

Means and Methods of Warfare

Choices, Rules and Limitations





Regulation and Prohibition of some Means and Methods of Warfare

- ❑ **TO Diminish Cruelty** between Combatants
- ❑ **Protection** of those *Hors de Combat* and the Civilian Population

Three Fundamental Rules...

1. In any armed conflict, the right to choose **methods** or **means** of warfare is not unlimited (AP I Art. 35)
2. It is prohibited to deliberately attack the civilian population (AP I Art. 52)
3. Distinction must be made at all times between combatants and civilians – attacks are to be directed only against Military Objectives (AP I Art. 48)

(Embodied in the 1977 Additional Protocols to the 1949 Geneva Conventions)

Permitted & prohibited targets

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graph TD; Title[Permitted & prohibited targets] --> Military[MILITARY OBJECTS]; Title --> Civilian[CIVILIAN OBJECTS]; Military --> MilitaryPersonnel[MILITARY PERSONNEL]; Military --> AttacksPermitted[ATTACKS PERMITTED]; Military --> MilitaryNecessity[MILITARY NECESSITY]; Civilian --> CivilianPopulation[CIVILIAN POPULATION]; Civilian --> AttacksProhibited[ATTACKS PROHIBITED]; Civilian --> ConsiderationsOfHumanity[CONSIDERATIONS OF HUMANITY]; MilitaryNecessity --> Conclusion[BUT - INCIDENTAL LOSS OF CIVILIAN LIFE AND DAMAGE TO CIVILIAN OBJECTS NOT UNLAWFUL]; ConsiderationsOfHumanity --> Conclusion;
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MILITARY OBJECTS

MILITARY PERSONNEL

ATTACKS PERMITTED

MILITARY NECESSITY

CIVILIAN OBJECTS

CIVILIAN POPULATION

ATTACKS PROHIBITED

**CONSIDERATIONS OF
HUMANITY**

**BUT - INCIDENTAL LOSS OF CIVILIAN LIFE AND
DAMAGE TO CIVILIAN OBJECTS NOT UNLAWFUL**

Military objects can be attacked

Military objects are those objects which make an effective contribution to military action, and whose destruction, capture or neutralisation, in the circumstances ruling at the time, offer a definite military advantage.

(AP I Art 52(2))

A MILITARY OBJECT?



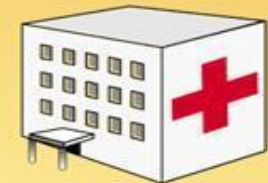
(AP I Art 52(2))

MEDICAL & RELIGIOUS PERSONNEL ARE PROTECTED

MEDICAL SERVICES



- Permanent medical staff
- Medical equipment
- Medical transports
- Medical establishments
- Hospital zones and localities



LOW-010

Perfidy (Treachery) is prohibited

Misuse of Protected Emblems is prohibited

Prohibited Methods of Combat

- **Perfidy is prohibited**
 - **It is prohibited to kill, injure or capture an adversary by resort to perfidy.**
 - **A combatant cannot feign and create a false impression of legal entitlement to immunity from attack.**

PROTECTED – RELIEF OPERATIONS



**Fourth Geneva Convention
Articles 23, 59-61 & 110-111**

Each party to the conflict will allow the rapid and unimpeded passage of medical and hospital stores, even to the civilians of the other party to the conflict.

It will likewise allow the transportation of essential foodstuffs and clothing intended for children under 15, expectant mothers and maternity cases.

Only in cases of imperative military necessity may such relief activities be restricted.

PROTECTED – CULTURAL OBJECTS

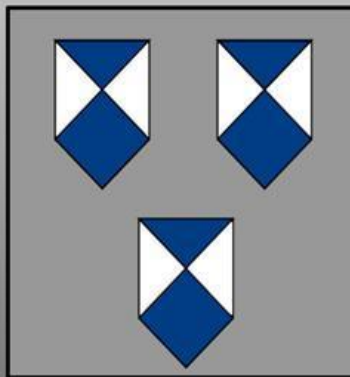
Cultural Property

This includes places of cultural value, historical or religious significance, monuments, archives and works of art.

