

## **What is meant by public international law?**

Public international law, also known as the Law of Nations, is a set of norms aimed at regulating the interaction between the subjects of international law that participate in international relations. Public international law norms create a common framework within which the subjects of international law operate and contribute to the existence of generally stable, organized, and consistent international relations .

## **What is the difference between public and private international law?**

- While public international law governs the relationship between the subjects of international law, such as States, private international law addresses the private law rights of natural or legal persons. Private international law consists of a set of conflicts of laws rules applicable in international cases. These rules determine the applicability of a certain law in circumstances involving a choice between the municipal law of different States.

## Who does public international law apply to?

- Public international law applies to the subjects of international law, such as States and international organizations, who consent to be governed by it. While the traditional doctrine of international law did not regard individuals as subjects of international law, a more contemporary approach dictates that the individual is indeed a subject of international law and the owner of rights and obligations in the international arena (in particular in areas such as international human rights law, international criminal law, and international humanitarian law). However, it should be noted that, subject to certain Resolutions by the United Nations Security Council, there is no generally accepted coercive authority that can bind sovereign States to a body of international law.

**What is international humanitarian law (IHL)? When does it apply? Is IHL different from human rights law? Who has responsibilities under IHL?**

- International humanitarian law (IHL) defines the limitations, restrictions, and prohibitions of parties engaged in armed conflict. IHL does not prohibit all violence, but it tries to limit the harm caused during situations of conflict.

# Four things to remember about IHL

1. IHL only applies during armed conflict
2. IHL says nothing about the legality of a conflict
3. IHL is based on a balance between humanitarian and military considerations
4. IHL does not prohibit all violence

# Basic principles of IHL

- International humanitarian law is based upon the following principles:
- the distinction between civilians and combatants
- the prohibition of attacks against those out of battles.
- the prohibition on the infliction of unnecessary suffering.

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- the principle of necessity.
- the principle of proportionality.
- the principle of humanity.

# Article 75 - Fundamental guarantees

In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favorable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon race, color, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria. Each Party shall respect the person, honor, convictions and religious practices of all such persons.



- Article 75 stipulates that such minimum standard of protection must be accorded to all persons who are «in the power of a party to the conflict», «in so far as they are affected» by the conflict. Actually, all persons who are in a territory under the control of one of the belligerent States can be considered «in the power of a party to the conflict». However, those persons are covered by Article 75 only to the extent that they are affected by the conflict. Using this phrase, the drafters intended to restrict the scope of the article to persons who are affected by belligerents' acts connected with the conflict.

- That said, the question arises: who is entitled to the fundamental guarantees set forth in Article 75, as he does not benefit from more favourable treatment under the Geneva Conventions or Additional Protocol I?
- Article 45, para. 3, of the Protocol gives some indications in this regard. It stipulates that the minimum guarantees provided for in Article 75 apply to all persons who have participated in the hostilities and have fallen into the hands of the enemy, without being entitled to prisoner-of-war-status.

- In other words, the protection of Article 75 must be accorded to the so-called "unlawful combatants", that is to say mercenaries, spies, civilians, taking a direct part in hostilities and members of militias belonging to a party to the conflict who do not comply with the requirements of Article 4 (A) (2) of the Third Convention or Article 44, para. 3 of Additional Protocol I.

# The law of jungle

- However there is international law, it is mostly impractical, especially on the strong countries which means that the real law which remains practising nowadays is the law of the jungle, and an example of this phenomenon is what we are living now in the war against Gaza, the humanitarian law gives opportunity for civilians to be protected, but unfortunately according to the law of the jungle all the world specially those of the Western countries are blind and deaf to hear and see what is actually being done for civilians in Gaza, many babies and children are killed and injured however that warplanes are still bombing and killing them without practising the humanitarian law !!!

# The domain of IHL is divided into three types of people

- As far as IHL is concerned the world is divided into three types of people:
  - 1\_ **Combatants** i.e. members of the armed forces of states involved in armed conflict. They have the complete legal right to participate in hostilities - they may attack opposing forces and military objectives; but they also face the liability to be attacked by enemy combatants.



## Non-combatant members of the armed forces

- .e. medical and religious personnel. They have a limited right to defend themselves and their patients against unlawful attack, but no general right to attack opposing forces. They may not be attacked if and for so long as they do not directly participate in hostilities



- **3\_Civilians i.e. people** who are not combatants. They do not have a legal right to directly participate in hostilities.
- They may not attack opposing forces or military objectives;
- and they may not be attacked if and for so long as they do not directly participate in hostilities. Aside from the class of non-combatant members of the armed forces every
- person affected by armed conflict is either a combatant or a civilian. There is no gap between the two which allows in humane treatment.

