

Human Rights and International Humanitarian Law

In armed conflict,
who does the law protect
and how?

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1. What are Human Rights and International Humanitarian Law?
2. In armed conflict, who is entitled to protection, and who is obliged to protect?
3. In armed conflict, how can the law protect people from violations?

Human Rights and
International Humanitarian Law are
legal instruments aimed at protecting the
life, health and dignity of individuals
during peace and armed conflict.

If you are not a legal professional who applies
the law to investigate, prosecute and punish
human rights violations and war crimes -
what do you need to know about the law?

Human Rights

- Aim to protect citizens from abuse by their own Government
- UN member States have agreed to treat citizens according to the standards of the UN Declaration of Human Rights (1948) and additional treaties
- Through the UN, States monitor each other, and allow the UN to assess and advise on their performance in respecting human rights

The UN Human Rights Committee's comments on the human rights situation in Norway (2006)

11. The Committee notes with concern that asylum requests may be rejected on the basis of the assumption that the persons concerned can find protection in a different part of their country of origin even in cases, where information, including recommendations by UNHCR, is available indicating that such alternatives might not be available in the specific case or country of origin. (arts. 6, 7)

The State party should apply the so-called internal relocation alternative only in cases where such alternative provides full protection for the human rights of the individual.

International Humanitarian Law (The law of war)

- A set of rules which places restrictions on the use of weapons and the means of warfare
- To protect people who are not or no longer taking part in warfare
- To protect human dignity and limit human suffering during war

International Humanitarian Law applies

- In international armed conflicts which involve at least two states
- In armed conflicts that take place within a state, often between a government and rebel forces
- To all parties to a conflict, regardless who started it

International Humanitarian Law requires all parties to a conflict to

- Distinguish between combatants and civilians, and to refrain from attacking civilians
- Care for the wounded and sick and protect medical personnel
- Ensure that the dignity of prisoners of war and civilian internees is preserved by allowing visits from ICRC delegates

International Committee of the Red Cross (ICRC) founded in 1863

- Has been given a mandate by the international community to promote, teach and develop International Humanitarian Law
- Is an impartial, neutral and independent humanitarian institution
- Works to protect and assist victims of armed conflict and internal disturbances in more than 80 countries



International Humanitarian Law

Four Geneva Conventions (1846,1949)

- I Wounded and sick combatants (field)
- II Wounded and sick combatants (sea)
- III Prisoners of War
- IV Civilians

191 States are party to the Geneva Conventions

Two Additional Protocols (1977)

Distinguish between combatants and civilians, military and civilians targets in international and national conflict

161 and 156 States are party to Prot I and II respectively

War crimes and Crimes Against Humanity

- Are serious attacks on human dignity, grave humiliation or degradation against an individual or a group of people such as murder, extermination, torture, rape, political, racial, or religious persecution
- Are widespread or systematic, and part of a government policy or of a wide practice of atrocities tolerated or ignored by a government or a de facto authority
- Isolated or sporadic incidents of inhumane acts may constitute grave violations of human rights (during peacetime and armed conflict) or war crimes (during armed conflict), but are not defined as crimes against humanity



Press release, ICRC, 11 Jan 2007 (Somalia)

ICRC calls for respect for international humanitarian law

- With the number of victims of the fighting in Somalia growing, the International Committee of the Red Cross (ICRC) is deeply concerned about the plight of the civilian population, people wounded in the hostilities, and detainees.
- The ICRC calls on all parties to the hostilities to ensure that captured and wounded fighters are treated humanely and receive adequate medical attention, and that medical staff, hospitals and clinics are respected and protected. The ICRC further urges all parties involved in the military operations to take every precaution to spare and protect civilians.

Press release, Merlin, 28 April 2004 (Iraq)

"We have reason to believe that the Geneva Convention - which oblige the occupying power to restore and ensure public order, safety and basic service provision in the territory under its authority - is being breached [...]"

Humanitarian agencies trying to supply life-saving supplies such as food and medicine have been obstructed by coalition forces."

Press release, Human Rights Watch, 29 June 2005 (Darfur)

"On June 6 2005, the International Criminal Court (ICC) announced the decision to open an investigation in Darfur after it determined that Sudanese authorities are 'unwilling or unable' to prosecute those most responsible for serious crimes committed there.

The ICC, like the international criminal tribunals for Rwanda and the former Yugoslavia, lacks the ability to execute its own requests.

The court relies on state cooperation to further its investigations.
The Security Council should encourage and facilitate this cooperation, which is crucial to the effective pursuit of justice."

Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity

Adopted by UN General Assembly resolution 3074 (XXVIII) of 3 December 1973 (extract)

- War crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment.
- States shall assist each other in detecting, arresting and bringing to trial persons suspected of having committed such crimes and, if they are found guilty, in punishing them.

Human Rights and
International Humanitarian Law
are protective when they are respected

- Knowledge
- Training
- Enforcement