CULTURAL OBJECTS

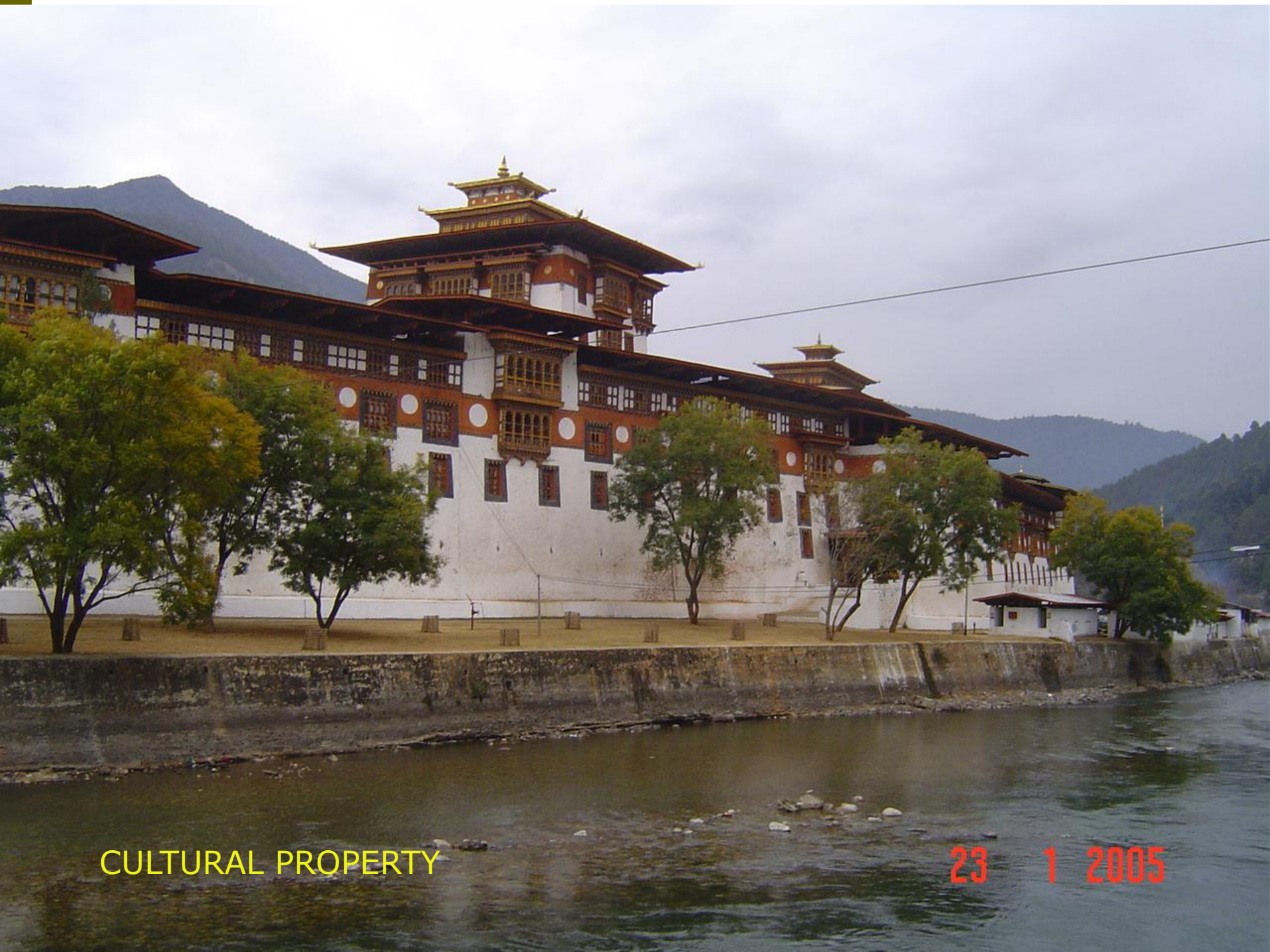


**Normal
Protection**



**Special
Protection**

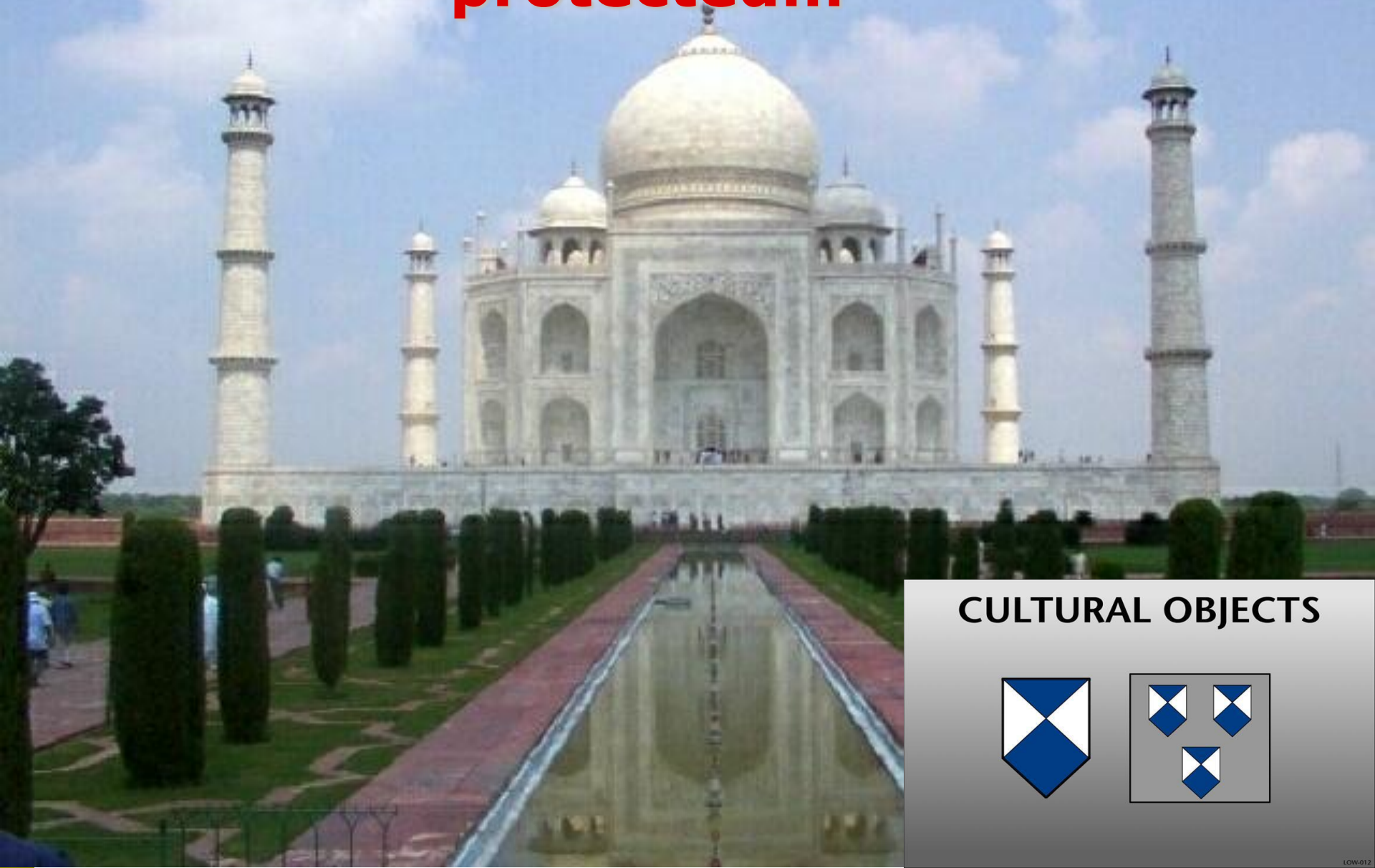
**The Hague
Convention of 14
May 1954 for the
Protection of
Cultural Property
in the event of
Armed Conflict**



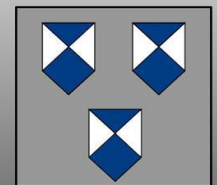
CULTURAL PROPERTY

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Cultural & religious objects are protected...



