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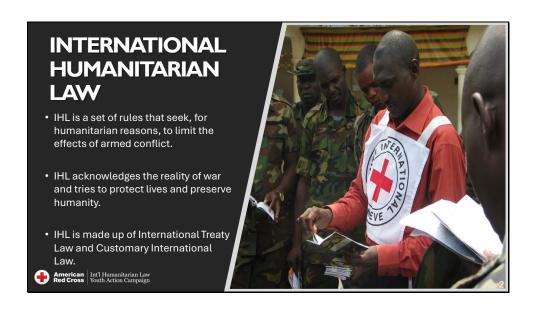
IHL and its humanitarian aims have been central to the Red Cross and Red Crescent Movement since its founding in the 1800s. Let's learn more about the building blocks and principles of IHL.

Module 2 Objectives:

Throughout Module 2, you will learn about:

- o The foundations of IHL
- Types of armed conflicts
- The fundamental principles of IHL
 - Including Military necessity, distinction, proportionality and limiting unnecessary suffering
- Targeting
- o International accountability mechanisms

And put your knowledge into practice through scenarios and exercises!



Slide 2:

International humanitarian law (IHL) is a set of rules that seek, for humanitarian reasons, to limit the effects of armed conflict. IHL acknowledges the reality of armed conflict and attempts to protect lives and preserve humanity.

During armed conflicts, actions that would never be allowed during peacetime, like killing someone, suddenly become lawful. IHL are the rules that govern these actions. IHL protects people who are not or are no longer participating in hostilities, like civilians or the sick and the wounded. It also restricts the means and methods of warfare in order to limit certain weapons and strategies that cause unnecessary suffering.

IHL is made up of International Treaty Law and Customary International Law.

International treaty law includes formal international agreements like the Geneva Conventions. Customary international law is developed when a significant number of nations consistently do a certain practice to the point that it is eventually recognized as an obligation on all nations although it is not written in a formal treaty. It is like the way that many people in the United States tend to walk on the right side of the sidewalk, not because it is a written law but simply because it is a social norm that helps decrease confusion when two people are walking towards each other. When enough nations adhere to the same practice and it inspires a sense of obligation to comply with the practice, the practice becomes accepted as customary international law.

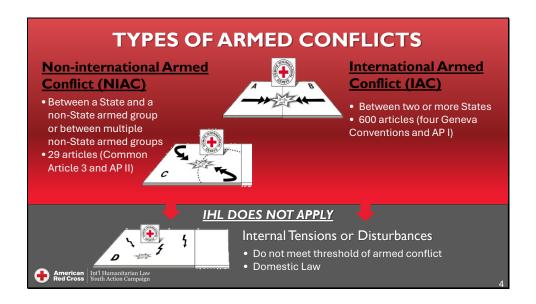


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The first Geneva Convention of 1864 had ten short articles that protected medical personnel and wounded soldiers during war. Clara Barton spent 18 years lobbying the U.S. government before President Chester Arthur signed the agreement and the Senate ratified it.

After the 1864 Geneva Convention, the next big change in International Humanitarian Law (IHL) happened after World War II, in response to the atrocities committed during the war. The Geneva Conventions of 1949 were created to prevent such horrors from happening again. They provided the first universally accepted laws governing armed conflicts. They provided protections for civilians, prisoners of war, and established international norms of warfare. Every country in the world has signed these conventions and adopted them as law, making them the foundation of International Humanitarian Law.

In 1977, the Additional Protocols expanded the laws of war, but fewer nations ratified them. The United States, for example, has not ratified these protocols.



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In IHL, armed conflicts are divided into different categories based on who is fighting. There are two main categories of conflicts in which IHL applies. Determining the type of armed conflict is important because it impacts which IHL rules are applicable—or whether IHL is applicable at all.

International Armed Conflicts (IACs)

An International Armed Conflict or "IAC" for short (pronounced "eye-yak"), happens when two or more nations fight each other. When people think of "war," they usually think of this type of conflict. World War I and World War II are both classic examples of IACs. IHL provides strong protections during IACs, covering them with all four Geneva Conventions and Additional Protocol I—a total of over 600 legal articles.

