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The soldier and his golf clubs / Frits Kalshoven

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Abstract:	The author begins by arguing that the St. Petersburg Declaration of 1868 was the first articulation of the need to balance the principle of military necessity with the principle of humanity during war. The paper then traces the development of these principles to the years leading up to the introduction of Additional Protocol I of the Geneva Conventions. At the time of introduction, Jean Pictet argued that when combatants had access to a variety of weapons and each weapon had equal capacity to overcome the enemy, the weapon expected to cause the least injury should be employed. The author argues that this idea of choice has led to very few prohibitions of weapon system based on undue suffering because the principle of military necessity has most often been determinative of the legality of a particular weapons system. Further, the impracticality of equipping soldiers with many different types of weapons means that sometimes combatants will be unable to avoid inflicting more suffering than is required to place his enemy hors de combat. However, despite these difficulties, the author concludes that Pictet's fundamental idea that humanitarian principles must play a role in weapons selection remains relevant in the context of authorities who select a military forces. [Summary by students at the University of Toronto, Faculty of Law (IHRP)].
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