

International Humanitarian Law

- The Law of Armed Conflict

Lecturer in IHL

Dr Maite Alemany

War Occupation (I)

- **Concept.** The occupation of enemy territory occurs when the armed forces of the adversary bring it under their immediate, lasting, and effective control.
- **Legal formulation**
 - ▶ Resolution 2625 (XXV) of 1970:
‘No state or group of states has the right to intervene directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other state. Therefore, not only armed intervention, but also all other forms of interference or threats against the personality of the state or the political, economic, and cultural elements which constitute it, are violations of international law’.

War Occupation (II)

- 2. Conquest/ War Occupation. Classical Law/Current Law

- ▶ Prohibition of any armed intervention.

Article 2.4 of the United Nations Charter provides for the "prohibition of the use of the the threat or use of force against the territorial integrity or political independence of any state").

*It is contrary to this principle not only the use by a State of its armed forces to attack, invade or occupy a foreign state or part of its territory, but also the organising, supporting, promoting, encouraging, financing, instigating or tolerating armed subversion to overthrow the government of a state or intervene in its internal strife.
acts of terror or
Example: Iraq's invasion of Kuwait in 1990.*

- ▶ Prohibition of the use of forms of intervention other than armed intervention, economic intervention, political intervention (in the form of the state) etc.

US intervention in Nicaragua, support for the 'contra' mercenaries to overthrow the Sandinista government.

Is the war legal?

Does it have limits?

Exceptions to the use of force *jus ad bellum*:

- In self-defence against an armed attack, the response must be imminent, proportional, and communicated to the Security Council.
- Security Council authorisation for intervention. Example: unanimous intervention in defence of Kuwait in response to Iraq's 1990 attack.

Definition of international humanitarian law: jus in bello

A: encompasses both the limitation of the means and methods of waging war (Hague Law).

B: necessary protection of victims of armed conflict (Geneva Law).

It is the limit that must prevent situations of armed conflict from degenerating into outright barbarism.

One of the objectives of IHL is the limit that should prevent situations of armed conflict from degenerating into outright barbarism (ICJ Advisory Opinion on the Wall in Palestine-2004).

Background to international humanitarian law: jus in bello

A: Battle of Solferino - Henry Dunant creation of ICRC. Convention to improve the fate of soldiers wounded in the field. 1864.

B: Declaration relating to the protection of the use of certain projectiles in time of war. 1868.

ICJ Advisory Opinion on the construction of the wall in Palestinian territories: 'It is the limit that must prevent situations of armed conflict from degenerating into situations of absolute barbarism'.

A-Hague Law/Law and Use of War / jus in Bellum:

- Imposing limits on the law of war
- *Hague Convention II of 29 June 1899 concerning the Laws and Use of War on Land.*
- *Hague Convention for the Protection of Cultural Property 1954.*
- *Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, Toxic, and Other Gases (Interwar 1925)*
- *Convention on the Prohibition of the Preparation, Production, and Stockpiling of Bacteriological Weapons 1972, Chemical Weapons Convention (1980), anti-personnel mines.*

B - International humanitarian law: jus in bello

4 Geneva conventions:

- Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, 1949. Convention I.
- Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949. Convention II.
- Convention relative to the Treatment of Prisoners of War, 1949. Convention III.
- Convention relative to the Protection of Civilian Persons in Time of War, 1949. Convention IV.

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- Two additional protocols:
 - Protocol Relating to the Adoption of Victims of Armed Conflict of 1977. Protocol I.
 - Protocol Relating to the Adoption of the 1977 Protocol on Internal Armed Conflicts. Protocol II.
 - Protocol III. ICRC.
- Connection between International Human Rights Law and International Humanitarian Law.