However, there are some situations that are also considered International Armed Conflicts, even if two countries aren't directly fighting:

- **Military Occupation:** If one country occupies another, even without resistance, Geneva Convention IV and Additional Protocol I still apply to protect civilians.
- Wars of National Liberation: According to Article 1 of Additional Protocol I, conflicts where people fight against colonial rule or racist regimes are also considered International Armed Conflicts—even if all the fighting happens inside one country. (The U.S. objects to this definition because it focuses on the reason for fighting rather than where it takes place.)

Non-International Armed Conflicts (NIACs)

A Non-International Armed Conflict, or "NIAC" for short (pronounced "nye-yak"), happens when:

- A country is fighting a non-state armed group (e.g., rebel forces), or
- Multiple non-state armed groups are fighting each other inside a single country.

NIACs are covered by fewer legal protections than IACs. Only Common Article 3 (which is found in all four Geneva Conventions) and Additional Protocol II apply, with just 29 legal articles in total. This means that large portions of IHL are not applicable during this type of armed conflict. For example, the extensive Prisoner of War (POW) protections found in the Third Geneva Conventions, are not applicable in a NIAC.



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IHL is built on four main principles that help guide decisions in war: military necessity, distinction, proportionality, and limiting unnecessary suffering. While some actions are clearly right or wrong, many decisions become complicated in the chaos of war. These principles serve as a foundation for making difficult choices during armed conflict.

However, there is no single universal test that determines if these principles are being followed or violated. In many cases, arguments can be made for both sides. As we explore different situations in armed conflict, pay attention to how these principles sometimes support each other—but can also contradict one another.



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War is brutal, but not every action in war is justified. The principle of **military necessity** exists to ensure that military actions are taken only when truly needed—not just for destruction or revenge.

What Does Military Necessity Mean?

Parties to a conflict can only take military actions that help weaken the enemy in a way that is lawful under IHL. They cannot attack people or places without a clear military reason. If an attack doesn't serve a necessary purpose or breaks other IHL rules, it is not allowed.

A Real-Life Example:

During World War II, the U.S. carried out its first bombing mission in Europe on July 4, 1942. The target? German military airfields that were being used in the war. These military airfields were chosen because they had a direct military purpose—they helped the German military, giving German fighter planes a place to launch attacks from. That's what made them legitimate targets under the principle of military necessity.

At its core, military necessity is about keeping war from becoming reckless. It forces military leaders to think before they act, ensuring that destruction only happens when absolutely necessary.



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The Principle of Distinction is a key rule in International Humanitarian Law (IHL). It requires all sides in a conflict to distinguish between civilians and combatants as well as between military objectives and civilian objects. This helps make sure that only combatants and military objectives are targeted in war. This rule is important because if fighters do not follow it, it makes war even more dangerous for civilians.

Categories of People in Armed Conflict:

To make it easier to understand who can be attacked and who must be protected, IHL divides people into three main groups:

1. Combatants

- Combatants include members of a country's armed forces.
- They can legally fight in a war and can also be targeted by the enemy.
- If captured while fighting in an International Armed Conflict (IAC), they are treated as Prisoners of War (POWs) and cannot be punished for fighting in the war, as long as they followed IHL.
- Combatants distinguish themselves by usually wearing uniforms to show they are part of the military.

2. Non-Combatants

- Non-combatants include military personnel who are not fighters, like:
 - Medical staff (doctors, nurses, medics).
- Chaplains (religious leaders of any faith).
- They cannot fight and cannot be attacked.
- If captured, they must be sent back to their own side unless they choose to stay and help Prisoners of War.

3. Civilians

- Civilians include everyone who is not part of the military and who do not directly participate in the hostilities.
- Civilians are protected under IHL and cannot be attacked in war.
- Civilians can lose their IHL protection if they join a rebel group or take up arms and can become a target for as long as they are actively fighting.

What About Fighters Who Are Not Part of a Government's Military?

Sometimes, people choose to fight without being part of a country's military. These are usually armed groups that fight against a government. They are not considered combatants under IHL because their actions are illegal.

Their legal status can be complicated, but for now, it's enough to know that they do not get the same core protections as legal combatants.

