

Draft Rules for the Limitation of the Dangers incurred by the Civilian Population in Time of War. ICRC, 1956

PREAMBLE

All nations are deeply convinced that war should be banned as a means of settling disputes between human communities.

However, in view of the need, should hostilities once more break out, of safeguarding the civilian population from the destruction with which it is threatened as a result of technical developments in weapons and methods of warfare,

The limits placed by the requirements of humanity and the safety of the population on the use of armed force are restated and defined in the following rules.

In cases not specifically provided for, the civilian population shall continue to enjoy the protection of the general rule set forth in Article 1, and of the principles of international law.

CHAPTER I : OBJECT AND FIELD OF APPLICATION

Object

Article 1. Since the right of Parties to the conflict to adopt means of injuring the enemy is not unlimited, they shall confine their operations to the destruction of his military resources, and leave the civilian population outside the sphere of armed attacks.

This general rule is given detailed expression in the following provisions:

Field of application

Art. 2. The present rules shall apply:

(a) In the event of declared war or of any other armed conflict, even if the state of war is not recognized by one of the Parties to the conflict.

(b) In the event of an armed conflict not of an international character.

Definition of term "attacks"

Art. 3. The present rules shall apply to acts of violence committed against the adverse Party by force of arms, whether in defence or offence. Such acts shall be referred to hereafter as "attacks."

Definition of term "civilian population"

Art. 4. For the purpose of the present rules, the civilian population consists of all persons not belonging

to one or other of the following categories:

(a) Members of the armed forces, or of their auxiliary or complementary organizations.

(b) Persons who do not belong to the forces referred to above, but nevertheless take part in the fighting.

Relation with previous Conventions

Art. 5. The obligations imposed upon the Parties to the conflict in regard to the civilian population, under the present rules, are complementary to those which already devolve expressly upon the Parties by virtue of other rules in international law, deriving in particular from the instruments of Geneva and The Hague.

CHAPTER II : OBJECTIVES BARRED FROM ATTACK

Immunity of the civilian population

Art. 6. Attacks directed against the civilian population, as such, whether with the object of terrorizing it or for any other reason, are prohibited. This prohibition applies both to attacks on individuals and to those directed against groups.

In consequence, it is also forbidden to attack dwellings, installations or means of transport, which are for the exclusive use of, and occupied by, the civilian population.

Nevertheless, should members of the civilian population, Article 11 notwithstanding, be within or in close proximity to a military objective they must accept the risks resulting from an attack directed against that objective.

Limitation of objectives which may be attacked

Art. 7. In order to limit the dangers incurred by the civilian population, attacks may only be directed against military objectives.

Only objectives belonging to the categories of objective which, in view of their essential characteristics, are generally acknowledged to be of military importance, may be considered as military objectives. Those categories are listed in an annex to the present rules.

However, even if they belong to one of those categories, they cannot be considered as a military objective where their total or partial destruction, in the circumstances ruling at the time, offers no military advantage.

CHAPTER III : PRECAUTIONS IN ATTACKS ON MILITARY OBJECTIVES

Precautions to be taken in planning attacks

Art. 8. The person responsible for ordering or launching an attack shall, first of all:

(a) make sure that the objective, or objectives, to be attacked are military objectives within the meaning of the present rules, and are duly identified.

When the military advantage to be gained leaves the choice open between several objectives, he is required to select the one, an attack on which involves least danger for the civilian population:

(b) take into account the loss and destruction which the attack, even if carried out with the precautions prescribed under Article 9, is liable to inflict upon the civilian population. He is required to refrain from the attack if, after due consideration, it is apparent that the loss and destruction would be disproportionate to the military advantage anticipated:

(c) whenever the circumstances allow, warn the civilian population in jeopardy, to enable it to take shelter.

Precautions to be taken in carrying out the attack

Art. 9. All possible precautions shall be taken, both in the choice of the weapons and methods to be used, and in the carrying out of an attack, to ensure that no losses or damage are caused to the civilian population in the vicinity of the objective, or to its dwellings, or that such losses or damage are at least reduced to a minimum.

In particular, in towns and other places with a large civilian population, which are not in the vicinity of military or naval operations, the attack shall be conducted with the greatest degree of precision. It must not cause losses or destruction beyond the immediate surroundings of the objective attacked.

The person responsible for carrying out the attack must abandon or break off the operation if he perceives that the conditions set forth above cannot be respected.

Target-area bombing

Art. 10. It is forbidden to attack without distinction, as a single objective, an area including

several military objectives at a distance from one another where elements of the civilian population, or dwellings, are situated in between the said military objectives.

"Passive" precautions

Art. 11. The Parties to the conflict shall, so far as possible, take all necessary steps to protect the civilian population subject to their authority from the dangers to which they would be exposed in an attack -- in particular by removing them from the vicinity of military objectives and from threatened areas. However, the rights conferred upon the population in the event of transfer or evacuation under Article 49 of the Fourth Geneva Convention of 12 August 1949 are expressly reserved.

