

Chapter 1 : Military occupation - Wikipedia

The terminology of "the occupying power" as spoken of in the laws of war is most properly rendered as "the principal occupying power", or alternatively as "the occupying power". This is because the law of agency is always available (When the administrative authority for the military occupation of particular areas is delegated to other troops, a.

Abbas, accused mastermind of the Achille Lauro boatjacking, be extradited from Iraq to Italy to stand trial? Article 49 of the Geneva Civilian Convention prohibits "[i]ndividual or mass forcible transfers, as well as deportations of protected persons from occupied territory Collective Penalties Can members of al Qaeda or other "terrorists" found in Iraq be punished for the September 11 attacks on the United States? Customary international law, reflected in Article 50 of the Annex to Hague Convention IV, affirms that "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of acts of individuals for which they cannot be regarded as jointly and severally responsible. Cruel, Inhumane Treatment, Injury and Suffering Can Iraqis detained for questioning or other purposes be subjected to coercive interrogation techniques or treatment? As noted, common Article 3 of the Geneva Conventions prohibits, among other conduct, "violence to life and person, in particular They shall at all times be humanely treated, and shall be protected Further, according to the ICRC, any claim of "necessity" for violating Geneva prohibitions is legally unacceptable. Care for Wounded and Sick and Provision of Food and Medicine Does the United States have a duty to provide needed food and medicine to Iraqi persons within sectors effectively controlled by U. Common Article 3 of the Geneva Conventions, in addition to its general duty of humane treatment and prohibition of "cruel treatment" noted above, contains the specific requirement that "[t]he wounded and sick shall be collected and cared for. Article 38 of Geneva Civilian Convention IV recognizes the right of protected persons "if their state of health so requires, [to] receive medical attention and hospital treatment to the same extent as the nationals of the State concerned. Prosecution of War Crimes and Other International Crimes Can the United States prosecute persons who are reasonably accused of war crimes, genocide, and other crimes against humanity in Iraq? As an occupying power, the United States could set up a military commission for prosecution of war crimes and other crimes under international law. Under Article 49 of the Geneva Civilian Convention, persons who are not prisoners of war cannot be transferred from occupied territory in Iraq for trial in the U. At least one federal statute in the United States permits prosecution in U. Paust is Law Foundation Professor, University of Houston, and is the author of books and articles on the law of war, human rights, and the foreign relations law of the United States. Cherif Bassiouni, Michael Scharf, et al. Tadic, Trial Chamber 10 Aug. United States, I. Tadic, Appeals Chamber 2 Oct. On collective penalties, see also id. Educational and news media copying is permitted with due acknowledgement. Caitlin Behles serves as the managing editor. Please click the button below to get started.

Chapter 2 : The Occupying Power by Evelyn Anthony

Military occupation occurs when a belligerent state invades the territory of another state with the intention of holding the territory at least temporarily. While hostilities continue, the occupying state is prohibited by International Law from annexing the territory or creating another state out of.

Occupation and international humanitarian law: Article 42 of the Hague Regulations HR states that a " territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised. They also apply in situations where the occupation of state territory meets with no armed resistance. The legality of any particular occupation is regulated by the UN Charter and the law known as jus ad bellum. Once a situation exists which factually amounts to an occupation the law of occupation applies " whether or not the occupation is considered lawful. As the law of occupation is primarily motivated by humanitarian considerations, it is solely the facts on the ground that determine its application. When does the law of occupation start to apply? The rules of international humanitarian law relevant to occupied territories become applicable whenever territory comes under the effective control of hostile foreign armed forces, even if the occupation meets no armed resistance and there is no fighting. The question of " control " calls up at least two different interpretations. It could be taken to mean that a situation of occupation exists whenever a party to a conflict exercises some level of authority or control within foreign territory. So, for example, advancing troops could be considered bound by the law of occupation already during the invasion phase of hostilities. An alternative and more restrictive approach would be to say that a situation of occupation exists only once a party to a conflict is in a position to exercise sufficient authority over enemy territory to enable it to discharge all of the duties imposed by the law of occupation. This approach is adopted by a number of military manuals. What are the most important principles governing occupation? Agreements concluded between the occupying power and the local authorities cannot deprive the population of occupied territory of the protection afforded by international humanitarian law GC IV, art. The main rules of the law applicable in case of occupation state that: The occupant does not acquire sovereignty over the territory. Occupation is only a temporary situation, and the rights of the occupant are limited to the extent of that period. The occupying power must respect the laws in force in the occupied territory, unless they constitute a threat to its security or an obstacle to the application of the international law of occupation. The occupying power must take measures to restore and ensure, as far as possible, public order and safety. To the fullest extent of the means available to it, the occupying power must ensure sufficient hygiene and public health standards, as well as the provision of food and medical care to the population under occupation. Collective or individual forcible transfers of population from and within the occupied territory are prohibited. Transfers of the civilian population of the occupying power into the occupied territory, regardless whether forcible or voluntary, are prohibited. Collective punishment is prohibited. The taking of hostages is prohibited. Reprisals against protected persons or their property are prohibited. The confiscation of private property by the occupant is prohibited. The destruction or seizure of enemy property is prohibited, unless absolutely required by military necessity during the conduct of hostilities. Cultural property must be respected. People accused of criminal offences shall be provided with proceedings respecting internationally recognized judicial guarantees for example, they must be informed of the reason for their arrest, charged with a specific offence and given a fair trial as quickly as possible. The ICRC, in particular, must be given access to all protected persons, wherever they are, whether or not they are deprived of their liberty. What rights does the occupying power have regarding property and natural resources in the occupied territory? Private property Private property cannot be confiscated by the occupier. Food and medical supplies may be requisitioned exclusively for the use of the occupation forces and administration personnel themselves i. Public property The occupying power may seize any movable property, belonging to the state, which may be used for military operations HR, art. The occupant does not acquire ownership of immovable public property in the occupied territory, since it is only a temporary administrator. Subject to restrictions regarding their exploitation and use, it can nevertheless make use of public property, including