CULTURAL OBJECTS

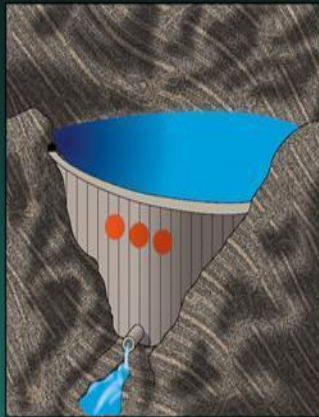


PROTECTED – DANGEROUS FORCES

Protection of works and Installations containing dangerous forces

These include dams, dykes and nuclear generating stations.

WORKS AND INSTALLATIONS CONTAINING DANGEROUS FORCES



Source

**Additional Protocol I of
1977 – Article 56**

PROTECTED – CIVIL DEFENCE



Civil Defence means those humanitarian tasks intended to protect the civilian population against the dangers of hostilities and to help recover from the immediate effects of hostilities or disasters, and to provide the necessary conditions for survival.

Source

**Additional Protocol I –
Articles 61 to 67**

Indiscriminate Attacks are Prohibited



(AP I Art 52(2))

Indiscriminate Attack?



PROTECTED – A WHITE FLAG



**Additional Protocol I –
Articles 32 to 34**

A person who has been authorized by one of the parties to the conflict to enter into communication with the other, will show the intention to enter into dialog by the bearing of a white flag.

NB: The white flag indicates a desire to negotiate not surrender.

To Whom does IHL apply?

IHL recognises 2 x categories of persons in Armed Conflicts:

