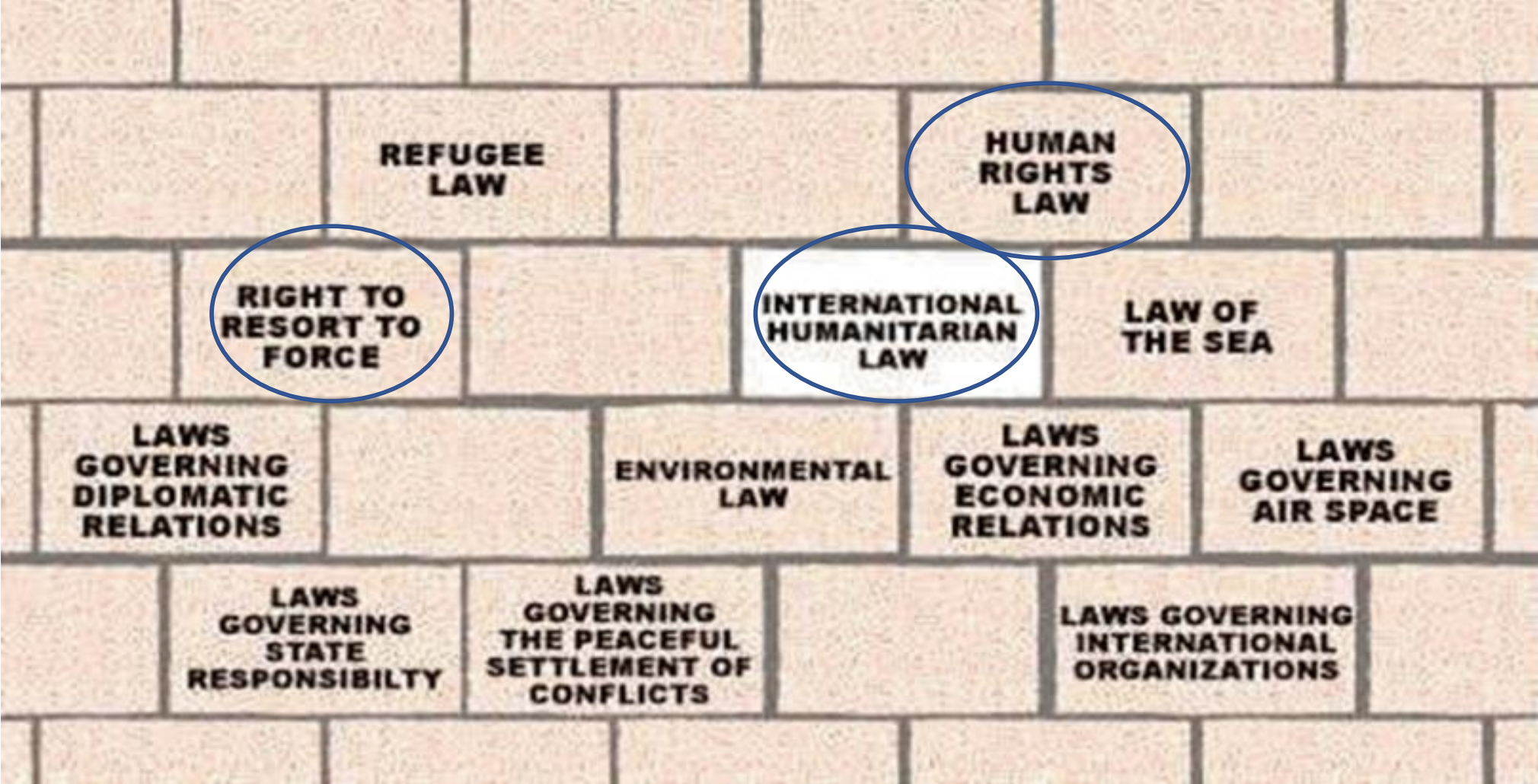


Legal Enforcement by courts of "autonomous regions" in Ukraine: The international legal framework

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International Law



Can 'authorities' in 'disputed areas' in Ukraine prosecute persons for war crimes?



**But before I can tell you that story,
I have to tell you this story**

-Captain Underpants (narrator)



Classification of armed conflict under IHL

International Armed Conflict

- Between 2 or more States

Occupation

Non-International Armed Conflict

- Between armed group(s) or between armed group and State

CLASSIFICATION POSSIBILITIES FOR DISPUTED REGIONS:

Prior to annexation

1. non-state party to conflict—NIAC
2. Actions attributable to Russia—IAC

After annexation

3. Occupation by Russia—IAC
4. Part of Russia (annexation)—IAC



Source: Institute for the Study of War (21:00 GMT, 29 September)

On with the
story...

On 1 July 2022 Russian state media [reported](#) that two British nationals captured by the “Donetsk People’s Republic” in eastern Ukraine would be prosecuted for “mercenary activities,” in violation of the laws of Donetsk.

<https://lieber.westpoint.edu/rebel-prosecutions-foreign-fighters-ukraine/>

Consequences—If NIAC (prior to annexation)

1. No POW status in NIAC—IHL does not prevent prosecution for mere participation in hostilities
2. It is prohibited to pass sentence, e.g., convict for war crimes without judgment pronounced by a regularly constituted court
 - *What is a regularly constituted court?*
 - ❖ *Impartial and Independent*

3 types of prosecution

1. Own Soldiers for war crimes
2. Enemy soldiers or civilians for war crimes
3. Enemy soldiers or civilians for other crimes

Swedish Court—
Syria case
(Sakhanh, 2016)

Non state courts may pass sentences to:

- i) uphold discipline in the actions of its own armed forces and

- ii) uphold law and order on a given territory under the condition that the court is staffed by personnel who were appointed as judges or officials in the judiciary prior to the outbreak of conflict, AND that the court applies the law which was in effect before the conflict