

# Fact Sheet

## International Humanitarian Law and Human Rights



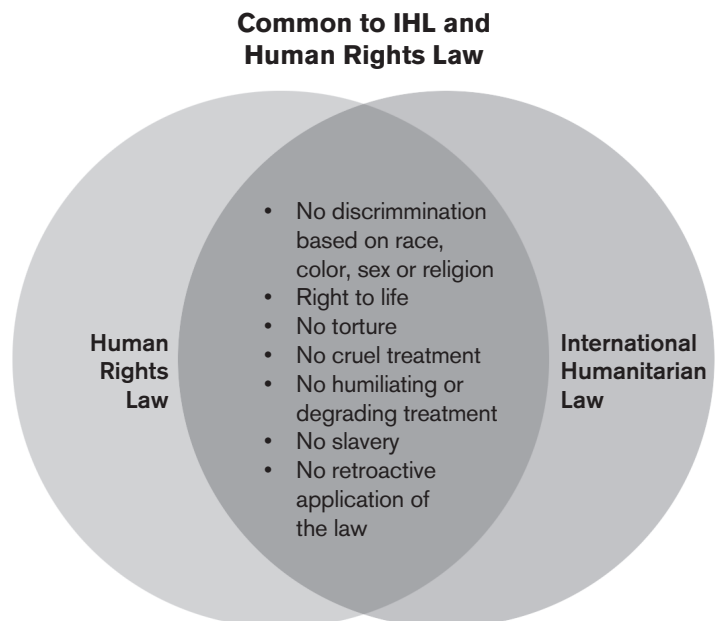
International Services

International humanitarian law (IHL) and human rights law are complementary. They both seek to protect human dignity, though they do so in different circumstances and in different ways. Human rights law applies at all times and in all circumstances, and it applies to all persons subject to the jurisdiction of a State. Its purpose is to protect individuals from arbitrary behavior by the State. Human rights law, therefore, continues to apply in times of armed conflict. However, human rights treaties, such as the International Covenant on Civil and Political Rights, the European Convention and the American Convention on Human Rights authorize derogations, under stringent conditions, from some rights in time of “public emergency which threatens the life of the nation,” of which armed conflict is most certainly an example. In other words, a number of rights (freedom of movement, liberty and security, freedom of association, etc.) may be limited or suspended during the public emergency, but only to the “extent strictly required by the exigencies of the situation” (both territorially and temporarily). There remains, however, a “hard core” of rights that may never be suspended at any time or in any circumstances.

In times of armed conflict on the other hand, a special system of law, IHL, comes into effect. It is a set of rules especially adapted to armed conflict whose purposes are to protect the victims of war (civilians, wounded and sick, prisoners, displaced, etc.) and to regulate the conduct of hostilities. As it applies only in exceptional circumstances, no derogations are allowed. Many provisions are made for international armed conflicts, but far fewer apply to non-international armed conflicts. The principal purpose of humanitarian law is to protect the life, health and human dignity of non-combatants or combatants no longer involved in hostilities (captured, wounded or sick combatants), and to limit the rights of parties to a conflict to use methods of warfare of their choice. The aim is to limit the suffering and the damage caused by armed conflict. In doing so, IHL may be said to protect the “hard core” of human rights in times of armed conflict. These core protections include the right to life, the prohibition of slavery, the prohibition of torture and inhumane treat-

ment and the prohibition of any retroactive application of the law. Unlike other rights (such as freedom of speech, of movement and of association) that may be abrogated in times of national emergencies, the core protections afforded by IHL can never be suspended.

If all these non-derogable rights are brought together, it can be seen that both IHL and human rights law set forth essential basic rights.



### Human Rights Law

The first traces of human rights law can be found in the eighteenth century. Indeed, the French Declaration of the Rights of Man and of the Citizen of 1789 and the American Bill of Rights adopted in 1791 together mark the beginning of human rights. Subsequently, it was under the influence of the United Nations (UN) and the Universal Declaration of Human Rights of 1948 that the development of human rights began in earnest. Two important covenants were signed in 1966: the International Covenant on Civil and Political Rights (first generation of human rights) and the International Covenant on Economic, Social and Cultural Rights (second generation of human rights).

The first covenant remains the standard. It has served as a model for many other treaties as well as national charters of rights and freedoms. The second one, on the other hand, saw its impact limited by the potential for development in each country and by regional characteristics.

The third generation of human rights involves new universal rights such as the right to development, peace, a healthy environment, etc. But many lawyers do not consider them true rights.

Human rights have also been recognized through regional organizations: European Convention for the Protection of Human Rights and Fundamental Freedoms (1950, Council of Europe), American Convention on Human Rights (1969, Organization of American States), African Charter on Human and Peoples' Rights (1981, Organization of African Unity). See also the Cairo Declaration on Human Rights (1990, Organization of the Islamic Conference).

Most of these instruments provide for mechanisms of implementation, either in the form of effective judicial bodies (European Court of Human Rights, Inter-American Court of Human Rights) or in the form of quasi-judicial bodies (United Nations Human Rights Committee, African Commission on Human and Peoples' Rights) or reporting organs (UN Commission on Human Rights).

## Principal Instruments of Human Rights

- 1926** Slavery Convention
- 1930** Convention Concerning Forced or Compulsory Labor (ILO)
- 1948** Universal Declaration of Human Rights
- 1948** Convention on the Prevention and Punishment of the Crime of Genocide
- 1950** European Convention for the Protection of Human Rights and Fundamental Freedoms
- 1965** International Convention on the Elimination of All Forms of Racial Discrimination
- 1966** International Covenant on Civil and Political Rights (UN)
- 1966** International Covenant on Economic, Social and Cultural Rights (UN)
- 1969** American Convention on Human Rights

\* This fact sheet is excerpted from the *Exploring Humanitarian Law* curriculum

- 1979** Convention on Elimination of All Forms of Discrimination Against Women
- 1981** African Charter on Human and Peoples' Rights
- 1984** Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- 1989** Convention on the Rights of the Child

## International Humanitarian Law (IHL)

(Law of War or Law of Armed Conflict)

- A body of international principles, established by treaty or custom, which places restrictions on the use of violence in armed conflict in order to—
  - Regulate the conduct of hostilities; in particular, to set limits on methods and means of warfare.
  - Protect persons not (or no longer) taking part in hostilities, i.e., civilians.
- A (realistic and pragmatic) balance between military necessity on the one hand and principles of humanity on the other

It is prohibited to respond to a violation by committing another violation.

## Principal Instruments of IHL

- 1868** Declaration of St. Petersburg
- 1899** The Hague Conventions
- 1949** The Geneva Conventions
- 1954** Convention for the Protection of Cultural Property
- 1977** Additional Protocols I & II to the Geneva Conventions
- 1980** Convention on Certain Conventional Weapons
- 1993** Convention on Chemical Weapons
- 1995** Protocol on Blinding Laser Weapons
- 1997** Convention on Anti-personnel Mines
- 1998** Statute of the International Criminal Court
- 2000** Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- 2005** Additional Protocol III to the Geneva Conventions

