

Precaution

Principle of Precaution

- Requires parties to a conflict to minimise harm to civilians and civilian objects.
- Long-standing customary principle in IHL. Ties in with principles of distinction, proportionality, necessity and humanity.
- Article 57(1), API: In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.

History

- Article 2(3) of the 1907 Hague Convention (IX) - if for military reasons immediate action against naval or military objectives located within an undefended town or port is necessary, and no delay can be allowed the enemy, the commander of a naval force “shall take all due measures in order that the town may suffer as little harm as possible”.
- Obligation to take constant care and/or to take precautions to avoid or minimize incidental civilian losses is contained in numerous military manuals.

Obligations under Article 57 API

2. With respect to attacks, the following precautions shall be taken:

- (a) those who plan or decide upon an attack shall:
 - (i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provisions of this Protocol to attack them;
 - (ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;
 - (iii) refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
- (b) an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
- (c) effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.

Obligations under Article 57 API

- 3. When a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects.
- 4. In the conduct of military operations at sea or in the air, each Party to the conflict shall, in conformity with its rights and duties under the rules of international law applicable in armed conflict, take all reasonable precautions to avoid losses of civilian lives and damage to civilian objects.

Article 58 API

The Parties to the conflict shall, to the maximum extent feasible:

- (a) without prejudice to Article 49 of the Fourth Convention, endeavour to remove the civilian population, individual civilians and civilian objects under their control from the vicinity of military objectives;
- (b) avoid locating military objectives within or near densely populated areas;
- (c) take the other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations.