

Jus ad Bellum/Jus in Bello

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Under international law, there are two distinct ways of looking at war—the reasons you fight and how you fight. In theory, it is possible to break all the rules while fighting a just war or to be engaged in an unjust war while adhering to the laws of armed conflict. For this reason, the two branches of law are completely independent of one another.

Jus (or *ius*) *ad bellum* is the title given to the branch of law that defines the legitimate reasons a state may engage in war and focuses on certain criteria that render a war *just*. The principal modern legal source of *jus ad bellum* derives from the Charter of the United Nations, which declares in Article 2: “All members shall refrain in their international relations from the threat or the use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations”; and in Article 51: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations.”

Jus in bello, by contrast, is the set of laws that come into effect once a war has begun. Its purpose is to regulate how wars are fought, without prejudice to the reasons of how or why they had begun. So a party engaged in a war that could easily be defined as unjust (for example, Iraq’s aggressive invasion of Kuwait in 1990) would still have to adhere to certain rules during the prosecution of the war, as would the side committed to righting the initial injustice. This branch of law relies on customary law, based on recognized practices of war, as well as treaty laws (such as the Hague Regulations of 1899 and 1907), which set out the rules for conduct of hostilities. Other principal documents include the four Geneva Conventions of 1949, which protect war victims—the sick and wounded (First); the shipwrecked (Second); prisoners of war (Third); and civilians in the hands of an adverse party and, to a limited extent, all civilians in the territories of the countries in conflict (Fourth)—and the Additional Protocols of 1977, which define key terms such as *combatants*, contain detailed provisions to protect noncombatants, medical transports, and civil defense, and prohibit practices such as indiscriminate attack.

There is no agreement on what to call *jus in bello* in everyday language. The International Committee of the Red Cross (ICRC) and many scholars, preferring to stress the positive, call it international humanitarian law (IHL) to emphasize their goal of mitigating the excesses of war and protecting civilians and other noncombatants. But military thinkers, backed by other scholars, emphasize that the laws of war are drawn directly from the customs and practices of war itself, and are intended to serve State armies. They commonly use the more traditional rubric, the laws and customs of armed conflict or more simply, the laws of war.

(See [aggression](#); [crimes against peace](#); [just and unjust war](#); [war crimes](#).)