natural resources, but it must safeguard their capital value, in accordance with the law of usufruct H R, art. When does occupation come to an end? The normal way for an occupation to end is for the occupying power to withdraw from the occupied territory or be driven out of it. However, the continued presence of foreign troops does not necessarily mean that occupation continues. A transfer of authority to a local government re-establishing the full and free exercise of sovereignty will normally end the state of occupation, if the government agrees to the continued presence of foreign troops on its territory. However, the law of occupation may become applicable again if the situation on the ground changes, that is to say, if the territory again becomes " actually placed under the authority of the hostile army " H R, art. What is the situation of people deprived of their liberty, during and after occupation? Prisoners of war are captured members of armed forces and associated militias who meet the criteria laid down in the third Geneva Convention GC III art. All other people held in occupied territory are protected by the Fourth Geneva Convention GC IV , apart from very few exceptions, such as the nationals of the occupying power or its allies. However, in no case can persons deprived of their liberty for reasons related to the situation of occupation fall outside the customary minimum standards guaranteed in article 75 of Protocol I. Prisoners of war and civilian internees must be released without delay after the end of hostilities. However, those who are accused of an indictable offence may remain in captivity until the end of criminal proceedings or completion of their sentence GC III, art. Until their release, and as long as they are under the authority of the occupant, all those in custody remain protected by international humanitarian law GC III, art. What is the basis for ICRC protection activities for persons deprived of their freedom during occupation and afterwards? In other situations of internal violence, which fall short of armed conflict, the ICRC may offer its services based on its right of initiative laid down in the Statutes of the International Red Cross and Red Crescent Movement articles 5 2 d and 5 3.

Chapter 3 : The Occupying Power by Griffin, Gwyn

In at the village of St Blaize in France, the events of a few days changed the inhabitants from cowards to patriots and provoked the full fury of the SS.

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The scope of article 2 is broad: Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. In the commentary to the article Jean Pictet writes: Conflicts not of an international character[edit] Article 3 states that even where there is not a conflict of international character, the parties must as a minimum adhere to minimal protections described as: Definition of protected persons[edit] Article 4 defines who is a protected person: Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. It explicitly excludes "Nationals of a State which is not bound by the Convention" and the citizens of a neutral state or an allied state if that state has normal diplomatic relations "within the State in whose hands they are". A number of articles specify how protecting powers, ICRC and other humanitarian organizations may aid protected persons. The definition of protected person in this article is arguably the most important article in this section because many of the articles in the rest of GCIV only apply to protected persons. Field of application of part II[edit] The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race , nationality , religion or political opinion , and are intended to alleviate the sufferings caused by war. The list of basis on which distinction might be drawn is not exhaustive. Provisions common to the territories of the parties to the conflict and to occupied territories[edit] Article Prohibition of corporal punishment, torture, etc. This prohibition applies not only to murder, torture , corporal punishments , mutilation and medical or scientific experiments not necessitated by the medical treatment". While popular debate remains on what constitutes a legal definition of torture, the ban on corporal punishment simplifies the matter; even the most mundane physical abuse is thereby forbidden by Article 32, as a precaution against alternate definitions of torture. The prohibition on scientific experiments was added, in part, in response to experiments by German and Japanese doctors during World War II of whom Josef Mengele was the most infamous. Individual responsibility, collective penalties, pillage and reprisals[edit] No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Reprisals against protected persons and their property are prohibited. In World War II, both the Germans and the Japanese carried out a form of collective punishment to suppress resistance. Entire villages or towns or districts were held responsible for any resistance activity that occurred at those places. The International Committee of the Red Cross ICRC Commentary to the conventions states that parties to a conflict often would resort to "intimidatory measures to terrorize the population" in hopes of preventing hostile acts, but such practices "strike at guilty and innocent alike. They are opposed to all principles based on humanity and justice. Occupied territories[edit] Articles impose substantial obligations on occupying powers. As well as numerous provisions for the general welfare of the inhabitants of an occupied territory, an occupier may not forcibly deport protected persons, or deport or transfer parts of its own civilian population into occupied territory Art. Deportations, transfers, evacuations[edit] Article Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased. The

Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated. The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place. The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand. The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies. If ethnic groups are affected by deportation, it may also be referred to as population transfer. Transfer in this case literally means to move or pass from one place to another.

Children[edit] Article The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children. The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it. Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend. A special section of the Bureau set up in accordance with Article shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available. The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

Prohibited destruction[edit] Article Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations. In The Geneva Conventions of 12 August Commentary , Jean Pictet writes: In order to dissipate any misconception in regard to the scope of Article 53, it must be pointed out that the property referred to is not accorded general protection; the Convention merely provides here for its protection in occupied territory. The scope of the Article is therefore limited to destruction resulting from action by the Occupying Power. It will be remembered that Article 23 g of the Hague Regulations forbids the unnecessary destruction of enemy property; since that rule is placed in the section entitled "hostilities", it covers all property in the territory involved in a war; its scope is therefore much wider than that of the provision under discussion, which is only concerned with property situated in occupied territory.

Hygiene and public health[edit] Article 56 describes the medical obligations the occupying power has in the occupied territory: To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties. If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

Internment and assigned residence. Right of appeal[edit] Article 78 deals with internment. It allows the occupying power for "imperative reasons of security" to "subject them [protected persons] to assigned residence or to internment. Execution of the Convention[edit] This part contains "the formal or diplomatic provisions which it is customary to place at the end of an international Convention to settle the procedure for bringing it into effect are grouped together under this heading 1. They are similar in all four Geneva Conventions. It could usefully be taken as a working basis,

therefore, whenever a hospital zone is to be established. It is based on the traditions of the International Committee of the Red Cross which submitted it, and on the experience the Committee gained during the Second World War. An example letter with dimensions of 29x15 cm. An example correspondence card with dimensions of 10x15 cm.

The Occupying Power has ratings and 9 reviews. A war novel in which an allied agent in occupied France finds himself faced by the appalling consequen.

Article 85 was adopted by consensus. The manual further states: I [Additional Protocol I] extends the definition of grave breaches to include the following acts, when committed wilfully and in violation of the [Geneva] Conventions or the Protocol: The manual considers such practice to be a grave breach. The occupying power may find it in its own interests to move sections of its own civilian population into the occupied area. Such movements of population can have very far-reaching negative consequences for the occupied population. In its chapter on enforcement of the law of armed conflict, the manual notes: Additional Protocol I extends the definition of grave breaches to include the following: Armenia, Penal Code, , Article The grave breaches provisions in this Act were removed in and incorporated into the Criminal Code Act Imprisonment for 17 years. Azerbaijan, Criminal Code, , Article Belarus, Criminal Code, , Article War crimes envisaged in the [Geneva] Conventions and in the [Additional Protocols I and II] , as well as in Article 8 2 f of the [ICC Statute], and listed below, constitute crimes under international law and shall be punished in accordance with the provisions of the present title: Whoever, in violation of the rules of international law applicable in the time of war, armed conflict or occupation, orders or carries out as an occupier the resettlement of parts of his civilian population into the occupied territory, shall be punished by imprisonment for a term of not less than ten years or long-term imprisonment. Bosnia and Herzegovina, Criminal Code, , Article 3. Other serious violations of the laws and customs applicable in international armed conflicts, within the established framework of international law, namely, any of the following acts: The transfer, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies. Whoever, as part of an occupying power, in violation of the rules of international law, in time of war, armed conflict or occupation, orders or performs the transfer of parts of the civilian population of the occupying force to the occupied territory shall be punished. Croatia, Criminal Code, , Article 3. Czech Republic, Criminal Code, , as amended in , Article a 2 d. Article Crimes against humanity are grave violations of international humanitarian law committed against any civilian population before or during war. Crimes against humanity are not necessarily linked to the state of war and can be committed not only between persons of different nationality, but even between subjects of the same State. Article The grave breaches listed hereafter, affecting, by action or omission, the persons and objects protected by the Geneva Conventions of 12 August and the Additional Protocols of 8 June , constitute crimes against humanity, repressed according to the provisions of the present Code, without prejudice to more severe penal provisions provided by the ordinary Penal Code: The transfer into occupied territory of parts of the civilian population of the occupying power in the case of an international armed conflict, or of the occupying authority in the case of a non-international armed conflict; Article The offences contained in the preceding article are punished with penal servitude for life. If those contained in points 1, 2, 5, 6, 10 to 14 of the same article lead to the death or cause grave injury to the physical integrity or health of one or several persons, the perpetrators are liable to the death penalty. Any person who uses war instruments or procedures the application of which violates an international agreement entered into by Denmark or the general rules of international law, shall be liable to the same penalty [i. Georgia, Criminal Code, , Article 1 g. Ireland, Geneva Conventions Act, , as amended in , Section 3 1. Ireland, Geneva Conventions Act, , as amended in , Section 4 1 and 4. Article 5 Crimes of transferring to occupied territory [F]or the purpose of settlement in the territory that a State occupies hereinafter, the occupied territory and as part of measures concerning occupation, a person who transfers to the occupied territory a person who has nationality of the State and resides within the territory of the State, shall be punished by imprisonment with labour for not more than 5 years. Jordan, Military Penal Code, , Article 41 a Mali, Penal Code, , Article 31 i 8. Netherlands, International Crimes Act, , Article 5 2 d i. Netherlands, International Crimes Act, , Article 5 5 d. Any person who in New Zealand or elsewhere commits, or aids or abets or procures the commission by another person of, a grave breach of [the Additional Protocol I] is

