

LAW OF NON-INTERNATIONAL ARMED CONFLICT

DIPTARA IBNU BEZA

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NON-INTERNATIONAL ARMED CONFLICT (NIAC)

- **COMMON ARTICLE 3 OF THE GENEVA CONVENTIONS 1949**
- **THE 1977 OF ADDITIONAL PROTOCOL II OF THE GENEVA CONVENTIONS 1949**
- **NO COMBATANT STATUS**



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ARTICLE 13 OF ADDITIONAL PROTOCOL II

- **1. THE CIVILIAN POPULATION AND INDIVIDUAL CIVILIANS SHALL ENJOY GENERAL PROTECTION AGAINST THE DANGERS ARISING FROM MILITARY OPERATIONS. TO GIVE EFFECT TO THIS PROTECTION, THE FOLLOWING RULES SHALL BE OBSERVED IN ALL CIRCUMSTANCES.**
- **2. THE CIVILIAN POPULATION AS SUCH, AS WELL AS INDIVIDUAL CIVILIANS, SHALL NOT BE THE OBJECT OF ATTACK. ACTS OR THREATS OF VIOLENCE THE PRIMARY PURPOSE OF WHICH IS TO SPREAD TERROR AMONG THE CIVILIAN POPULATION ARE PROHIBITED.**
- **3. CIVILIANS SHALL ENJOY THE PROTECTION AFFORDED BY THIS PART, UNLESS AND FOR SUCH TIME AS THEY TAKE A DIRECT PART IN HOSTILITIES.**





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DISTINCTION PRINCIPLE IN NIAC SITUATION

- **ALL PERSONS WHO ARE NOT MEMBERS OF STATE ARMED FORCES OR ORGANIZED ARMED GROUPS BELONGING TO A PARTY TO THE CONFLICT ARE CIVILIANS AND, THEREFORE, ENTITLED TO PROTECTION AGAINST DIRECT ATTACK UNLESS AND FOR SUCH TIME AS THEY TAKE A DIRECT PART IN HOSTILITIES (NIELS MELZER, *INTERPRETATIVE GUIDANCE ON THE NOTION OF DIRECT PARTICIPATION IN HOSTILITIES UNDER INTERNATIONAL HUMANITARIAN LAW* (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2007).**



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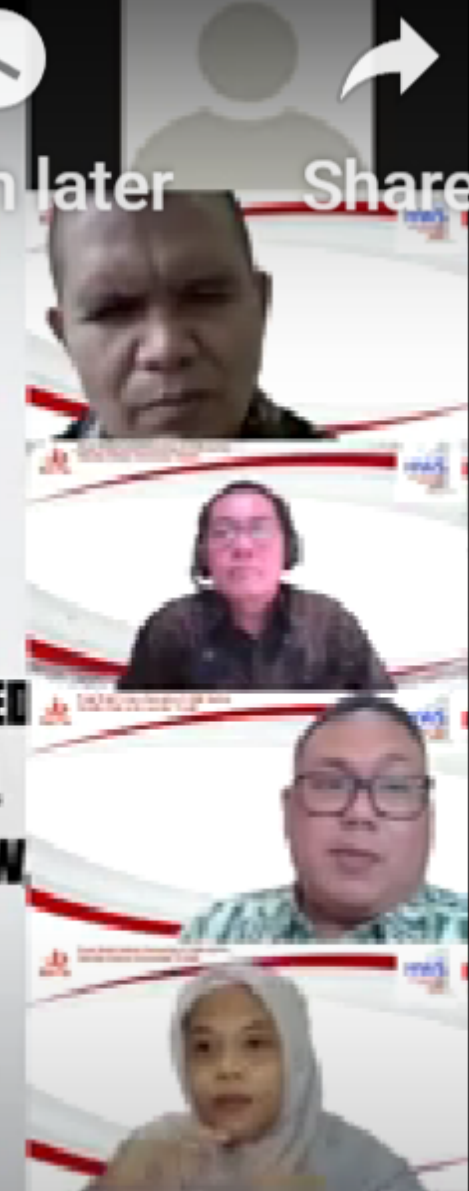
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DIRECT PARTICIPATION IN HOSTILITIES (DPH)

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- **DECLARATION: IN 2009 THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) PUBLISHED INTERPRETATIVE GUIDANCE ON THE NOTION OF DIRECT PARTICIPATION UNDER INTERNATIONAL HUMANITARIAN LAW. THAT GUIDANCE IS TREATED HERE AS AN EXPRESSION OF THE ICRC'S VIEW THAN AS AN AUTHORITATIVE STATEMENT OF EXISTING INTERNATIONAL LAW.**