Military vs. Civilian Targets in War

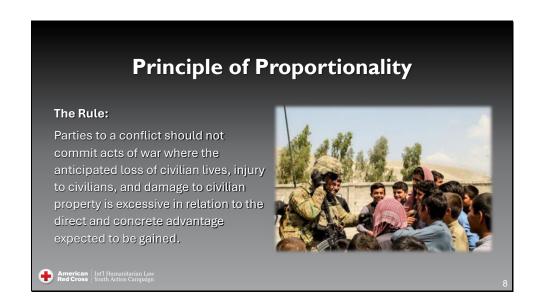
This principle also requires distinction between civilian objects and military objectives.

Military Objectives:

- Things that help the enemy's military efforts by its nature, location, purpose, or use.
- Military objectives are those that offer a clear military advantage if the object is destroyed, captured, or neutralized. For example, the German military airfields we discussed earlier are a classic example of a military objective.

Civilian Objects:

- By default, everything is considered civilian property unless it is clearly a military target.
- This means homes, schools, and hospitals cannot be attacked unless they are being improperly used for military purposes. For example, a school would be protected from attack unless soldiers began using it as a base to launch attacks from.



Slide 8:

In war, combatants must not carry out attacks if the expected harm to civilians is too great compared to the military advantage gained. While civilians cannot be directly targeted, IHL acknowledges that they may sometimes be unintentionally harmed—this is called collateral damage. However, warring parties must take steps to minimize this harm.

The principle of **proportionality** requires that before launching an attack, military leaders must weigh the expected civilian harm against the military benefit of the attack. If the harm to civilians or their property is excessive, the attack should not happen.

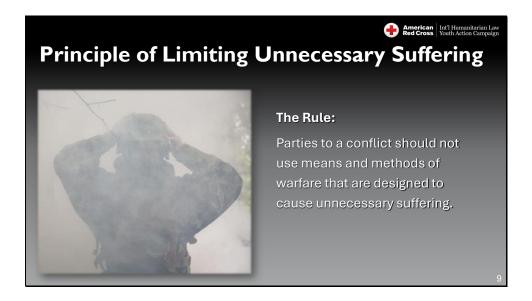
This principle can be difficult to apply because there is no universal rule for how much harm is "too much." It is a judgment call that depends on the situation and different people making the judgement might disagree on what is proportional.

Real-Life Example: U.S. Policy in Afghanistan

During the conflict in Afghanistan, U.S. commanders followed a strict rule: If an airstrike might kill even one civilian, it could not be carried out.

This wasn't a legal requirement, but rather a policy decision by the U.S. Secretary of Defense. He decided that at this stage of the conflict, no military goal in the conflict was worth even a single civilian life.

This is an example of how proportionality is applied—not just as a legal principle, but also as a moral and strategic decision.



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The Principle of **Limiting Unnecessary Suffering** means that parties to a conflict should not use means or methods of warfare that are designed to cause unnecessary suffering.

- ☐ Means of warfare refer to the weapons or tools used in combat.
- ☐ Methods of warfare are the strategies and tactics used in battle.

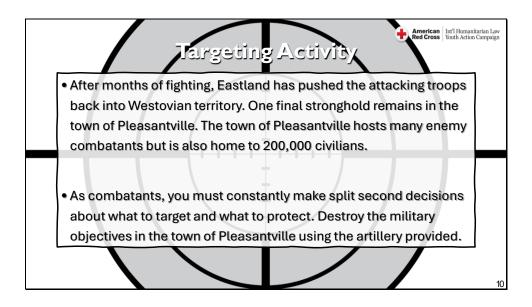
War inevitably involves suffering, but this principle ensures that the harm caused is not excessive or intentional beyond what is needed to fight. In other words, this principle prohibits means or methods of warfare that inflict suffering for suffering's sake.

For example:

Shooting a combatant with a standard bullet is unfortunate but allowed under IHL, even though it inevitably causes some degree of suffering. However, using a bullet designed to shatter into tiny fragments upon entering the body, causing long-term severe pain and making medical treatment difficult, is not allowed. This type of weapon serves no purpose other than to increase suffering, violating this principle.

Chemical weapons such as Mustard Gas or Sarin Gas are also illegal due to their violation of this IHL principle. They have been banned because they cannot be contained and are specifically designed cause long-term suffering for everyone in the area, including terrible effects like blindness, asphyxiation, and severe burns.