guilty of an indictable offence. Niger, Penal Code, , as amended in , Article Anyone who contravenes or is accessory to the contravention of provisions relating to the protection of persons or property laid down in the Geneva Conventions of 12 August [and in] the two additional protocols to these Conventions is liable to imprisonment. Any member of the military or police shall be imprisoned for a period of no less than five and no more than 15 years if he or she in the context of an international armed conflict: A member of the military or the police shall be punished with deprivation of liberty of not less than five years and not more than ten years if, in a state of emergency and when the Armed Forces assume control of the internal order, he or she:

Chapter 5 : What is the definition of "the occupying power" in the customary laws of warfare.? | Yahoo Ans

The occupying power must respect the laws in force in the occupied territory, unless they constitute a threat to its security or an obstacle to the application of the international law of occupation. The occupying power must take measures to restore and ensure, as far as possible, public order and safety.

The ones who voted against: Click to enlarge This is the third United Nations resolution on occupied Crimea. In an article for Yevropeiska Pravda, Tetiana Pechonchyk from the Center for Human Rights Information outlined what the difference between the two resolutions is. Invokes international humanitarian law The text of the new resolution includes not only references to international norms related to the protection of human rights, but also extended references to international humanitarian law in particular, the Geneva Conventions of and the Additional Protocol I of This right regulates the protection of victims of war, as well as restricts methods and means of warfare and defines the responsibility for violating these norms. Although it should be emphasized that this is not a new recognition. In , such a qualification was given , in particular, by the Office of the Prosecutor of the International Criminal Court in The Hague. In practice, this means that Crimean citizens who became victims of occupation can rely on wider instruments of international legal mechanisms of protection. Slams retroactive application of law The resolution mentioned the problem of not only the establishment of laws of the Russian Federation in the Crimea, but also their retroactive application. Condemns forced Russian citizenship After occupation, the inhabitants of Crimea faced a difficult choice: The resolution condemns the automatic assignment of Russian citizenship to Crimeans, as well as the negative consequences for those who have refused passports of the occupying power. After the occupation, Russia declared that all Ukrainian citizens living on the peninsula are its subjects. The mobilization of the occupied population to Russian armed forces is one of the most serious crimes before the International Criminal Court in The Hague thanks to the appeal of Ukraine, this court from received jurisdiction over its entire territory, including over the Crimea. Highlights forced confiscations The resolution raises another problem, which was not discussed previously " ownership. Its text calls on Russia to respect Ukrainian legislation and to abolish the laws it introduced in the Crimea, which allow for the forced eviction and confiscation of private property in violation of international law. Due to similar accusations, 25 Crimeans are already behind bars. The persecution of religious communities in Crimea is a daily reality, which, unfortunately, is not given much attention. The draft of the new UN resolution attempts to correct this injustice, clearly pointing out the problems of various religious groups in the occupied peninsula. Calls on both Russia and Ukraine to facilitate access of international observers The new resolution, like the previous one, raises the issue of access of international observers to the Crimea, but this time it draws attention to limiting access not only by Russia but also from the Ukrainian side. The government has changed the current procedure for three times, but it remains a bureaucratic obstacle for those foreigners who could record and tell the world about human rights violations by protecting the victims of occupation. The mention of this problem in a resolution co-sponsored by Ukraine gives hope that Kyiv is truly interested in its solution. This is an important road map for the country, which in the fourth year of occupation still has no strategy for the return and reintegration of the Crimea. By the way, Ukrainian IDPs, including those from Crimea, filed a complaint with the European Court of Human Rights because of the inability to participate in local elections at their places of actual residence after the resettlement. This case has already been handed over to the Ukrainian government.

