

DOWNLOAD PDF INTERNATIONAL HUMANITARIAN LAW AND INTERNATIONAL HUMAN RIGHTS LAW

Chapter 1 : LLM - The Geneva Academy of International Humanitarian Law and Human Rights

Both international humanitarian law and human rights law apply in armed conflicts. The main difference in their application is that international human rights law allows a State to suspend a number of human rights if it faces a situation of emergency.

Send your teller no, name and email address to We will confirm your payment within 3hrs working hours and you will receive this topic material immediately after confirmation through your e-mail. Few among which are: International Humanitarian Law is a major part of public international law that comprises the rules which, in times of armed conflict, seek to protect people who are not or are no longer taking part in the hostilities and to restrict the methods and means of warfare employed[1]. Or it is an international treaty or customary rules which are specially intended to resolve matters of Humanitarian concern arising directly from armed conflicts, whether of an international or non international nature. On the other hand, the International Human Rights Law can be defined as the law that deals with the protection of individuals and groups against violations by governments of their internationally guaranteed rights and with the promotion of these rights. Personal Rights include Right to life, Right to dignity of Human person, the Right to personal liberty and Right to freedom of movement⁹. Political and moral Rights include the Rights to property and privacy The first generations rights which encompasses the civil and political rights¹⁴ such as Right to life, dignity of human person, personal liberty etc. Areas of application of the laws International Humanitarian Law is applicable in armed conflict only and no derogation can be made from it. While International Human Rights Law may however be suspended under certain conditions in situations threatening the life of the nation Hence, International Humanitarian Law is applicable in two situations, namely International and non international armed conflict. Whereas, non International armed conflicts mean fighting on the territory of a state between the regular armed forces and identifiable armed groups, or between armed groups fighting one another. But it is not a question of substituting Human Rights Law for occupation Law, it is understandably often better adapted to the particular situation of military occupation This is true for example, with respect to the protection of private property from which derogation is normally possible under Human Rights Law and for which the special regime applicable in time of occupation is defined by occupation law It was also pointed out that the extent of applicability of certain instruments not providing for derogation in the event of conflict or any other public emergency such as the International Covenant on Economic Social and Cultural Rights will be determined according to whether there are special rules of the law of war or the law of military occupation that may conflict with their provisions and thus prevail as *lex specialis*. It might be argued that, in some respects, IHL fudges the question of when the full range of IHL obligations in occupied territory becomes applicable. An answer is that; effective control is required and the area may be under the general control of occupying forces. The position of ICJ in its advisory opinion: Whereas, Article 3 common to the conventions and protocol II is applicable in a situations of non international armed conflict. The court held that: Nor does the applicability of the regime of IHL preclude accountability of states parties under article 2 paragraph 1, of the covenant for the actions of their authorities outside their own territories The principle of complementarity and *Lex specialis* The concurrent application of human rights and Humanitarian Law has the potential to offer strong protection to the individual, but it can also raise many problems. This principles, in a sense, enshrines the idea of international law understood as a coherent system. Hence, the relationship between International Human Rights Law and International Humanitarian Law is described as a relationship between general and specialized law, in which humanitarian Law is the *lex specialis*. Hence, the following are fundamental distinctions between the two bodies of laws;³⁹ International Humanitarian Law only applies in times of armed conflict, whereas International Human Rights Law applies at all times. No derogations are permitted under IHL because it was conceived for emergency situations, namely armed conflict,⁴¹ with the sole limited exception of Article 5 of the fourth Geneva Convention. Traditionally, International Human Right Law is understood to

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be binding only for states, and it will have to be seen how the law evolves in this regard. Whereas, under the IHRL it is the primary responsibility of a state to ensure compliance. Notably, states are required to ensure respect also by other states. In addition, the ICRC is given a key role in ensuring respect for the humanitarian rules. Whereas Human Rights implementing mechanisms are complex and contrary to IHL, include regional systems and supervisory bodies such as the U. Commission on Human Rights. In IHRL, lethal force can be used only if there is an imminent danger of serious violence that cannot be averted save for such use of force. It goes a bit further than the mere observance of the Law. Whereas, IHRL is more often violated through judicial, administrative, and legislative decisions. In contrast the victims of traditional violations of IHRL want their rights to be reaffirmed, therefore, a more legalistic and dogmatic approach is necessary in implementing IHRL. N Human Rights monitors are deployed in critical regions and will visit prisons similar to ICRC delegates, and special rapporteurs of the U. N Human Rights commission travel to critical areas. It has been established that IHL is applicable in armed conflict and no derogation can be made there from, while IHRL applies in war and peace alike, and certain rights can be derogated in situation of public emergency. However, when it comes to the concurrent application of IHL and IHRL, the principle of complementarity and *lex specialis* play a vital role. We suggest that a comprehensive teaching, training and dissemination of the IHL and IHRL to our militaries and paramilitaries should be made. The knowledge, philosophy and interpretation of the laws to the students and teachers should be in the frontline focus of the actors. Finally, the actors should make a regular consultations and plans with parties involve so as to ensure effective implementation. U, Zaria – Kaduna, Nigeria P. Similarities and Differences, Jan, p.

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Chapter 2 : International human rights law - Wikipedia

A full degree in law (received by June at the latest) enabling the applicant to sit the bar exam in the relevant country; or another degree if the applicant has a significant amount of training in public international law and courses related to our programme (e.g. international human rights law, international humanitarian law, international.

