

## International Humanitarian Law: a short summary of relevant provisions

The law of armed conflict – also known as international humanitarian law (IHL) – is the body of international law that most clearly codifies binding standards for the prevention of displacement. IHL is not concerned with the lawfulness or otherwise of armed conflicts but governs conduct during conflict, setting humanitarian considerations against military necessity.

Violations of IHL include attacks against and ill-treatment of civilians, destruction of property, sexual violence and restricted access to health care and other essential services. IHL, in particular as codified in the Geneva Conventions of 1949 and their Additional Protocols of 1977, contains important provisions to prevent the displacement of people and for the protection of persons forced to flee.

Many of these provisions are considered to have become international customary law. The Fourth Geneva Convention (GCIV) deals specifically with the protection of civilian persons in times of war, including occupation. Internally Displaced Persons (IDPs) are part of the civilian population and therefore are entitled to receive the same protections as other civilians against the consequences of war. Additional Protocol I (API) supplements these protections in times of international armed conflicts, and Additional Protocol II (APII) in times of non-international armed conflicts. States have the responsibility to implement these protections in their domestic legal framework.

Although not every conflict-related displacement necessarily represents a breach of IHL, international customary

humanitarian law as well as the two Protocols prohibit the displacement of civilians – whether within the borders of a country or across international borders – or their forcible deportation or transfer from occupied territories unless the security of the civilians involved or imperative military reasons require it. (*GCIV in particular Art. 4 and 27.*) Other important provisions are *API Art. 51 and 75, and APII Art. 4 and 5, ICHL Rules 1 and 7.* Under IHL, displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist. (*GC IV Art. 49 and 147, AP I Art. 51(7), 78(1) and 85(4)(a) AP II Art. 4(3)(e) and 17, International Customary Humanitarian Law (ICHL) Rules 129 and 132.*)

In armed conflict situations, civilian property and possessions shall not be subject to pillage (*GC IV Art. 33, ICHL Rule 52*) or direct or indiscriminate attacks (*AP I Art. 85, ICHL Rule 11*), used as a shield for military operations or objectives (*AP I Art. 51*) or destruction or appropriation as reprisal (*AP I Art. 52*) or collective punishment (*AP I Art. 75(2)(d)*).

Shelter is not specifically provided for in the protection of protected persons under the Geneva Conventions and Additional Protocols; however, the extensive destruction and appropriation of housing is prohibited. (*GC IV Art. 147*)

The obligation to transfer persons evacuated in or from occupied territories back to their homes as soon as hostilities have ceased there implies the right to recovery of their property. More particularly, the property rights of displaced persons must be respected. (*ICHL Rule 133.*)