Chapter 6 : Fourth Geneva Convention - Wikipedia

Occupying power can be understood simply by the US presence in Iraq, the fact of occupation. The US has not proclaimed to be an occupying power as there are still signs of resistance and fighting in portions of Iraq.

Human Rights in the Middle East: The treaty governs the treatment of civilians during wartime, including hostages, diplomats, spies, bystanders and civilians in territory under military occupation. The convention outlaws torture, collective punishment and the resettlement by an occupying power of its own civilians on territory under its military control. Since , the Arab group at the United Nations has been trying to invoke the Fourth Geneva Convention against Israel in regard to its settlements in the West Bank and Gaza Strip prior to the disengagement as well as developments such as Har Homa in Jerusalem. The UN General Assembly has adopted a number of non-binding resolutions condemning Israeli settlements and calling for a convening of the signatory nations of the Fourth Geneva Convention. Switzerland is the Depository for the Fourth Geneva Convention. This means that the Swiss are technically responsible for organizing and convening a meeting of the signatory nations. However, the Swiss may only convene the meeting if a majority of the signatory nations agree to do so. Out of the parties to the Geneva Convention, voiced their support for a resolution calling on Israel to follow international humanitarian law in the areas of conflict. Since the Fourth Geneva Convention signing in , there have been four emergency meetings of Convention signatories called, and each one of these emergency meetings pertained to Israel. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances. In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions: To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict. Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are. The provisions of Part II are, however, wider in application, as defined in Article Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention. In each case, such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2. In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations. In the case of occupied territory, the application of the present Convention shall cease one year after the general close of

military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention. In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, , , , and , the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, not restrict the rights which it confers upon them. Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict. Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be. The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are TO carry out their duties. The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers. The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief. The High Contracting Parties may at any time agree to entrust to an international organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention. When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict. If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention. Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially. No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied. Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article. The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State in which the State of which they are nationals has not normal diplomatic representation. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement. For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in

particular of the authorities responsible for protected persons, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting. The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war. In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven. Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary. The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities. Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction: When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone. The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect. As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment. The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas. Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack but shall at all times be respected and protected by the Parties to the conflict. States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August , but only if so authorized by the State. The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action. In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives. The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded. The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy. Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases shall be respected and protected. In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and

embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armband which they shall wear on the left arm while carrying out their duties. This armband shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August. Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armband, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed. The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel. Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the same manner as the hospitals provided for in Article 18, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August. Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned. They may be marked with the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August. Unless agreed otherwise, flights over enemy or enemy occupied territory are prohibited. Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any. Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases. The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing: Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed. The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition. The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in first paragraph. All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay. If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article , and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross Red Crescent, Red Lion and Sun Societies. If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month. Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations. Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their

manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Chapter 7 : Israel's Obligations as an Occupying Power | The QCEA Blog

According to one resolution ('Jerusalem'), "the Assembly reiterated that any actions by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem were illegal and therefore null and void."