Similarly, the Parties to the conflict shall, so far as possible, avoid the permanent presence of armed forces, military material, mobile military establishments or installations, in towns or other places with a large civilian population.

Civil Defence bodies

Art. 12. The Parties to the conflict shall facilitate the work of the civilian bodies exclusively engaged in protecting and assisting the civilian population in case of attack.

They can agree to confer special immunity upon the personnel of those bodies, their equipment and installations, by means of a special emblem.

Intentional exposure to danger

Art. 13. Parties to the conflict are prohibited from placing or keeping members of the civilian population subject to their authority in or near military objectives, with the idea of inducing the enemy to refrain from attacking those objectives.

CHAPTER IV : WEAPONS WITH UNCONTROLLABLE EFFECTS

Prohibited methods of warfare

Art. 14. Without prejudice to the present or future prohibition of certain specific weapons, the use is prohibited of weapons whose harmful effects -- resulting in particular from the dissemination of incendiary, chemical, bacteriological, radioactive or other agents -- could spread to an unforeseen degree or escape, either in space or in time, from the control of those who employ them, thus endangering the civilian population.

This prohibition also applies to delayed-action weapons, the dangerous effects of which are liable to be felt by the civilian population.

Safety measures and devices

Art. 15. If the Parties to the conflict make use of mines, they are bound, without prejudice to the stipulations of the VIIIth Hague Convention of 1907, to chart the mine-fields. The charts shall be handed over, at the close of active hostilities, to the adverse Party, and also to all other authorities responsible for the safety of the population.

Without prejudice to the precautions specified under Article 9, weapons capable of causing serious damage to the civilian population shall, so far as possible, be equipped with a safety device which renders them harmless when they escape from the control of those who employ them.

CHAPTER V : SPECIAL CASES

"Open towns"

Art. 16. When, on the outbreak or in the course of hostilities, a locality is declared to be an "open town" the adverse Party shall be duly notified. The latter is bound to reply, and if it agrees to recognize the locality in question as an open town, shall cease from all attacks on the said town, and refrain from any military operation the sole object of which is its occupation.

In the absence of any special conditions which may, in any particular case, be agreed upon with the adverse Party, a locality, in order to be declared an "open town," must satisfy the following conditions:

- (a) it must not be defended or contain any armed force;
- (b) it must discontinue all relations with any nation or allied armed forces;
- (c) it must stop all activities of a military nature or for a military purpose in those of its installations or industries which might be regarded as military objectives;
- (d) it must stop all military transit through the town.

The adverse Party may make the recognition of the status of "open town" conditional upon verification of the fulfilment of the conditions stipulated above. All attacks shall be suspended during the institution and operation of the investigatory measures.

The presence in the locality of civil defence services, or of the services responsible for maintaining public order, shall not be considered as contrary to the conditions laid down in paragraph 2. If the locality is situated in occupied territory, this provision applies also to the military occupation forces essential for the maintenance of public law and order.

When an "open town" passes into other hands, the new authorities are bound, if they cannot maintain its status, to inform the civilian population accordingly.

None of the above provisions shall be interpreted in such a manner as to diminish the protection which the civilian population should enjoy by virtue of the other provisions of the present rules, even when not living in localities recognized as "open towns."

Installations containing dangerous forces

Art. 17. In order to safeguard the civilian population from the dangers that might result from the destruction of engineering works or installations -- such as hydro-electric dams, nuclear power stations or dikes -- through the releasing of natural or artificial forces, the States or Parties concerned are invited:

(a) to agree, in time of peace, on a special procedure to ensure in all circumstances the general immunity of such works where intended essentially for peaceful purposes:

(b) to agree, in time of war, to confer special immunity, possibly on the basis of the stipulations of Article 16, on works and installations which have not, or no longer have, any connexion with the conduct of military operations.

The preceding stipulations shall not, in any way, release the Parties to the conflict from the obligation to take the precautions required by the general provisions of the present rules, under Articles 8 to 11 in particular.

CHAPTER VI : APPLICATION OF THE RULES (1)

Assistance of third parties

Art. 18. States not involved in the conflict, and also all appropriate organizations, are invited to co-operate, by lending their good offices, in ensuring the observance of the present rules and preventing either of the Parties to the conflict from resorting to measures contrary to those rules.

(1) Articles 18 and 19, dealing with the procedure for supervision and sanctions, are merely given as a rough guide and in outline; they will naturally have to be elaborated and supplemented at a later stage. ' (Note in the original). '

Trial and judicial safeguards

Art. 19. All States or Parties concerned are under the obligation to search for and bring to trial any person having committed, or ordered to be committed, an infringement of the present rules,

unless they prefer to hand the person over for trial to another State or Party concerned with the case.

The accused persons shall be tried only by regular civil or military courts; they shall, in all circumstances, benefit by safeguards of proper trial and defence at least equal to those provided under Articles 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949.

Diffusion and details of application

Art. 20. All States or Parties concerned shall make the terms of the provisions of the present rules known to their armed forces and provide for their application in accordance with the general principles of these rules, not only in the instances specifically envisaged in the rules, but also in unforeseen cases.