# Important distinction

- **Distinction** – IHL requires all parties to distinguish between:   
**Objects and People open to attack** –  
\_i.e. Military objectives, combatants, persons taking a direct part in hostilities; and  **Objects and People immune from attack** –  
\_i.e. civilians, the civilian population and civilian objects, persons hors de combat (i.e. wounded, sick, shipwrecked or deprived of liberty); cultural property, schools, mosques, churches, monuments; medical personnel, facilities, vehicles ships and aircraft; journalists; civil defence workers; peacekeepers.



# Non-discrimination

- The rights, obligations, and protections of IHL apply to all persons affected by armed conflict regardless of who they may be. IHL binds all parties to a conflict - that one side may be an aggressor, invader or occupier does not entitle the aggrieved state or its people not to apply the law. IHL is
- binding even if the opposing force engages in breaches. It
- must be applied in favour of all victims of armed conflict
- without adverse distinction based on race, colour, religion or
- faith, sex, birth, ethnic origin, political opinion or wealth or any
- similar criteria.

# What IHL does ?

- The purpose of IHL is to:
  - limit as much as possible the suffering, loss and damage caused by armed conflict;
  - protect persons who do not take a direct part in the conflict, in particular:
    - the wounded, sick and shipwrecked;
    - persons deprived of their liberty, i.e. prisoners of war (PW), retained personnel, internees and detainees; and
- civilians;
- facilitate the restoration of peace.

# What IHL does not do?

- What IHL cannot do is:
- stop people fighting each other;
- stop people suffering in war.

- **United nations**

- The main bodies of the United Nations are the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the UN Secretariat. All were established under the [UN Charter](#) when the Organization was founded in 1945.

- **General Assembly**

- The General Assembly is the main deliberative, policymaking and representative organ of the UN. All 193 Member States of the UN are represented in the General Assembly, making it the only UN body with universal representation. Each year, in September, the full UN membership meets in the General Assembly Hall in New York for the annual General Assembly session, and general debate, which many heads of state attend and address. Decisions on important questions, such as those on peace and security, admission of new members and budgetary matters, require a two-thirds majority of the General Assembly. Decisions on other questions are by simple majority. The General Assembly, each year, elects a GA President to serve a one-year term of office.

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# Security Council

- The [Security Council](#) has primary responsibility, under the UN Charter, for the maintenance of international peace and security. It has 15 Members ([5 permanent and 10 non-permanent members](#)). Each Member has one vote. Under the Charter, all Member States are obligated to comply with Council decisions. The Security Council takes the lead in determining the existence of a threat to the peace or act of aggression.

[Presidency](#)

# Economic and Social Council

- The [Economic and Social Council](#) is the principal body for coordination, policy review, policy dialogue and recommendations on economic, social and environmental issues, as well as implementation of internationally agreed development goals. It serves as the central mechanism for activities of the UN system and its specialized agencies in the economic, social and environmental fields, supervising subsidiary and expert bodies. It has [54 Members](#), elected by the General Assembly for overlapping three-year terms. It is the United Nations' central platform for reflection, debate, and innovative thinking on [sustainable development](#).

# Trusteeship Council

- The [Trusteeship Council](#) was established in 1945 by the UN Charter, under [Chapter XIII](#), to provide international supervision for 11 Trust Territories that had been placed under the administration of seven Member States, and ensure that adequate steps were taken to prepare the Territories for self-government and independence. By 1994, all Trust Territories had attained self-government or independence. The Trusteeship Council suspended operation on 1 November 1994. By a resolution adopted on 25 May 1994, the Council amended its rules of procedure to drop the obligation to meet annually and agreed to meet as occasion required -- by its decision or the decision of its President, or at the request of a majority of its members or the General Assembly or the Security Council.



# International Court of Justice

- The [International Court of Justice](#) is the principal judicial organ of the United Nations. Its seat is at the Peace Palace in the Hague (Netherlands). It is the only one of the six principal organs of the United Nations not located in New York (United States of America). The Court's role is to settle, in accordance with international law, legal issues submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies. The International Court of Justice functions in accordance with its [Statute](#).

# Convention on the Prevention and Punishment of the Crime of Genocide

- Convention on the Prevention and Punishment of the Crime of Genocide Approved and proposed for signature and ratification or accession by General Assembly contrary to the spirit and aims of the United Nations and condemned by the civilized world, Recognizing that at all periods of history genocide has inflicted great losses on humanity, and Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required, Hereby agree as hereinafter provided :  
Article I The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish. Article II In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group. Article III The following acts shall be punishable: (a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide. Article IV Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals. Article V The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III. Article VI Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction. Article VII Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition. The Contracting Parties pledge

- Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world, Recognizing that at all periods of history genocide has inflicted great losses on humanity, and Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required