

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118
Phone: 212-290-4700

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Fax: 212-736-1300
Website: <http://www.hrw.org>

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For more information, please contact:

In London, Wilder Tayler: +44207-713-1995
In New York, James Ross: +1-212-216-1251



Human Rights Watch Q&A on International Law

(New York, October 16, 2001) -- Human Rights Watch today issued a background paper on legal issues arising from the September 11 attacks, the war in Afghanistan and related anti-terrorism efforts. The paper discusses in everyday language some of the complex legal questions that states involved in the campaign against terrorism must address.

As this paper explains, governments may not use unlimited methods and means to pursue war, even a war against indistinct enemies. International humanitarian law, also known as the “laws of war,” is designed in principal part to protect civilians and other non-combatants. Warring forces may not intentionally attack civilians and civilian facilities. Attacks on military targets must minimize harm to civilians and refrain entirely from attacks that would disproportionately harm civilians or whose effects would be indiscriminate as between combatants and civilians.

Despite the existence of an armed conflict, certain aspects of international human rights law also remain in force. Even in a state of emergency, it is unlawful to suspend some rights, such as the prohibition on arbitrary deprivation of life, the prohibition of torture, freedom of religion, and trial *ex post facto*.

The two bodies of law – humanitarian and human rights – can simultaneously govern different geographic areas. An armed conflict raging in one country would be governed primarily by international humanitarian law, while in another country the pursuit of criminal networks through traditional law-enforcement means would be governed by human rights law. Whether those who become the targets of the United States and its allies are viewed as criminals or as an enemy in wartime is not merely a rhetorical distinction, since it affects such basic matters as when lethal force can be used. This paper addresses various questions about the requirements of international humanitarian and human rights law and the interplay between the two.

Other issues addressed include: the use of force against non-state actors, assassinations, prisoner-of-war status, the prosecution of terrorism suspects, and international law constraints on methods of attack.

A copy of the Q & A is available at <http://www.hrw.org/campaigns/september11/ihlqna.htm/>.