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A “reprisal” is a breach of international humanitarian law, which would otherwise be unlawful but in exceptional cases is considered lawful as an enforcement measure in response to a previous breach of international humanitarian law by the enemy, with the purpose of terminating the enemy’s violation.

Thus, reprisals are intended to put pressure on the enemy in order to obtain the enemy's compliance with international humanitarian law.

Reprisals are only allowed under very strict conditions and there is a trend towards outlawing reprisals in international humanitarian law.

Reprisals against wounded, sick ^[1] or shipwrecked ^[2] persons, medical ^[3] or religious personnel ^[4], medical units, transports and material, prisoners of war ^[5], the civilian population ^[6] and civilian persons, civilian objects ^[7], cultural property ^[8], objects indispensable to the survival of the civilian population ^[9], the natural environment ^[10], works and installations containing dangerous forces ^[11] and the buildings and material used for the protection of the civilian population ^[6] are always prohibited.

OUTLINE

Chapter 9, II. 6. d) attacks against the civilian population (or civilian objects) by way of reprisals ^[12]

LEGAL SOURCE

prohibition

against protected persons

GCI, 46 ^[14] (see ICRC updated Commentary ^[15])

GCII, 47 ^[16] (see ICRC updated Commentary ^[17])

GCIII, 13/3 ^[18]

GCIV, 33/3 ^[19]

PI, 20 ^[20]

CIHL, 146 ^[21]

against civilian population

PI, 51/6 ^[22]

against civilian objects

PI, 52/1 ^[23], 53/c ^[24], 54/4 ^[25], 55/2 ^[26], 56/4 ^[27]

CIHL, 147 ^[28]

in NIAC

CIHL, 148 ^[29]

limited admissibility

CIHL, 145 ^[30]

DOCUMENTS

Switzerland, Prohibition of the Use of Chemical Weapons (Para. 2) ^[31]

Germany/United Kingdom, Shackling of Prisoners of War ^[32]

CASES

International Law Commission, Articles on State Responsibility ^[33] (Part A., Arts 49, 50 and 51 ^[34] and Para. 8 of the commentary of Art. 50 ^[35])

Belgium, Law on Universal Jurisdiction (Part A., Art. 136(g)) ^[36]

United Kingdom and Australia, Applicability of Protocol I (Part C) ^[37]

United States, President Rejects Protocol I ^[38]

Israel, Cheikh Obeid *et al.* v. Ministry of Security ^[39]

ICRC, Iran/Iraq Memoranda ^[40]

ICTY, The Prosecutor v. Martić ^[41] (Art A, Paras. 15-17 ^[42]; Part B, 464-468 ^[43])

ICTY, The Prosecutor v. Kupreskic ^[44] *et al.* ^[44] (Paras. 517-536) ^[44]

Democratic Republic of the Congo, Conflict in the Kivus (Part III, Paras. 12-23, 37) ^[45]

Israel, Blockade of Gaza and the Flotilla Incident ^[46]

European Court of Human Rights, Kononov v. Latvia ^[47]

ICTY, The Prosecutor v. Radovan Karadžić ^[48]

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Suggested readings:

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DARCY Shane, “The Evolution of the Law of Belligerent Reprisals”, in *Military Law Review*, Vol. 175, March 2003, pp. 184-251.

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KALSHOVEN Frits, *Belligerent Reprisals*, Geneva, Henry-Dunant Institute, Leiden, A. W. Sijthoff, 1971, 389 pp.

NEWTON Michael A., “Reconsidering Reprisals”, in *Duke Journal of Comparative and International Law*, Vol. 20, No. 3, 2010, pp. 361-388.

SUTTER Philip, “The Continuing Role for Belligerent Reprisals”, in *Journal of Conflict and Security*, Vol. 13, No. 1, 2008, pp. 93-122.

Further readings:

HAMPSON Françoise, “Belligerent Reprisals and the 1977 Protocols to the Geneva Conventions of 1949”, in *ICLQ*, Vol. 37/4, 1988, pp. 818-843.

NAHLIK Stanislaw E., “Le problème des représailles à la lumière des travaux de la Conférence diplomatique sur le droit humanitaire”, in *RGDIP*, Vol. 82, 1978, pp. 130-169.

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Links

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- [21] https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule146
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- [43] https://casebook.icrc.org/case-study/icty-prosecutor-v-martic#part_b_para_464
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