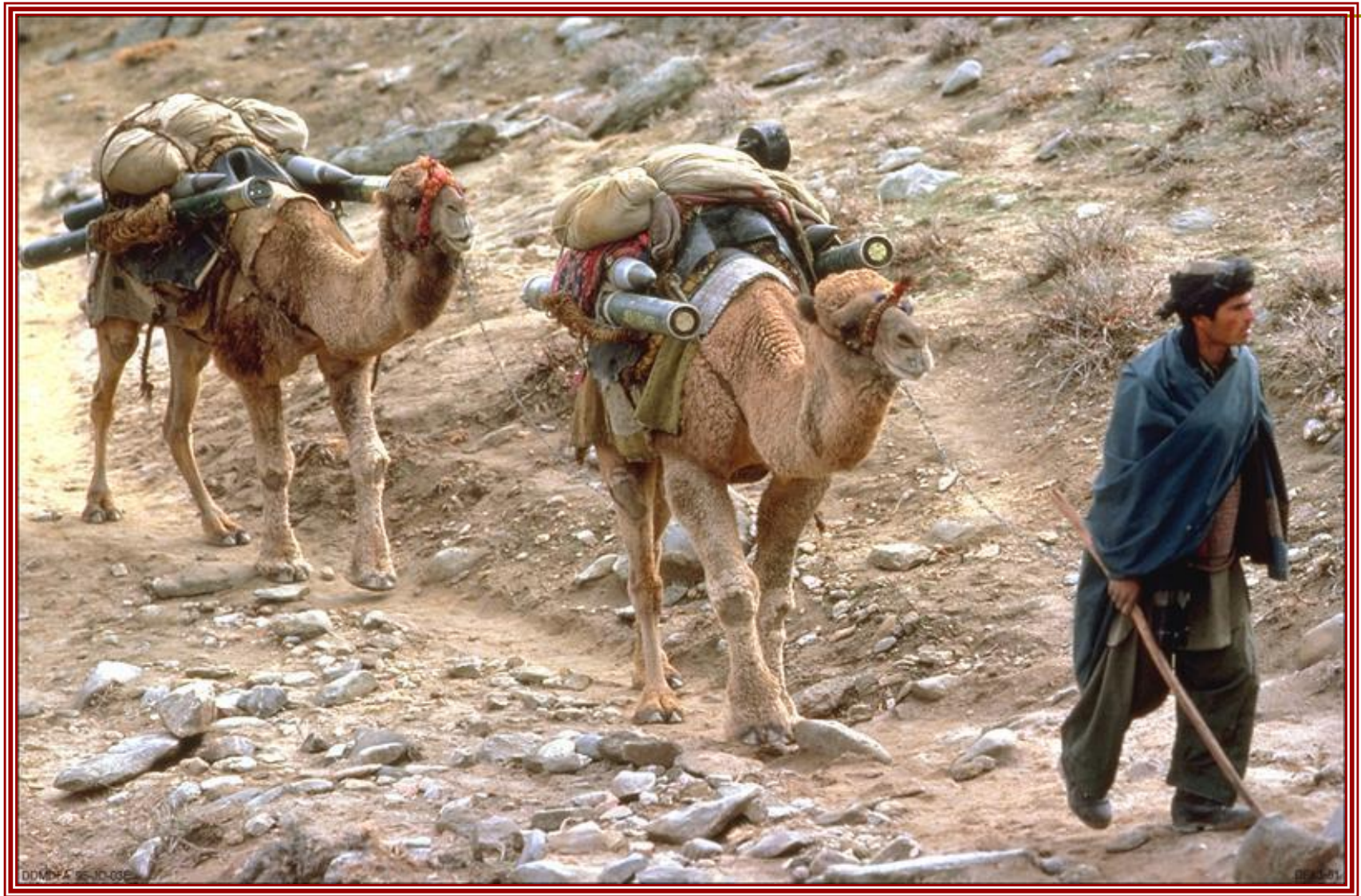
- **Combatants - Can be Attacked.**

(Combatants have the right to participate directly in hostilities)

- **Civilians - Are Protected.**

(Civilians have the general right to protection against the effects of hostilities, but cannot participate in hostilities)

Distinguishing can be Difficult





**Recruitment
of Children
as Soldiers
prohibited
under IHL**

**WHAT IS THEIR STATUS?
(AP I Art. 77)**



ICRC

CHILD SOLDIERS :