To uphold this rule, countries must review their weapons and tactics to ensure they comply.



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Now that we've learned about these principles, let's put them into action with a hands-on activity! Put yourself in the position of a military legal advisor and consider each of these potential targets to determine which are legal.

After months of fighting, Eastland has pushed the attacking troops back into Watsonian territory. One final stronghold remains in the town of Pleasantville. The town of Pleasantville hosts many enemy combatants but is also home to 200,000 civilians.

As combatants, you must constantly make split second decisions about what to target and what to protect. Destroy the military objectives in the town of Pleasantville using the artillery provided.



Slide 11:

Is this object a legal target?

YES. This person would be considered a combatant. Combatants are targetable under IHL unless they are wounded, sick, captured, or surrender.



Slide 12:

Is this object a legal target?

NO. Tractors are considered civilian objects and items necessary for civilian survival and under IHL should not be targeted.



Slide 13:

Is this object a legal target?

YES. These combatants are targetable as well as the weapons. These weapons are targetable because their "nature" as a weapon makes it targetable by default.



Slide 14:

Is this object a legal target?

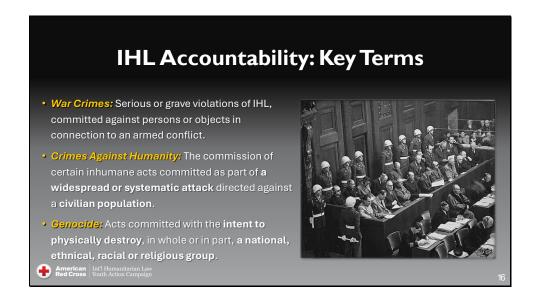
NO. Though the helicopter looks like it could belong to the military, notice the Red Cross emblem. The Red Cross Emblem has a special status in IHL and objects with the emblem must not be targeted for attack.



Slide 15:

We have discussed the IHL principles but what happens when these rules of war are violated? States must incorporate the Geneva Conventions into their own domestic law so that violations of IHL by their people can be handled by their domestic courts. The Geneva Conventions require that countries prosecute war crimes which are very serious breaches of IHL. For example, the United States has codified numerous provisions of the Geneva Conventions into the United States Criminal Code. Including these provisions in the criminal code allows the U.S. government to pursue prosecutions for IHL violations.

Next, let's discuss some important IHL accountability terms and how domestic and international courts prosecute breaches of IHL...

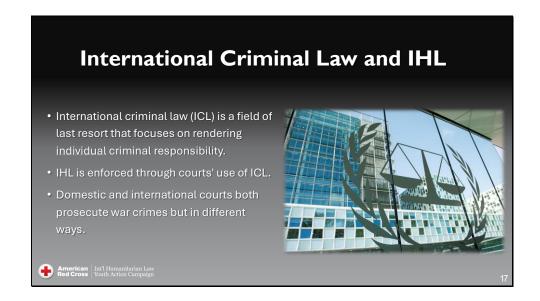


Slide 16:

There are some important IHL accountability key terms to further understand IHL.

War crimes are serious violations of IHL, committed against persons or objects in connection to an armed conflict. The Geneva Conventions require that countries prosecute war crimes.
Crimes Against Humanity is the commission of certain inhumane acts committed as part of a widespread or systematic attack directed against a civilian population. These would include genocide, enslavement, sexual violence, torture, ethnic cleansing, etc.
Genocide includes acts committed with the intent to physically destroy, in whole or in part,

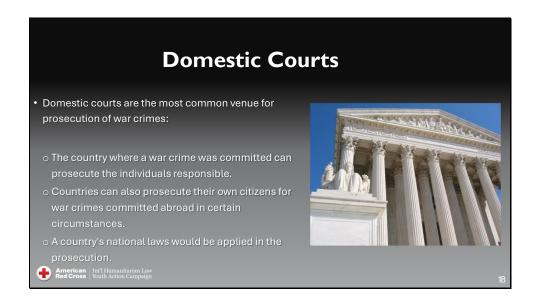
a national, ethical, racial, or religious group. This is a crime against humanity.