European Union , News , Reports I. The main international instruments defining the obligations of an occupying power are: It should be stressed at the outset that Article 47 of the Fourth Geneva Convention expressly provides that persons in the occupied area shall not be deprived of the benefits of the Convention by any agreement between the authorities of the occupied territory and the occupying authority. Accordingly, as long as the occupation endures, it is not possible to argue successfully that the conclusion of the Oslo agreements in any way diminished or affected the obligations of Israel towards the Palestinian population. There is no doubt, therefore, that the Hague Regulations are binding on Israel. The Fourth Geneva Convention. Israel disputes the applicability of the Fourth Geneva Convention to the OPT, although that convention was ratified both by it and by Jordan. According to the Israeli interpretation, it would follow from the wording of Article 2 2 that the Convention applies only where the territory occupied fell previously under the sovereignty of another High Contracting Party. The Court found that, according to Article 2 1 , the Convention is applicable whenever there exists an armed conflict between two contracting parties 4. If that condition is satisfied, the Convention applies to any territory occupied in the course of that conflict. The object of Article 2 2 is not to restrict the scope of application of the Convention but simply to make clear that, even if the occupation met no armed resistance, the Convention is applicable 5. According to the Court, this interpretation reflects the intention of the drafters of the Convention to protect civilians who find themselves, in whatever way, in the hands of the occupying Power. This definition applies independently of the legality of the occupation. The only thing that matters is that there exists a situation in which a territory is actually placed under the authority of a hostile army. If that is the case, the law of occupation applies, whether or not the territory was subject to the sovereignty of the State occupying it previously, whether or not the occupation has received Security Council approval, whatever its aim is, whether or not it is the result of an aggression or of the exercise of the right to self-defence, whether or not it is motivated by humanitarian considerations, etc. It is simply the reflection of an objective state of fact. Part of the West Bank was annexed by Israel in and is now considered by it to be within the city of Jerusalem. For this reason we shall consider it separately, even though it is regarded internationally as being part of the West Bank. It remains occupied today. It had previously been occupied by Jordan. Israel continued to have the right to conduct military incursions into Area A without needing the consent of the Palestinian Authority and therefore maintained the potential to exercise full control over the area. Thus the entire territory of the West Bank remains under the authority of Israel. The annexation of East Jerusalem was never recognized internationally. They had been part of the territory of Syria. The annexation of the Golan Heights was never recognized internationally. As regards the Gaza Strip, the situation is at first sight more complex as a result of the Israeli disengagement of September However numerous arguments show that the occupation did not in reality come to an end: Occupation does not vest the occupying power with sovereignty over the occupied territory. The occupant is entrusted with the management of public order and civil life in the territory under control. He must exercise his powers in the interest of the inhabitants of that territory. Were it otherwise, the distinction between occupation " in which the occupant acquires only limited prerogatives " and annexation " in which the annexing State acquires full sovereignty over the annexed territory " would disappear. It will become apparent from the following description of the actions taken by Israel since that Israel no longer considers the occupation of Palestine as temporary. And with respect to East Jerusalem and the Golan Heights, Israel has already crossed the line and officially annexed these areas. This clearly indicates that all the territories concerned should be evacuated. Nevertheless Israel did not withdraw from a single square mile of occupied territory. Israel deliberately ignores its basic obligation to exercise its powers for the benefit of the occupied area. According to Article 43 of the Hague Regulations, 21 as generally interpreted " and notably by the Israeli Supreme Court " an occupying State has the duty to exercise its powers under all circumstances for the benefit of the occupied area and to refrain from taking into

consideration its national economic and social interests inasmuch as such interests have no effect on its security or the interest of the local population. Since the very beginning of the occupation it has introduced a wide variety of policies and measures that will be described in further detail hereafter. Taken together, these policies and measures have thwarted the socio-economic and industrial development of the OPT. By a combination of incentives in favour of its own nationals and restrictions on Palestinian firms and individuals it has created an uneven playing field in which Palestinians are systematically maintained in a subordinate role, unable to compete on an even footing with their Israeli counterparts. This has been documented in numerous reports of international governmental and non-governmental agencies, particularly the World Bank. The administration is demanding that the Palestinians agree to let the Israeli settlements built in violation of international law 25 in the region use the site as well, which the Palestinians refuse. Israel has brought changes to existing Palestinian legislation in violation of international law. Article 43 of the Hague Regulations obliges the occupying power to respect, unless absolutely prevented, the laws in force in the country. As shall be explained hereafter, Israel has introduced planning legislation requiring Palestinians in Area C to obtain the prior authorization for any new construction. Thus the new restrictions on construction introduced by the Israeli authorities could not validly deprive the Palestinian population of the rights they enjoyed under the previous regime. Article 49 6 of the Fourth Geneva Convention states that: The settlements are connected with each other and with the territory of Israel by a network of roads specially reserved to the inhabitants of Israel and to settlers. The settlements themselves are protected by the Israeli military. Settlers benefit from tax and social advantages. They have preferential access to water resources. It has been condemned practically universally. The argument is sometimes made on the Israeli side that Article 49 was drafted after the Second World War during which millions of people were deported, displaced and massacred, and that it does not apply to voluntary transfers. It repeated this in resolution of 20 July These pronouncements make clear that Israeli settlements in East Jerusalem are also condemned. It also called upon third States to withdraw their diplomatic missions from the Holy City. One of the latest pronouncements of the Foreign Affairs Council on the question reads as follows: The EU reiterates that it will not recognize any changes to the borders including with regard to Jerusalem, other than those agreed by the parties. The Wall does not follow the border ; it is built on Palestinian territory and frequently deviates from that border, sometimes by several kilometres, in such a way that it encompasses several settlements while encircling Palestinian areas Access to and exit from the Closed Area by Palestinians residing outside it can only be effected through special gates which are few in number and whose opening hours are few and unpredictably applied. In the Wall Opinion, the ICJ held that construction of the Wall on Palestinian territory was contrary to international law for the following reasons: They entail serious repercussions for agricultural production, access to health services, educational establishments and sources of water by Palestinian residents of the Closed Area. Destruction of real and personal property. Article 53 of the Fourth Geneva Convention states: One frequently invoked reason is punishment: In such cases, the destruction contravenes not only Article 53 but also Article 33 1 of the Fourth Geneva Convention. However it is well-known that this administration hardly ever delivers permits to Palestinians living in Area C. The destructions concern not only houses but also tents, huts, sheep pens, latrines, water cisterns and wells, hothouses, solar panels, wind-and-sun-powered turbines, many of which were built with money provided by the EU or its Member States. The efforts of the Palestinian population to improve its lot are thereby frustrated, as are the attempts of third countries to improve it. It is evident that such destructions carried out by Israel contravene its international obligations. Confiscation of private property. Article 46 2 of the Hague Regulations states: Since the war, Israel has seized over a million dunums 45 of Palestinian land through a selective application of Ottoman law. In particular, land has been confiscated through seizure for military needs, absentee property laws and declarations of State land. Seized land is placed within the jurisdictional boundaries of local and regional settlement councils and is used not only for urbanization but also as a buffer zone surrounding settlements or turned into recreational and nature areas which cannot be accessed by Palestinians. In practice it is virtually impossible for Palestinians to obtain construction permits for residential or economic purposes. Moreover the shortage of space for construction has resulted in a steep rise in the price of land. Once again it can only be concluded that Israel has acted, and

