are required to abide by the LOAC.
- ❑ LOAC breaches are crimes.



COMPLIANCE

WAR CRIMES

War crimes are serious violations of the laws applicable in armed conflict that result in individual criminal responsibility.

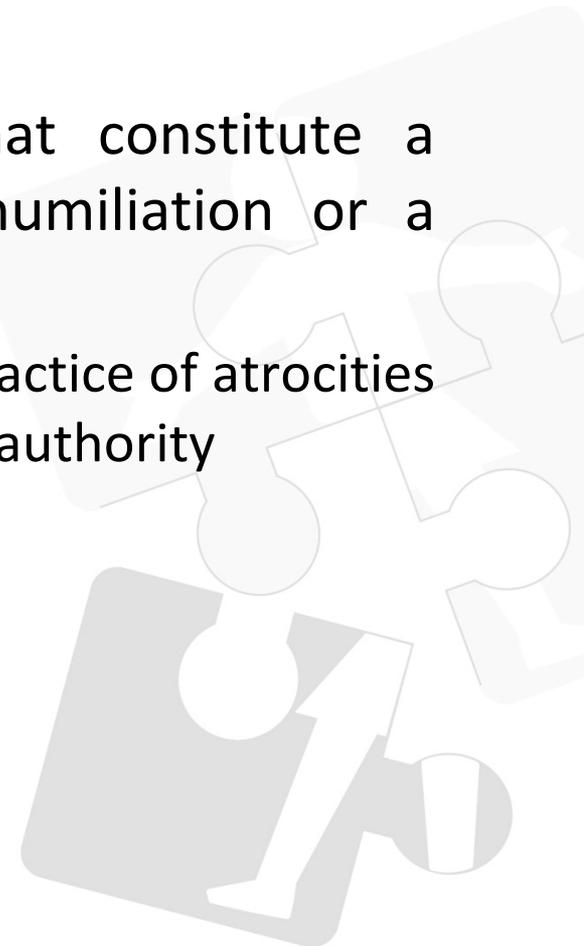


COMPLIANCE

CRIMES AGAINST HUMANITY

Crimes against humanity are offences that constitute a serious attack on human dignity, grave humiliation or a degradation of one or more human beings

- Are part either of a policy or a widespread practice of atrocities tolerated or condoned by a State or *de facto* authority

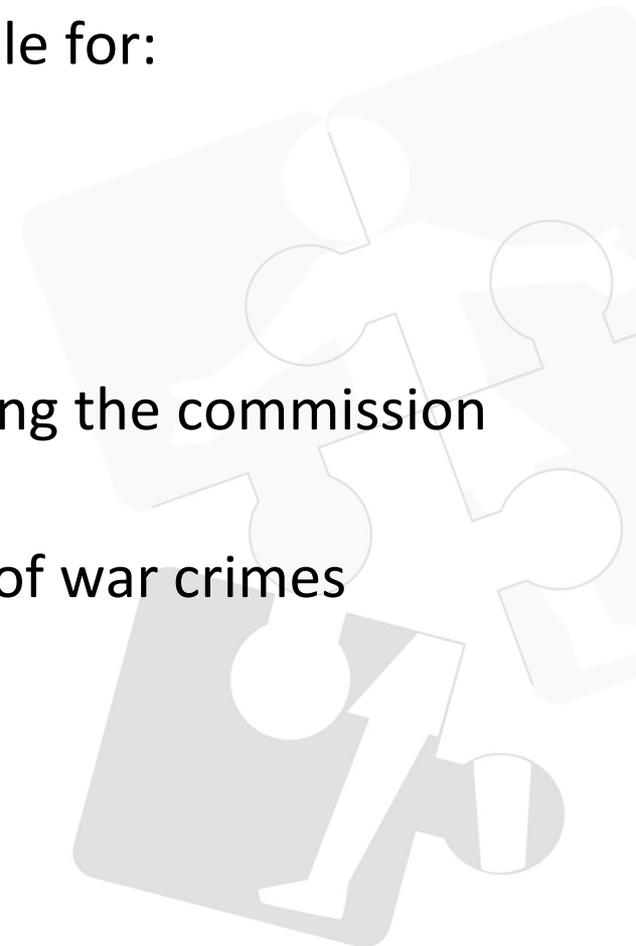


COMPLIANCE

INDIVIDUAL RESPONSIBILITY

Individuals can be held criminally responsible for:

- ❑ Committing war crimes
- ❑ Attempting to commit war crimes
- ❑ Assisting in, facilitating, aiding or abetting the commission of war crimes
- ❑ Planning or instigating the commission of war crimes



COMPLIANCE

RESPONSIBILITY OF COMMANDERS

- ❑ Commanders must ensure that their commands are lawful
- ❑ Commanders and civilian superiors can be held criminally responsible for war crimes committed by their subordinates IF:

They knew, or had reason to know, that the subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent their commission, or if such crimes had been committed, to punish the persons responsible

MANIFESTLY UNLAWFUL ORDERS

- Every fighter has a duty to disobey manifestly unlawful orders.
- A manifestly unlawful order is one which **shocks the conscience of a reasonable person under the circumstances.**

COMPLIANCE

AMNESTY

THERE IS NO AMNESTY for War Crimes or Crimes Against Humanity



ENSURING COMPLIANCE: DOCTRINE (POLICY)

Consult internally and decide on internal policy

- ❑ Which constituencies to involve?
- ❑ How to decide?

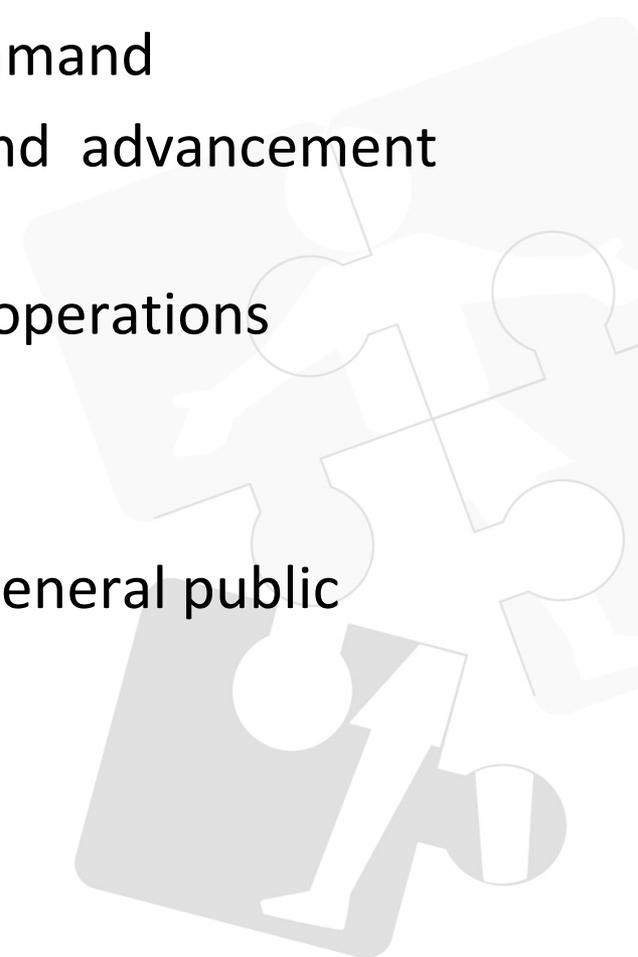
Issue the necessary orders/directives/regulations etc.

- ❑ Codes of conduct
- ❑ Military manuals
- ❑ Military orders
- ❑ Civilian laws, regulations, administrative procedures
- ❑ Other?

ENSURING COMPLIANCE: DISSEMINATION AND TRAINING

- Include in military curriculum and training exercises
 - Make relevant for each level of command
 - Include in induction, refreshment and advancement courses
 - Discuss in debriefing after relevant operations

- Educate public and authorities
 - Government officials, civil society, general public



COMPLIANCE

QUESTIONS?

