

DECLARATION

on the

Rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts

The Council of the International Institute of Humanitarian Law, meeting in Taormina on 7 April 1990,

basing itself on the work and the conclusions of the 14th Round Table on humanitarian law, organized by the International Institute of Humanitarian Law and held under its auspices at San Remo on 13 and 14 September 1989,

recalling that the topic of the 14th Round Table was “rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts”,

noting that the 14th Round Table examined the application of certain rules to non-international armed conflicts independently of the existence of treaty rules expressly adopted for such conflicts,

noting that these rules comprise general rules governing the conduct of hostilities as well as those prohibiting or restricting the use of certain weapons,

bearing constantly in mind the principle of humanity which is at the foundation of all international humanitarian law as well as the Martens clause which provides that in cases not covered by the law in force human beings remain under the protection of the principle of humanity and the dictates of the public conscience,

taking into account the rules which inspired the first codification rules of international humanitarian law relating to the conduct of hostilities,

taking also into account the resolutions relative to the respect for human rights in armed conflicts adopted by the United Nations General Assembly,

considering that Article 3 common to the 1949 Geneva Conventions must be interpreted as affording protection to human beings against the effects of hostilities,

noting that international instruments on human rights also grant fundamental protection in armed conflicts,

basing itself on the shared conviction of States as set forth in legal instruments which have been taken into consideration,

identifies the following principles and norms as crystallized or as emergent rules of international law:

A. GENERAL RULES GOVERNING THE CONDUCT OF HOSTILITIES APPLICABLE IN NON-INTERNATIONAL ARMED CONFLICTS

1. Distinction between combatants and civilians

The obligation to distinguish between combatants and civilians is a general rule applicable in non-international armed conflicts. It prohibits indiscriminate attacks.

2. Immunity of the civilian population

The prohibition of attacks against the civilian population as such or against individual civilians is a general rule applicable in non-international armed conflicts. Acts of violence intended primarily to spread terror among the civilian population are also prohibited.

3. Prohibition of superfluous injury or unnecessary suffering

The prohibition of superfluous injury or unnecessary suffering is a general rule applicable in non-international armed conflicts. It prohibits, in particular, the use of means of warfare which uselessly aggravate the sufferings of disabled men or render their death inevitable.

4. Prohibition of perfidy

The prohibition to kill, injure or capture an adversary by resort to perfidy is a general rule applicable in non-international armed conflicts; in a non-international conflict, acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in

non-international armed conflicts, with intent to betray that confidence, shall constitute perfidy.

5. *Respect for and protection of medical and religious personnel and of medical units and transports*

The obligation to respect and protect medical and religious personnel and medical units and transports in the conduct of military operations is a general rule applicable in non-international armed conflicts.

6. *Prohibition of attacks on dwellings and other installations used only by the civilian population*

The general rule prohibiting attacks against the civilian population implies, as a corollary, the prohibition of attacks on dwellings and other installations which are used only by the civilian population.

7. *Protection of objects indispensable to the survival of the civilian population*

The general rule prohibiting attacks against the civilian population implies, as a corollary, the prohibition to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population.

8. *Precautionary measures in attack*

The general rule to distinguish between combatants and civilians and the prohibition of attacks against the civilian population as such or against individual civilians implies, in order to be effective, that all feasible precautions have to be taken to avoid injury, loss or damage to the civilian population.

B. PROHIBITIONS AND RESTRICTIONS ON THE USE OF CERTAIN WEAPONS IN NON-INTERNATIONAL ARMED CONFLICTS

1. *Chemical and bacteriological weapons (1925 Protocol)*

The customary rule prohibiting the use of chemical weapons, such as those containing asphyxiating or vesicant agents, and the use of

bacteriological (biological) weapons is applicable in non-international armed conflicts.

2. Bullets which expand in the human body (such as dum-dum bullets)

The customary rule prohibiting the use of bullets which expand or flatten easily in the human body, such as dum-dum bullets, is applicable in non-international armed conflicts.

3. Poison

The customary rule prohibiting the use of poison as a means or method of warfare is applicable in non-international armed conflicts.

4. Mines, booby-traps and other devices

In application of the general rules listed in section A above, especially those on the distinction between combatants and civilians and on the immunity of the civilian population, mines, booby-traps and other devices within the meaning of Protocol II to the 1980 Convention on conventional weapons may not be directed against the civilian population as such or against individual civilians, nor used indiscriminately.

The prohibition of booby-traps listed in Article 6 of that Protocol extends to their use in non-international armed conflicts, in application of the general rules on the distinction between combatants and civilians, the immunity of the civilian population, the prohibition of superfluous injury or unnecessary suffering, and the prohibition of perfidy.

To ensure the protection of the civilian population referred to in the previous paragraphs, precaution must be taken to protect it from attacks in the form of mines, booby-traps and other devices.

5. Incendiary weapons

In application of the general rules listed in section A above, especially those on the distinction between combatants and civilians and on the immunity of the civilian population, incendiary weapons may not be directed against the civilian population as such, against individual civilians or civilian objects, nor used indiscriminately.

Furthermore, in the interest of promoting respect for international humanitarian law applicable in non-international armed conflicts, the Council of the International Institute of Humanitarian Law,

recalling the need to implement programmes aimed at disseminating and teaching international humanitarian law applicable in such circumstances,

taking note of the wishes expressed in this regard at the 14th Round Table,

makes the following recommendations:

1. The teaching of the rules of international humanitarian law on the conduct of hostilities given as part of military training should make no distinction based on the qualification (international or non-international) of the conflict.
 2. The teaching of these rules of international humanitarian law should stress that they must be respected by all the parties involved in a non-international armed conflict.
 3. The rules of international humanitarian law governing the conduct of hostilities should be disseminated not only in military circles but also among the civilian population, as in non-international armed conflicts the civilian population is often closely involved in hostilities.
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