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International Criminal Law (ICL) is a field of last resort that focuses on rendering individual criminal responsibility. IHL is enforced through courts' use of ICL.

Domestic and international courts both prosecute war crimes but in different ways. Let's look at how they do this...



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Domestic courts are the most common venue for prosecution of war crimes.

Country where war crime is committed:

- $\hfill\square$ The country where a war crime was committed can prosecute the individuals responsible
- ☐ Countries can also prosecute their own citizens for war crimes committed abroad in certain circumstances.
- ☐ A country's national laws would be applied in the prosecution.

Country whose nationals are responsible:

- A country has the authority to prosecute nationals of their own country, which is their national jurisdiction.
- A country's own national laws regarding IHL would be applied in their domestic courts.

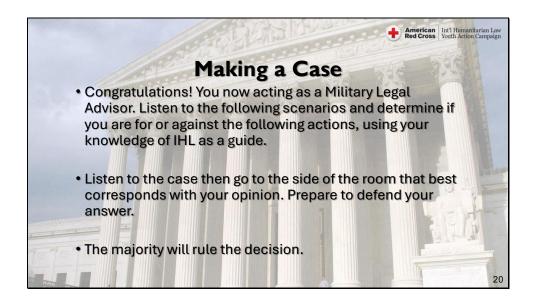


Slide 19:

International criminal courts are used as a last resort and only used if domestic and military courts are unwilling or unable to prosecute.

Jurisdiction is set forth in the court's governing statue which establishes a court's power and what laws they need to apply. These international courts apply international criminal law in the prosecution of war crimes. The most well-known of these courts is The International Criminal Court, the ICC.

The Rome Statute is the treaty that established the ICC and countries that do not sign onto this treaty have no legal obligations or recognition of the ICC. The United States has not ratified the Rome Statute and does not recognize the ICC as having power.

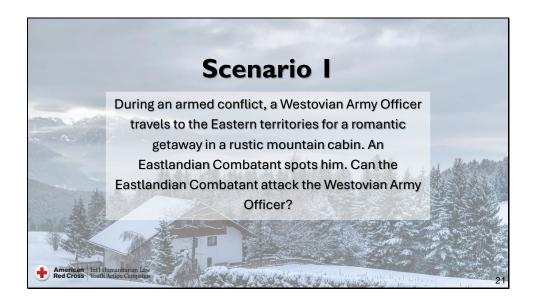


Slide 20:

Now for another activity!

Here, you have been selected as a Military Judge Advocate, also known as a military lawyer or legal advisor. Listen to the following scenarios and determine if you are for or against the following action while using your knowledge of IHL as a guide.

Listen to the case then go to the side of the room that best corresponds with your opinion. Prepare to defend your answer. The majority will rule the decision.



Slide 21:

Read the scenario:

During an armed conflict, a Westovian Army Officer travels to the Eastern territories for a romantic getaway in a rustic mountain cabin. An Eastlandian Combatant spots him.



Slide 22:

Ask: Can the Eastlandian Combatant attack the Westovian Army Officer?



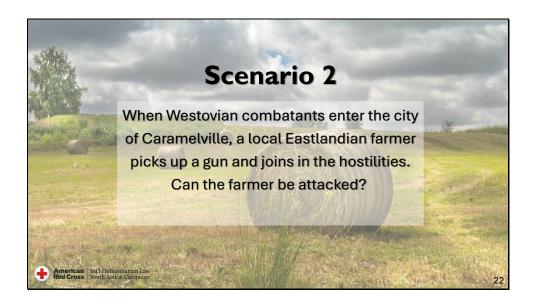
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The answer is:

YES: If individuals are combatants, they can be targeted at any time, even when off duty.

Possible follow-up question:

What if the army officer was important, or held important military information?



Slide 24:

Read the scenario:

When Westovian combatants enter the city of Caramelville, a local Eastlandian farmer picks up a gun and joins in the hostilities.