continues to act, in blatant disregard of its international obligations. In the case of non-renewable resources such as mines and quarries, there is authority for the view that an occupying power may, as usufructuary, continue exploitation of existing sites but may not create new sites or extend existing ones. Moreover Article 43 of the Hague Regulations has been interpreted as obliging the occupying State to exercise its powers for the benefit of the occupied area. In the case of Palestine, it is also necessary to take into account the principle of permanent sovereignty of peoples and nations over their natural resources. This principle, which was proclaimed by the UN General Assembly in , 50 is now accepted as one of the main pillars of contemporary international law. Like other peoples and nations, Palestinians are entitled to have it respected. All EU Member States voted in favour of this resolution. Israeli actions under the occupation have repeatedly and seriously violated these international law principles. The following are a few examples of such Israeli actions: The occupation authorities seldom if ever intervene to put an end to these actions. Even though the identities of the perpetrators are well-known and they could easily be identified, few have been prosecuted. It has been criticized by the Council of the EU: Appropriation of cultural property. Both Israel and Palestine are parties to that convention. As a result, Israel as an occupying power is not entitled to conduct archaeological excavations in Palestine without the collaboration of the Palestinian authorities and to appropriate the results of these excavations and exhibit them in its own museums as it does today. Administrative detention and treatment of detainees. In order to discharge its responsibility under Article 43 of the Hague Regulations to maintain public order and safety, an occupying power may adopt various measures, of which internment is the most severe. Any appeal must be decided with the least possible delay. If the decision is upheld, it must be subject to periodic review, if possible every six months. This by itself constitutes a violation of Article 78 1 of the Fourth Geneva Convention which makes it clear that detention constitutes a last remedy, to be resorted to only if required for imperative reasons of security if less extreme methods fail. Article thereof empowers the military commander to detain an individual for up to six months renewable periods if he has reasonable grounds to presume that public security so requires. There is no limit on the number of times the six-month detention period may be renewed.

Chapter 8 : The Fourth Geneva Convention

If the occupying power considers it necessary, for imperative reasons of security, to take safety measures concerning civilians, it may at the most subject them to assigned residence or to internment.

The occupation extends only to the territory where such authority has been established and can be exercised. The UK manual para follows the same line by underscoring that invading forces must have taken the place of the national authorities in the exercise of actual control over a territory. The sole criterion for deciding the applicability of the law on belligerent occupation is drawn from facts: If these conditions are met for a given area, the law on belligerent occupation applies. Even though the objective of the military campaign may not be to control territory, the sole presence of such forces in a controlling position renders applicable the law protecting the inhabitants. The occupying power cannot avoid its responsibilities as long as a national government is not in a position to carry out its normal tasks. The international legal regime on belligerent occupation takes effect as soon as the armed forces of a foreign power have secured effective control over a territory that is not its own. It ends when the occupying forces have relinquished their control over that territory. The answer is affirmative, as long as the occupying forces are still present in that territory and exercise final control over the acts of the local authorities. The responsibility of the occupying power does not mean responsibility for each and every act of the local civilian administration. But if the local administration lacks, for example, the means to provide adequate health care, it is the duty of the occupying power to take remedial action. In the language of the Fourth Geneva Convention Article 4 , civilians in occupied territories who find themselves "in the hands of a Party to the conflict or Occupying Power of which they are not nationals" are the "protected persons" whose rights are included in the Convention. Their rights are inviolable and cannot be renounced Article 8. Any such renunciation would be null and void, irrespective of whether the person has taken that decision of his or her own free will or under coercion by the occupying power. The core idea of international law on belligerent occupation is that occupation is transitional. The Hague Regulations state in Article 43 that: As such it may set up a temporary civil administration, but has no right to change the existing structures of the state. For example, it cannot engage in a major reform of the criminal justice system, even though in Iraq this is badly needed to bring it in line with international human rights law and standards. Amnesty International is calling for a UN commission of experts to start working immediately, in close consultation with Iraqi civil society, to develop proposals for reform. These proposals will have to be implemented either by a new Iraqi government or a UN transitional administration. If several occupying powers allocate control and administration of different parts of the territory to each one of them as in occupied Germany after , each state is fully responsible for what happens under its authority. However, one fundamental obligation of international humanitarian law, reflected in Article 1 common to all four Geneva Conventions, is the undertaking not only to respect but also to "ensure respect for the present Convention in all circumstances. They must also ensure that any armed group allied to them respect fully international humanitarian law.

