

Noncombatant Rights

Hague II (1899)

Article 25: The attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited.

Articles 42-43: Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation applies only to the territory where such authority is established, and in a position to assert itself. The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Martens Clause (from the Preamble)

Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that *in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law*, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience...

Noncombatant Rights (cont.)

Geneva Protocol I (1977)

Article 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.

Article 50 (Definition of civilians and civilian population)

- *Para. 1:* A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.
- *Para. 3:* The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.

Noncombatant Rights (cont.)

Article 51 (Protection of the civilian population)

- *Para. 2:* The civilian population as such, as well as individual civilians, *shall not be the object of attack*. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.
- *Para. 4:* Indiscriminate attacks are prohibited. Indiscriminate attacks are: (a) Those which are not directed at a specific military objective; (b) Those which employ a method or means of *combat which cannot be directed at a specific military objective...*
- *Para. 5:* [Prohibited attacks:] 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.*
- *Para. 7:* The presence or movements of the civilian population or individual *civilians shall not be used to render certain points or areas immune from military operations*, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.

Noncombatant Rights (cont.)

Article 54 (Protection of objects indispensable to the survival of the civilian population)

- *Para. 2:* It is prohibited to attack, destroy, remove or render useless *objects indispensable to the survival of the civilian population*, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, *for the specific purpose of denying them for their sustenance value* to the civilian population or to the adverse Party.
- *Para. 3:* The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party: (a) as sustenance solely for the members of its armed forces; or (b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.

Occupation

Geneva IV (1949)

Article 49

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement....

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Occupation

Article 53

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Article 55

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population....

Article 56

To the fullest extent of the means available to it, the public Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties....

Occupation

Article 64:

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention....

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.