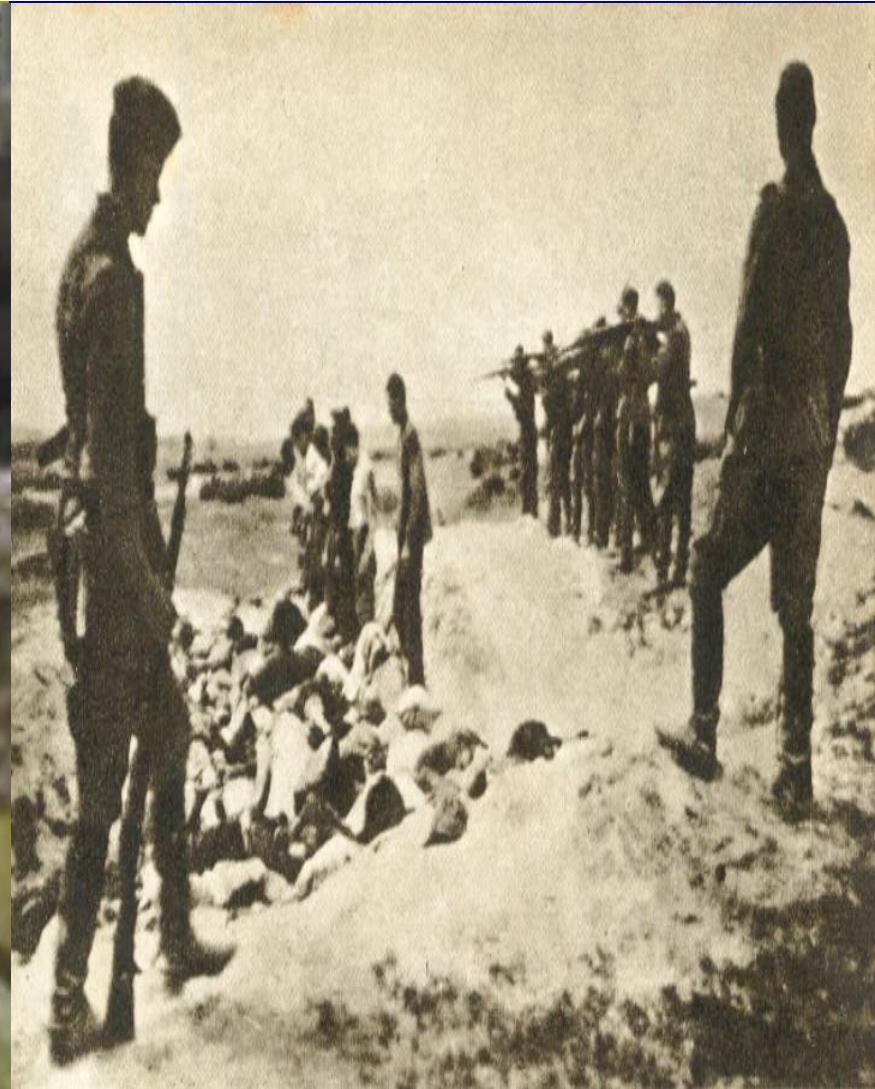
Definition

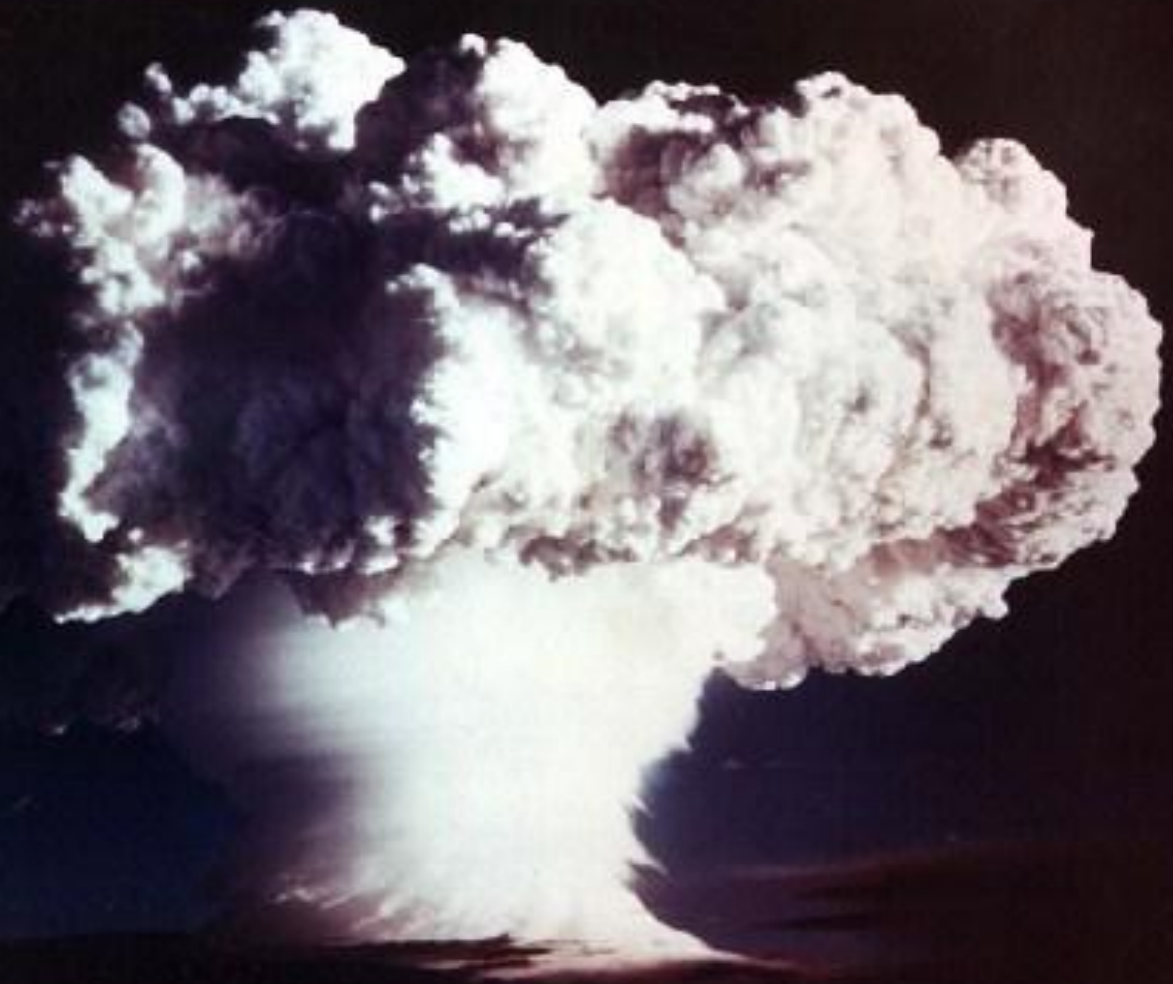
- **Any person taking direct part in hostilities as part of armed forces of a State, or as part of armed group, who is:**
- **under 18 years of age for duties to UNCROC Optional Prot I; or**
- **in any other case, under 15 years of age.**

