

*The International Committee of the Red Cross therefore solemnly appeals today to all belligerents, in the name of all civilian and military victims, to have due regard for humanitarian considerations. To show respect for the victims and treat them humanely, in the spirit of the Geneva Conventions, is to recognize a heritage common to all mankind and thus pave the way to reconciliation. It is also the last chance of averting a tragedy even greater than the use of force"* (Press release No. 1659).

---

## **OUTLINE OF LEGAL ASPECTS OF THE CONFLICT IN THE MIDDLE EAST\***

### **1. Definition of the conflict**

The Middle East conflict is beyond any doubt an international armed conflict as defined in Article 2 common to the Geneva Conventions of 12 August 1949.

The fact that military action has been authorized by security council resolution 678 does not affect this definition or the application of the laws of armed conflict.

The fact that there has been no formal declaration of war does not affect this definition either. In this respect, it may be pointed out that the Geneva Conventions "shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them" (Article 2).

The definition of the current hostilities as an international armed conflict has not been contested by any of the belligerents.

Therefore, the laws of international armed conflict apply in the present case.

---

\* This outline is only a provisional analysis of the legal aspects of the Middle East conflict and should not be considered as the official position of the International Committee of the Red Cross.

It was drawn up at the request of several national Red Cross and Red Crescent Societies at a meeting held on 21 January 1991 in Geneva.

## **2. Legal sources**

The parties to the conflict are bound, *inter alia*, by the following sets of rules:

International customary law is binding on all parties; Hague Convention No. IV of 18 October 1907 concerning the laws and customs of war on land is binding on all parties, even though some of them have not acceded to it, since its customary character is universally accepted.

The Geneva Protocol of 17 June 1925 for the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare has been ratified by the parties to the conflict and is therefore binding on them.

The Geneva Conventions of 12 August 1949 have been ratified by all parties to the conflict and are likewise binding on them.

Iraq, the United States, the United Kingdom and France have not ratified Additional Protocol I to the Geneva Conventions of 12 August 1949; its provisions are therefore not binding unless they codify customary rules.

## **3. Fundamental Rules**

### **A) *Rules governing the conduct of hostilities***

These are essentially governed by the following principles:

- the right of the parties to choose methods or means of warfare is not unlimited;
- it is prohibited to use methods or means of warfare of a nature to cause superfluous injury or unnecessary suffering;
- the civilian population must be protected against the dangers arising from military operations.

In practice, this means that a distinction should always be made between combatants and the civilian population, so as to spare the latter.

It is prohibited to direct attacks against the civilian population or to launch indiscriminate attacks that will affect the civilian population as well as military objectives. In any attacks, including bombardments, every precaution must be taken to spare civilians.

The use of indiscriminate weapons or weapons of mass destruction is prohibited. The use of chemical and bacteriological weapons is prohibited by the Geneva Convention of 17 June 1925 and the use of nuclear weapons is incompatible with the provisions of international humanitarian law.

**B) *Wounded and sick***

The wounded and the sick must be collected and cared for, regardless of their nationality. Members of medical services as well as volunteers from National Red Cross or Red Crescent Societies, whose task it is to assist the victims of the conflict, must be respected and protected. The emblem of the Red Cross or Red Crescent must be respected in all circumstances.

**C) *Wounded, sick and shipwrecked***

In case of naval operations or in case of attack against naval objectives, the shipwrecked must be collected and cared for; every precaution must be taken to spare hospital ships.

**D) *Prisoners of war and civilian internees***

Soldiers who surrender or are captured in any other manner must be spared. Their lives and dignity must be respected and they must be treated humanely in all circumstances. They must be protected against any acts of violence, against insults and against public curiosity. They must be transferred from combat zones and their presence cannot be used to prevent attacks on military objectives or other installations.

The same principles apply to civilian internees or detainees.

**E) *Alien civilians on the territory of an adverse party***

Alien civilians on the territory of an adverse party are protected by the Fourth Geneva Convention. In case measures of control, such as internment, are taken against them, they must benefit from all the guarantees set out in the Convention.

**F) *Population of occupied territories***

The populations of occupied territories are protected by the Fourth Geneva Convention (Articles 13-34 and 47-149).

---