

# The Laws of War

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*“The solemn renunciation of war as an instrument of national policy necessarily involves the proposition that such war is illegal in international law; and that those who plan and wage such a war with its inevitable and terrible consequences are committing a crime in so doing... War is essentially an evil thing. Its consequences are not confined to the belligerent states alone, but affect the whole world. To initiate a war of aggression therefore, is not only an international crime, it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.”*

*The Nuremburg War Crimes Tribunal*

- 1/ **All war is illegal and there is now no such thing as a just war or lawful armed conflict.** War was outlawed in 1928 when the world’s major nations including Britain, America, France, Germany and Japan agreed *The General Treaty for the Renunciation of War (Kellogg-Briand Pact)* promising never to wage war and to settle all disputes and conflicts peacefully.

*I The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.*

*II The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.*

- 2/ **The use of armed force is illegal and prohibited under the UN Charter.** In 1945, determined to save succeeding generations from the scourge of war, the nations of the world drew up a solemn and binding agreement promising never to threaten or use armed force, to work together to promote social progress, human rights, freedom, justice and respect for the law, and to settle their disputes by peaceful means. The role of the UN Security Council is to keep the peace and it can never authorise the use of armed force. The sole occasion on which the use of armed force is legal is when it is used (proportionately) to defend a state that is under armed attack.

*2.3 All members shall settle their international disputes by peaceful means in such a manner that international peace, security and justice are not endangered.*

*2.4 All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.*

*41 The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations.*

- 3/ **In 1950 the UN enacted 7 universal laws of war to be known as the Nuremburg Principles.**

*VI. The crimes hereinafter set out are punishable as crimes under international law:*

*(a) Crimes against peace: (i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances; (ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).*

*(b) War crimes..... (c) Crimes against humanity.....*

*VII. Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law.*

- 4/ In 1948 in order to prevent recurrences of the horrific slaughter of the Holocaust **the world’s major nations signed the Genocide Convention.** The legislation defined genocide as:

*“any of the following acts committed with intent to destroy, in whole or in part a national, ethnic, racial or religious group, as such, (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...”*

- 5/ In **1998 132 nations agreed The Rome Statute of the International Criminal Court** which incorporated the crimes of aggression, genocide, a crime against humanity and war crimes into international criminal law and set up the world’s first permanent court to hold to account any person responsible for such crimes regardless of their role or position.

*27.1 This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself constitute a ground for reduction of sentence.*

- 6/ **Parliament** ratified The Rome Statute, ceded ultimate jurisdiction to the ICC and incorporated the crimes into domestic criminal law when it **enacted the International Criminal Court Act in 2001**.

*It is an offence against the law of England and Wales for a person to commit genocide, a crime against humanity or a war crime, or to engage in conduct ancillary to such an act. This applies to acts committed in England or Wales or outside the UK by a national, resident or a person subject to service jurisdiction.*

The Act also introduced the offences of ‘*conduct ancillary to genocide, a crime against humanity and a war crime*’. It is now a crime in English law for residents of Britain to aid, abet or assist such crimes. This means that any supportive behaviour such as paying tax, supplying weapons, writing a supportive article, or voting in favour of war is a serious crime. This ensures that MPs, civil servants, arms manufacturers, bankers, taxpayers or journalists can be prosecuted as accessories to the crime.

- 7/ **Wilful killing is a crime** regardless of whether or not it takes place during or as a result of war. Intentionally taking part in an act which brings about the death of a person constitutes a crime of murder. *The Offences Against the Person Act 1861* states that:

*“Where any murder or manslaughter shall be committed on land out of the United Kingdom, whether within the Queen’s dominions or without, and whether the person killed were a subject of Her Majesty or not, every offence committed by any subject of Her Majesty in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, may be dealt with, inquired of, tried, determined and punished in England or Ireland.”*

- 8/ Other laws enacted since WWII include the **Chemical and Biological Weapons Conventions** which prohibit the development, production, stockpiling and use of chemical, biological and toxin weapons; the **Landmines Convention** forbidding the manufacture, possession or use of landmines and anti-personnel explosives; and **The Convention against Torture and other Cruel Inhuman and Degrading Treatment** prohibiting torture which was enacted in British law in *The Criminal Justice Act 1988*.

- 9/ In 1948 the UN enacted **The Universal Declaration of Human Rights** and 50 years later Britain enacted the **Human Rights Act** in 1998.

*“Everyone’s right to life shall be protected by law. No-one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided in law.”*

- 10/ Customary war law formulated by the Nuremberg War Crimes Tribunal states that individuals have a duty in international law to disobey Government orders when those orders breach the international laws of war.

*“Humanity has paid a heavy price for the lesson that nothing is more tragic and cruel than war. I believe that we have as our first priority an obligation to our children to open a clear and reliable path to peace in the twenty first century.”*

**Daisaku Ikeda**