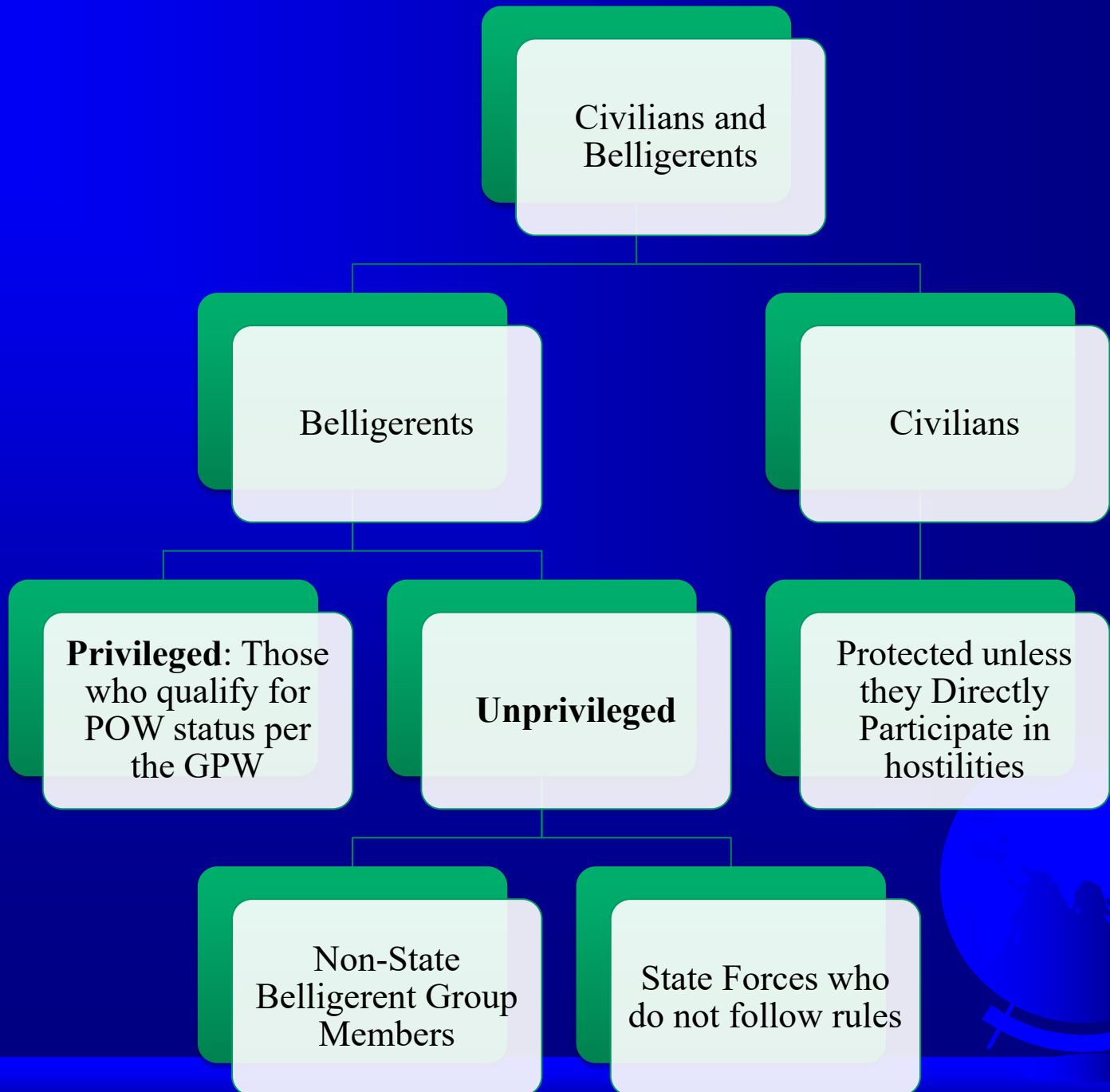




# Israel, Gaza, and the Law of Armed Conflict

# Two Operational Legal Frameworks

Human Rights/Law Enforcement Framework	The Law of Armed Conflict
Primary Objective: to prohibit arbitrary treatment of individuals by state actors by limiting situations requiring resort to force	Primary Objective: Regulate the conduct of hostilities between states or other organized armed belligerent groups by limiting violence to only that which is necessary to subdue an opponent
Presumption that individuals Act on their own volition	Presumption that Hostile Group members act pursuant to leader's will
Presumes individuals normally comply with State Authority and are therefore Inoffensive	Presumes members of hostile groups intend to inflict harm on opponent and are therefore presumed offensive
Requires state actor to make individualized judgment to support deprivations of life or liberty (conduct-based deprivations)	Authorizes Deprivations of life and liberty based on presumption of offensiveness (status based deprivations)
Allows minimum force necessary to restore the status quo: Deadly force is a measure of last resort	Allows for application of overwhelming force: Deadly force as a measure of first resort
Proportionality: Protects the object of deliberate violence from application of excessive force	Proportionality: protects collateral victims of deliberate violence from excessive collateral suffering from lawful attack



Civilians and Belligerents

Belligerents

Civilians

**Privileged:** Those who qualify for POW status per the GPW

**Unprivileged**

Protected unless they Directly Participate in hostilities

Non-State Belligerent Group Members

State Forces who do not follow rules



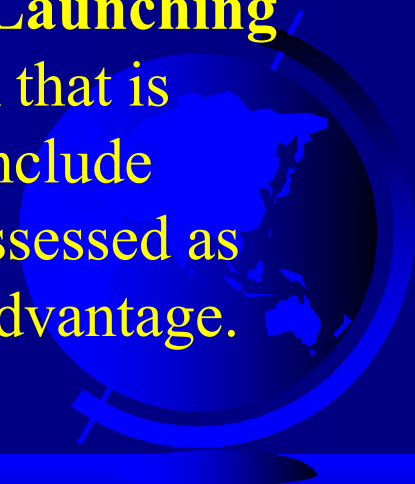
# Key Principles

- **Equality of Application:** Indicates that all parties to an armed conflict are equally bound by the LOAC no matter how disparate their military capabilities may be.
- **Military Necessity:** Allows the military to employ all measures, not otherwise prohibited by international law, to bring about the prompt submission of the enemy.
- **Humanity:** Prohibits the infliction of suffering that cannot be justified by military necessity.



# Key Principles

- **Distinction:** In relation to attack *decisions*, military forces must constantly distinguish between persons, places, and things that are military and civilian targets. The former are presumptively lawful objects of attack; the latter are presumptively protected from deliberate attack unless they directly participate in hostilities.
- **Proportionality and the Prohibition Against Launching an Indiscriminate Attack:** Prohibits any attack that is anticipated to have an indiscriminate result, to include launching an attack when the collateral risk is assessed as *excessive* compared to the anticipated military advantage.

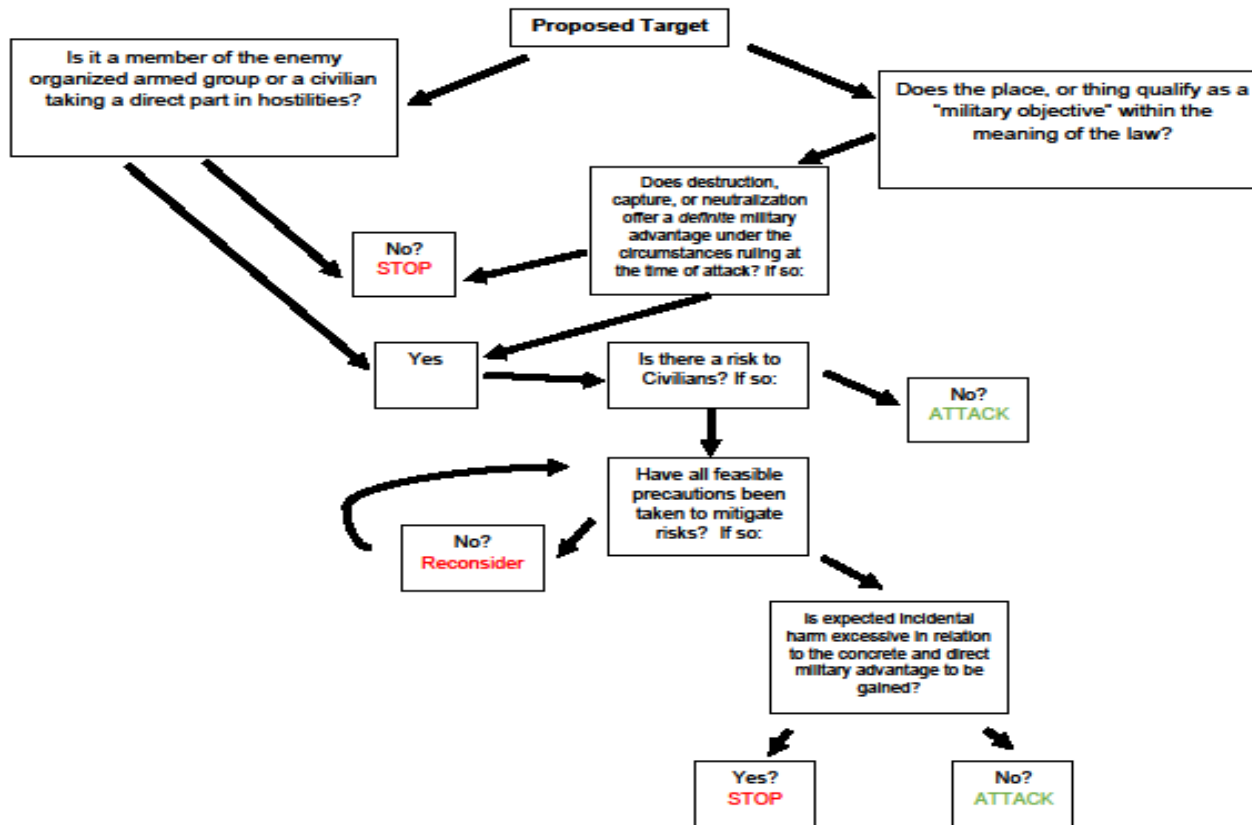


# Key Principles

- **Precautions and Constant Care:** Requires military leaders take “constant care” to mitigate the risk to civilians during the conduct of all military operations and, accordingly, implement all *feasible* measures to mitigate the collateral damage and incidental injury anticipated from attacking legitimate military targets.
- A feasible measure is one that the force is capable of implementing without degrading or compromising anticipated military advantage from the attack.



## TARGETING MATRIX



# Distortion and Reality

- Issue Conflation
- Casualty Numbers
- Effects Based Condemnation
- Rhetoric v. Mission
- Viewing Events through a Straw