Chapter 9 : Occupation and international humanitarian law: questions and answers - ICRC

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised. The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. Occupied territories is a specific section covering the issue. Article 6 restricts the length of time that most of GCIV applies: The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2. In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations. In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: GCIV emphasised an important change in international law. Occupied territories, restricted the territorial gains which could be made through war by stating: Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory. Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies. In the situation of a territorial cession as the result of war, the specification of a "receiving country" in the peace treaty merely means that the country in question is authorized by the international community to establish civil government in the territory. The military government of the principal occupying power will continue past the point in time when the peace treaty comes into force, until it is legally supplanted. Birkhimer, 3rd edition No proclamation of part of the victorious commander is necessary to the lawful inauguration and enforcement of military government. That government results from the fact that the former sovereignty is ousted, and the opposing army now has control. Yet the issuing such proclamation is useful as publishing to all living in the district occupied those rules of conduct which will govern the conqueror in the exercise of his authority. Wellington, indeed, as previously mentioned, said that the commander is bound to lay down distinctly the rules according to which his will is to be carried out. But the laws of war do not imperatively require this, and in very many instances it is not done. When it is not, the mere fact that the country is militarily occupied by the enemy is deemed sufficient notification to all concerned that the regular has been supplanted by a military government. The occupying power[edit] The terminology of "the occupying power" as spoken of in the laws of war is most properly rendered as "the principal occupying power", or alternatively as "the occupying power". This is because the law of agency is always available When the administrative authority for the military occupation of particular areas is delegated to other troops, a "principal -- agent" relationship is in effect. In most contexts determined by the application of the defined and modern laws of war , delegation to agencies generally tends to relating to civilian organizations. Juridical considerations like the above remain in the other cases merely consensual between the said powers. For example, in the U. Military Tribunal in Nuremberg states: In belligerent occupation the occupying power does not hold enemy territory by virtue of any legal right. On the contrary, it merely exercises a precarious and temporary actual control. The conqueror is the principal occupying power. End of military government[edit] The examples and perspective in this section deal primarily with the United States

and do not represent a worldwide view of the subject. You may improve this article , discuss the issue on the talk page , or create a new article , as appropriate. August Learn how and when to remove this template message Rule: Military occupation continues until legally supplanted. According to Eyal Benvenisti , military occupation can end in a number of ways, such as: For the situation where no territorial cession is involved, the military government of the principal occupying power will end with the coming into force of the peace settlement. Japan regained its sovereignty with the coming into force of the San Francisco Peace Treaty on April 28, In other words, a civil government for Japan was in place and functioning as of this date. In the situation of a territorial cession, there must be a formal peace treaty. However, the military government of the principal occupying power does not end with the coming into force of the peace treaty. Hence, at the most basic level, the terminology of "legally supplanted" is interpreted to mean "legally supplanted by a civil government fully recognized by the national or "federal" government of the principal occupying power". Examples of military occupations[edit] German stamp inscribed with "Soviet Occupation Zone", Main article: List of military occupations In most wars some territory is placed under the authority of the hostile army. Most military occupations end with the cessation of hostilities. In some cases the occupied territory is returned and in others the land remains under the control of the occupying power but usually not as militarily occupied territory. Sometimes the status of presences is disputed by a party to the situation. Military occupation is usually a temporary phase, preceding either the handing back of the territory, or its annexation. A significant number of post occupations have lasted more than two decades such as the occupations of Namibia by South Africa and of East Timor by Indonesia as well as the ongoing occupations of Northern Cyprus by Turkey and of Western Sahara by Morocco. The War Report makes no determination as to whether belligerent occupation is occurring in these cases.