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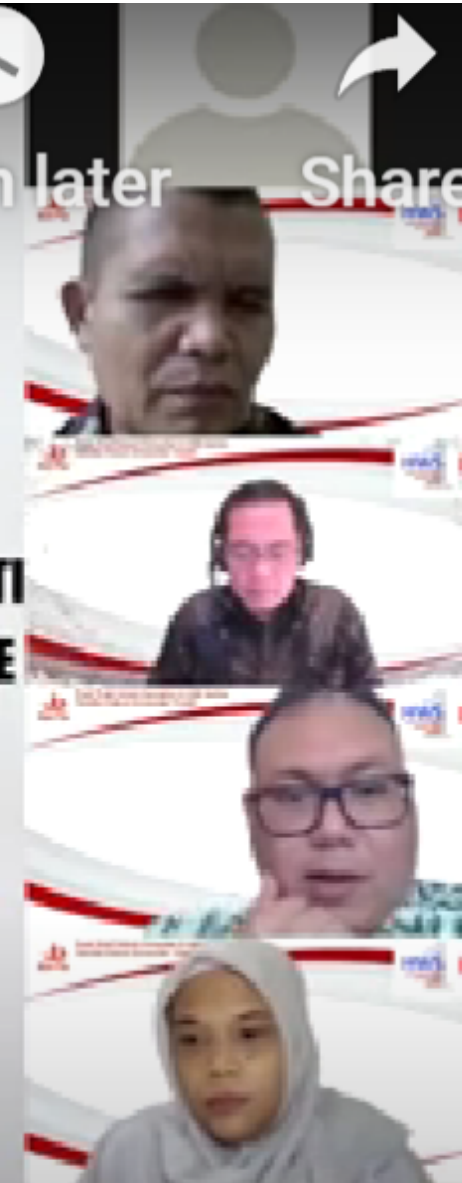


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TERMINOLOGIES

IN DEFINING PARTIES TO CONFLICTS IN NIAC, BOTH COMMON ARTICLE 3 OF THE GENEVA CONVENTION AND ADDITIONAL PROTOCOL II USE THREE TERMS TO DISTINGUISH THE STATE ARMED FORCES AND THE REBELLION FORCES OR BELLIGERENT FORCES. THEY ARE:

- **STATE ARMED FORCES**
- **DISSIDENT ARMED FORCES**
- **OTHER ORGANISED ARMED GROUPS**





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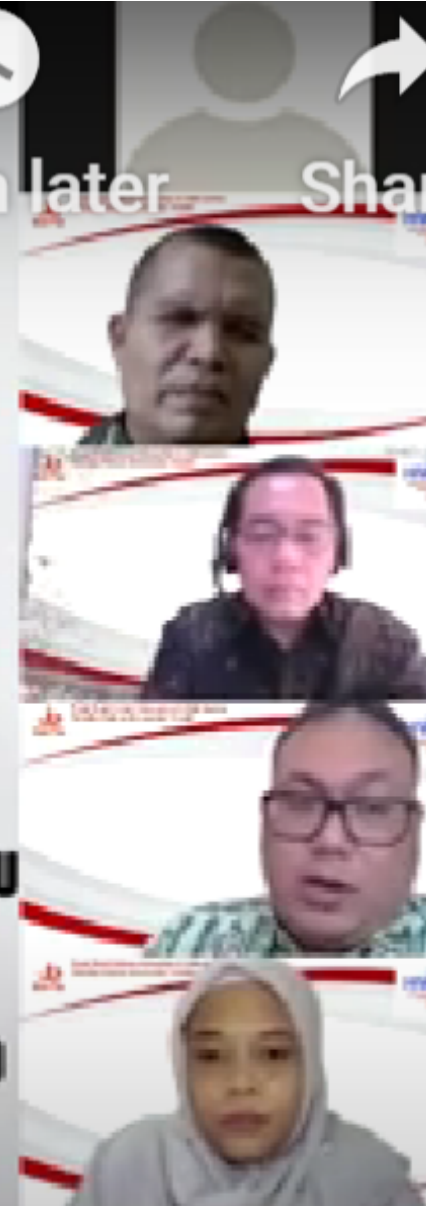


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MILITARY OBJECTS

- **ARMED FORCES;**
- **MILITARY AIRCRAFT AND WAR SHIPS;**
- **BUILDINGS AND OBJECTS FOR COMBAT SUPPORT;**
- **COMMERCIAL OBJECTIVES WHICH MAKE AN EFFECTIVE CONTRIBUTION TO MILITARY ACTION SUCH AS TRANSPORT FACILITIES, INDUSTRIAL PLANT, ETC.**

(DIETER FLECK *THE HANDBOOK OF HUMANITARIAN LAW IN ARMED CONFLICTS*, (OXFORD: OXFORD UNIVERSITY PRESS, 2004), 158)





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CONCLUSION

- **MILITARY OPERATIONS IN THE FRAMEWORK OF NIAC: LAW ENFORCEMENT**
- **INTERNATIONAL HUMANITARIAN LAW (NIAC) AND DOMESTIC LAWS APPLIES**
- **FULL GUARANTEE ON FUNDAMENTAL HUMAN RIGHTS AND CONSTITUTIONAL RIGHTS ESPECIALLY DEROGABLE RIGHTS**