Rules

- **Prohibited to**
 - **use children who are members of armed forces to take a direct part in hostilities;**
 - **compulsorily recruit children into armed forces; and/or**
 - **recruit children into armed groups.**

Prisoners of war are Protected





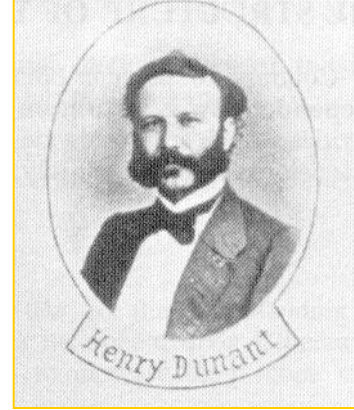
PROHIBITED & RESTRICTED WEAPONS
(MEANS OF WARFARE)

Means of Warfare

- ❑ Hague IV Regulations, 1907
 - Art 22: “The right of belligerents to adopt means of injuring the enemy is not unlimited”
 - Art 23: “It is especially forbidden to employ arms, projectiles, or material calculated to cause unnecessary suffering.”

- ❑ 1977 Additional Protocol I, to GC Art 35: Basic Rules-
 - In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is **not unlimited**.

Historical background...



Saint Petersburg Declaration of 1868...

The employment of arms which *uselessly aggravate the sufferings* of disabled men, or render death inevitable, are contrary to the laws of humanity

The only legitimate object of war is to weaken the military forces of the enemy

General & Specific IHL Weapons Rules...

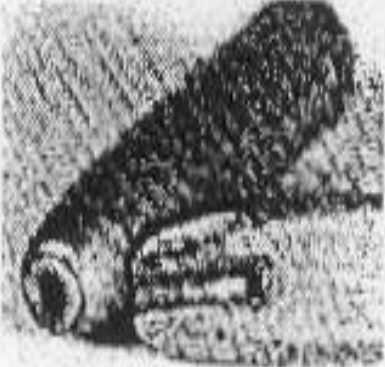
- ❑ Prohibition on weapons which cause superfluous injury or unnecessary suffering (AP I, Article 35(2))
- ❑ Prohibition on weapons causing widespread, long-term & severe environmental damage (AP I, Article 35(3))
- ❑ Weapons incapable of distinguishing between military and civilian objects (indiscriminate) will be prohibited (AP I, Article 51(4))
- ❑ Most weapons rules are treaty-based...

Explosive and Flammable Ammunition is prohibited (1868)

Expanding Bullets & Poisonous Weapons prohibited (1899)



1899 Hague Declaration Concerning Expanding Bullets

- Response to British .303 Mk. IV projectile made at Dum-Dum Arsenal, India.
 - Prohibits “bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not not entirely cover the core or is pierced with incisions.”
 - Declaration considered, but did not ban, projectiles that yaw early or fragment.
- 
- U.S. not State Party, but follows to extent consistent with prohibition on ammunition calculated to cause unnecessary suffering (Art. 23(e), 1907 Hague IV)

Expanding Bullet

Expanding bullets are those that expand or flatten easily in the human body.

For example: bullets with a hard envelope that does not entirely cover the core, or is pierced with incisions. Example: Dum-Dum bullet.

Rule: The Hague Declaration of 1899 concerning Expanding Bullets: use of expanding bullets (in armed conflict) is prohibited.