Slide 25:

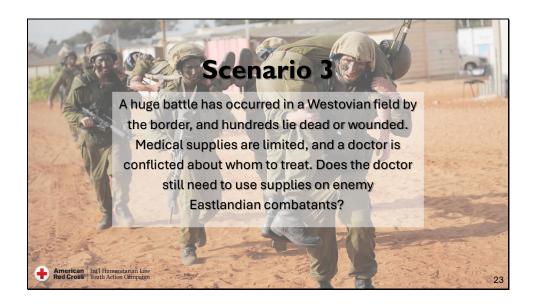
Ask: Can the farmer be attacked?



Slide 26:

The answer is:

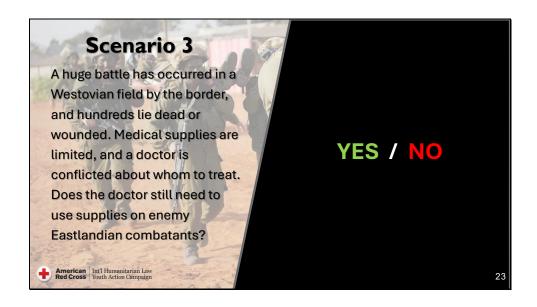
YES: In an armed conflict, when civilians decide to join in the fight, it is called Direct Participation in Hostilities. They can be attacked for such time as they participate in hostilities.



Slide 27:

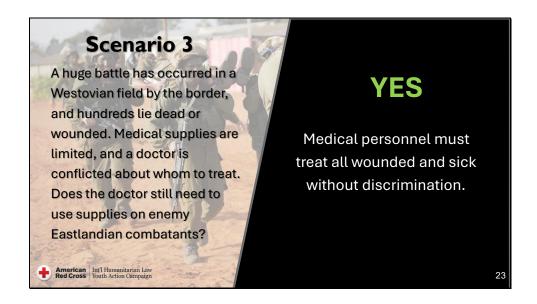
Read the scenario:

A huge battle has occurred in a Westovian field by the border, and hundreds lie dead or wounded. Medical supplies are limited, and a doctor is conflicted about whom to treat.



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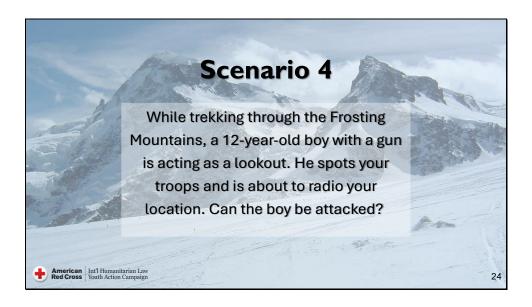
Ask: Does the doctor still need to use supplies on enemy Eastlandian combatants?



Slide 29:

The answer is:

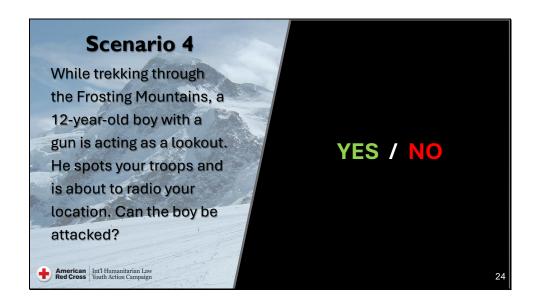
YES: Medical personnel must treat all wounded and sick without discrimination.



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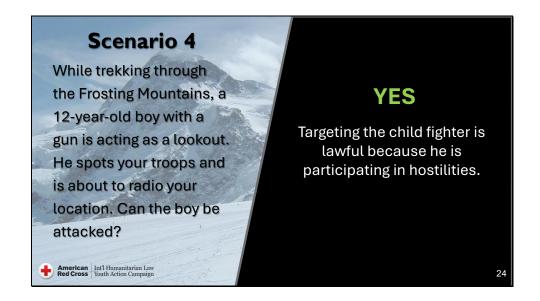
Read the scenario:

While trekking through the Frosting Mountains, a 12-year-old boy with a gun is acting as a lookout. He spots your troops and is about to radio your location.



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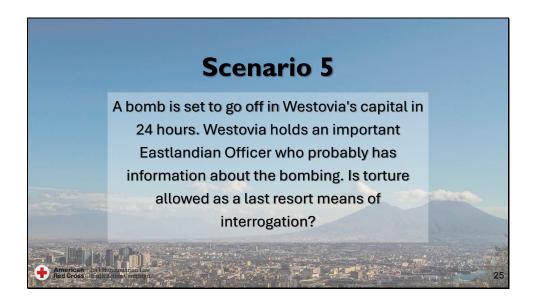
Ask: Can the boy be attacked?