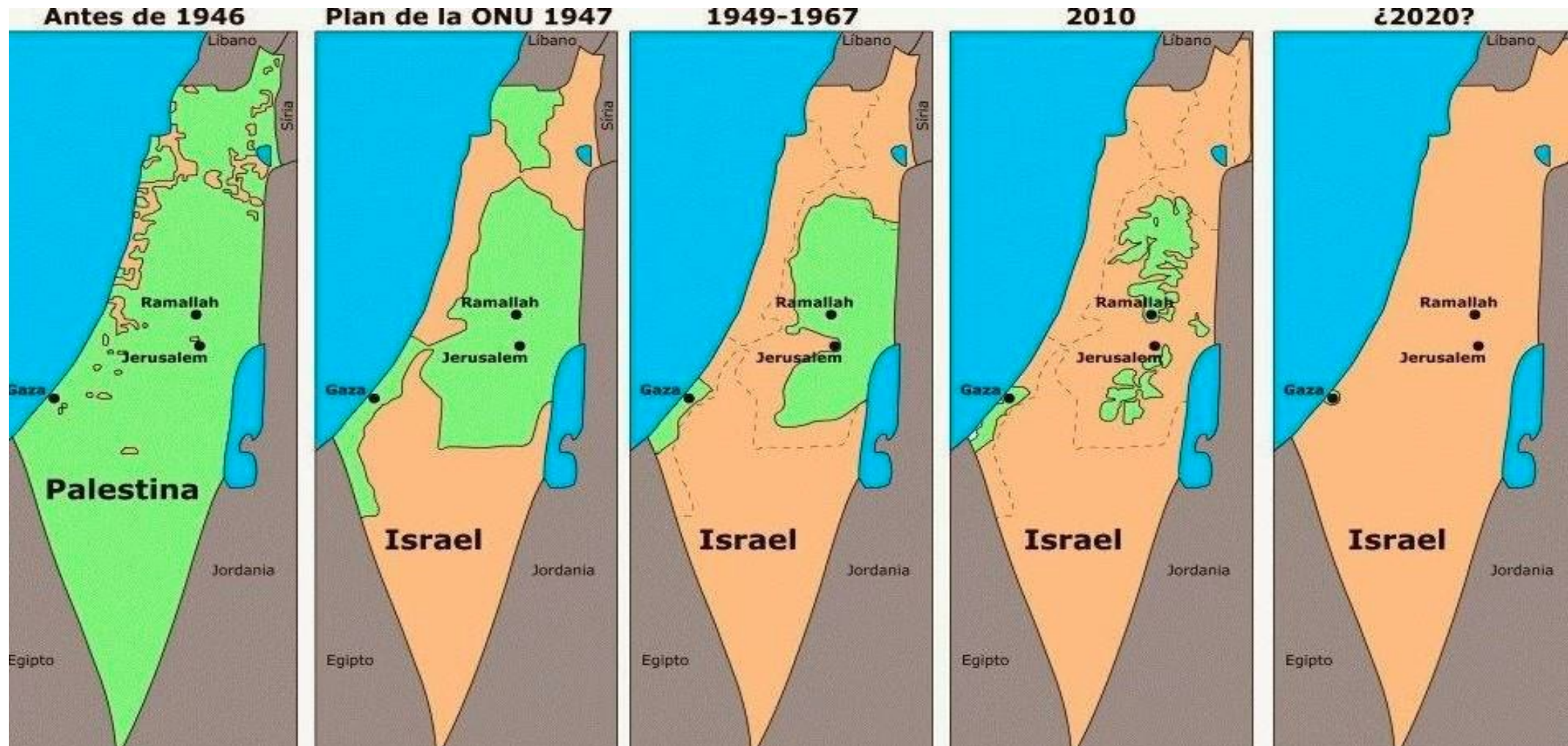
Activity - International humanitarian law

- See the video and answer the following questions:
- How does IHL come into being, how can we define it, what are the Geneva Conventions?
- Which entity regulates and protects people in armed conflict?
- What are the different emblems?
- How many protocols are there in IHL?
- What are the principles of the International Red Cross Movement?
- **VIDEO:** <https://www.youtube.com/watch?v=kEtOXDJl8q0>.
- **Where did the Geneva Conventions come from?**
- **| The Laws Of War | ICRC**

International humanitarian law

- What are the principles of international humanitarian law? IHL | ICRC
- **VIDEO:** https://www.youtube.com/watch?v=ESwfxu_1Ko0

What is happening in Gaza?



International humanitarian law in Gaza

UNFPA Video: <https://www.unfpa.org/video/sheltering-bombs-hospital-gaza>