Poison/Poisoned Weapons

- ❑ **Article 23 (a), Hague Regulations of 1899/1907 prohibits the use of poison or poisonous weapons.**
- ❑ **It relates mainly to the poisoning of drinking water or foodstuff likely to be used by enemy forces, while poisoned weapons applies, to poisoned arrows or spears.**

Chemical & Biological Weapons

Gas and Chemical Weapons are Prohibited

Poison and Poison-tipped Weapons are Prohibited

Bacteriological (Biological) Weapons are Prohibited

(1925 / 1972 / 1993)



It is prohibited to
use Chemical
weapons during
warfare

Conventional Weapons Convention (1980)

"Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects"

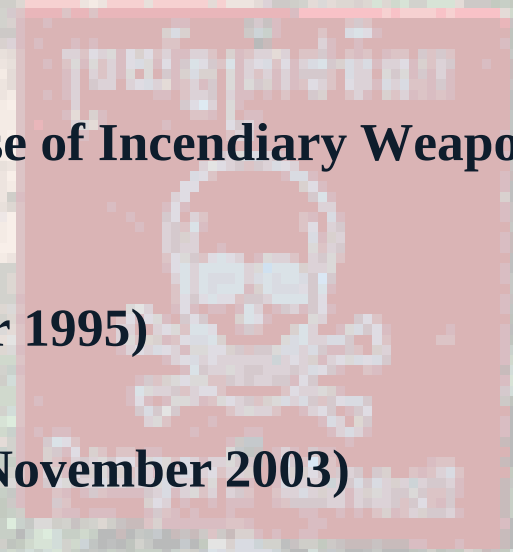
Protocol I on Non-Detectable Fragments (10 October 1980)

Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (10 October 1980)

Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons (10 October 1980)

Protocol IV on Blinding Laser Weapons (13 October 1995)

Protocol V on Explosive Remnants of War (ERW) (November 2003)



Landmines are prohibited by IHL



Landmines and IHL

- ❑ Mines are the greatest violators of international humanitarian law.
- ❑ Mines may be described as fighters that never miss, strike blindly, do not carry weapons openly, and go on killing long after hostilities are ended.
- ❑ In the conduct of hostilities, parties to a conflict must always distinguish between civilians and combatants. Landmines cannot distinguish, hence it is prohibited to use

Nuclear Weapons: are they prohibited?



The principles and rules of IHL, and in particular the principles of distinction and proportionality and the prohibition on causing superfluous injury or unnecessary suffering, apply to the use of nuclear weapons.

Legality of Nuclear Weapons

International Court of Justice (ICJ), Nuclear Weapons Advisory Opinion 8 July 1996 on the *Legality of the Threat or Use of Nuclear Weapons*. Dissenting Opinion of Judge Weeramantry

"... The sight of them was almost unbearable. Their faces and hands were burnt and swollen; and great sheets of skin had peeled away from their tissues to hang down like rags on a scarecrow... And they had no faces! Their eyes, noses and mouths had been burned away, and it looked like their ears had been melted off. It was hard to tell front from back..."

ICJ Opinion: 1996

ICJ opinion in 1996 “The threat or use of nuclear weapons would generally be **contrary to the rules of international law** applicable in armed conflict, and in particular the principles and rules of humanitarian law;....

...however, in view of the current state of international law, and of the elements of fact at its disposal, the Court **cannot conclude definitively** whether the threat or use of nuclear weapons **would be lawful or unlawful** in an extreme circumstance of self-defence, in which the **very survival of the State would be at stake**.

ICRC Opinion

1. The principles and rules of IHL and in particular the principles of distinction and proportionality and causing of superfluous injuries and unnecessary suffering applicable.
2. States not to use nuclear weapons.
3. To ensure non-proliferation.
4. To achieve complete prohibition and elimination.

Adopted by the ICRC Assembly on 27 June 2002

Damage to Environment - ENMOD Convention

- ❑ It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment. (1977 Additional Protocol I, Art 35 (3) and 55 (1))
- ❑ 1976 UN Convention on the Prohibition of Military or any other Hostile use of Environmental Modification Techniques prohibits the damage to environment .

Thank you for your attention!!!!