Slide 32:

The answer is:

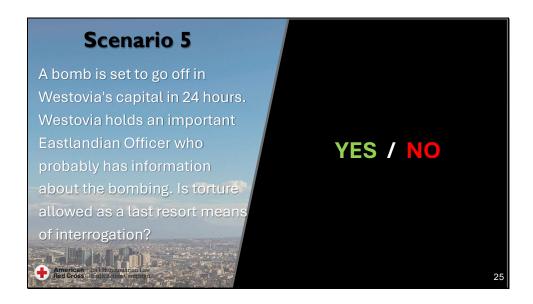
YES: Targeting the child fighter is lawful because he is participating in hostilities.



Slide 33:

Read the scenario:

A bomb is set to go off in Westovia's capital in24 hours. Westovia holds an important Eastlandian Officer who probably has information about the bombing.



Slide 34:

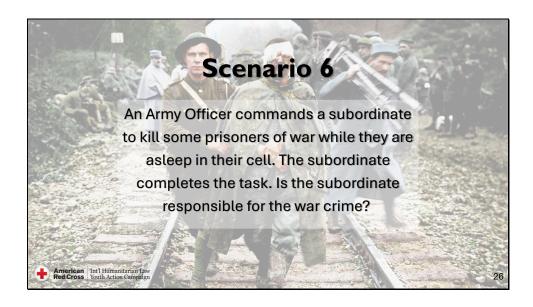
Ask: Is torture allowed as a last resort means of interrogation?



Slide 35:

The answer is:

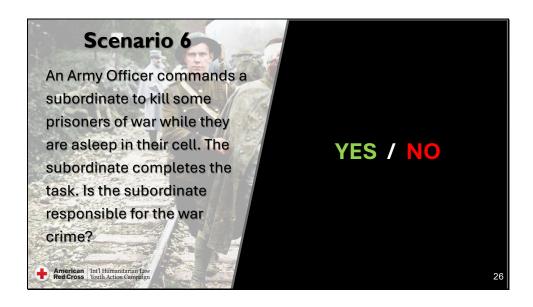
NO: Torture is prohibited by International Humanitarian Law



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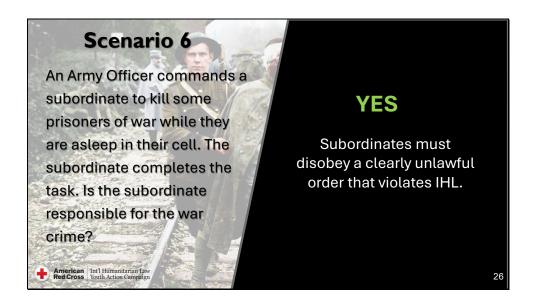
Read the scenario:

An Army Officer commands a subordinate to kill some prisoners of war while they are asleep in their cell. The subordinate completes the task.



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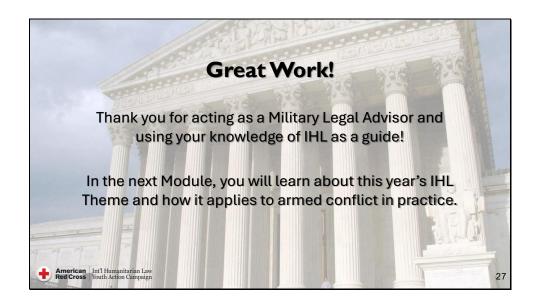
Ask: Is the subordinate responsible for the war crime?



Slide 38:

The answer is:

YES: Subordinates must disobey a clearly unlawful order that violates IHL.



Slide 39:

Thank you for acting as a Military Legal Advisor and using your knowledge of IHL as a guide!

In the next module, you will learn about this year's IHL Theme and how it applies to armed conflict in practice.



Slide 40:

Now that you are an expert on IHL and the history of the American Red Cross, we will leave you with a quote from our founder Clara Barton:

"If I were to speak of war, it would not be to show you the glory of conquering armies, but the mischief and misery they leave in their tracks."