The Inter-American Court of Human Rights was established in with the purpose of enforcing and interpreting the provisions of the American Convention on Human Rights. Its two main functions are therefore adjudicatory and advisory: Under the former, it hears and rules on the specific cases of human rights violations referred to it. Under the latter, it issues opinions on matters of legal interpretation brought to its attention by other OAS bodies or member states. Human rights in Europe The Council of Europe , founded in , is the oldest organisation working for European integration. It is an international organisation with legal personality recognised under public international law, and has observer status at the United Nations. The seat of the Council is in Strasbourg in France. The Council includes all the member states of European Union. The European Court of Human Rights is the only international court with jurisdiction to deal with cases brought by individuals rather than states. At the current rate of proceedings, it would take 46 years for the backlog to clear. The International Criminal Court ICC has jurisdiction over the crime of genocide , war crimes and crimes against humanity. Although these same international bodies also hold jurisdiction over cases regarding international humanitarian law, it is crucial to recognise, as discussed above, that the two frameworks constitute different legal regimes. These include the treaty bodies attached to the seven currently active treaties, and the United Nations Human Rights Council complaints procedures, with Universal Periodic Review and United Nations Special Rapporteur known as the and mechanisms respectively. In practice, many human rights are difficult to enforce legally, due to the absence of consensus on the application of certain rights, the lack of relevant national legislation or of bodies empowered to take legal action to enforce them. The Paris Principles list a number of responsibilities for national human rights institutions. The state backs its claim on the grounds that the crime committed is considered a crime against all, which any state is authorised to punish. The concept of universal jurisdiction is therefore closely linked to the idea that certain international norms are erga omnes , or owed to the entire world community, as well as the concept of jus cogens. In , Belgium passed a "law of universal jurisdiction" to give its courts jurisdiction over crimes against humanity in other countries. Others, like Henry Kissinger , [45] argue that "widespread agreement that human rights violations and crimes against humanity must be prosecuted has hindered active consideration of the proper role of international courts. Universal jurisdiction risks creating universal tyrannyâ€”that of judges".

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Chapter 3 : International humanitarian law - Wikipedia

The Weapons Law Encyclopedia (WLE) is a pioneering online compilation of information, accessible to non-specialists, on weapon technologies, the humanitarian impacts of their use, and their regulation under public international law.

The Universal Declaration of Human Rights is generally agreed to be the foundation of international human rights law. Adopted in 1948, the UDHR has inspired a rich body of legally binding international human rights treaties. It continues to be an inspiration to us all whether in addressing injustices, in times of conflicts, in societies suffering repression, and in our efforts towards achieving universal enjoyment of human rights. It represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, and that every one of us is born free and equal in dignity and rights. Whatever our nationality, place of residence, gender, national or ethnic origin, colour, religion, language, or any other status, the international community on December 10 made a commitment to upholding dignity and justice for all of us. Foundation for Our Common Future Over the years, the commitment has been translated into law, whether in the forms of treaties, customary international law, general principles, regional agreements and domestic law, through which human rights are expressed and guaranteed. Indeed, the UDHR has inspired more than 80 international human rights treaties and declarations, a great number of regional human rights conventions, domestic human rights bills, and constitutional provisions, which together constitute a comprehensive legally binding system for the promotion and protection of human rights. The two Covenants have developed most of the rights already enshrined in the UDHR, making them effectively binding on States that have ratified them. They set forth everyday rights such as the right to life, equality before the law, freedom of expression, the rights to work, social security and education. Over time, international human rights treaties have become more focused and specialized regarding both the issue addressed and the social groups identified as requiring protection. The body of international human rights law continues to grow, evolve, and further elaborate the fundamental rights and freedoms contained in the International Bill of Human Rights, addressing concerns such as racial discrimination, torture, enforced disappearances, disabilities, and the rights of women, children, migrants, minorities, and indigenous peoples. Universal Values The core principles of human rights first set out in the UDHR, such as universality, interdependence and indivisibility, equality and non-discrimination, and that human rights simultaneously entail both rights and obligations from duty bearers and rights owners, have been reiterated in numerous international human rights conventions, declarations, and resolutions. Today, all United Nations member States have ratified at least one of the nine core international human rights treaties, and 80 percent have ratified four or more, giving concrete expression to the universality of the UDHR and international human rights. International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. The domestic legal system, therefore, provides the principal legal protection of human rights guaranteed under international law. Where domestic legal proceedings fail to address human rights abuses, mechanisms and procedures for individual and group complaints are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level.

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Chapter 4 : International Humanitarian Law – Human Rights Careers

IHL and international human rights law are complementary bodies of international law that share some of the same aims. Both IHL and human rights law strive to protect the lives, the health and the dignity of individuals, albeit from different angles - which is why, while very different in formulation, the essence of some of the rules is similar.

Major instruments include the Geneva Conventions for the Protection of War Victims and two additional protocols concluded in under the auspices of the International Committee of the Red Cross. The United Nations has taken a leading role in efforts to advance international humanitarian law. The Security Council has become increasingly involved in protecting civilians in armed conflict, promoting human rights and protecting children in wars. Establishing respect for the rule of law is fundamental to achieving a durable peace in the aftermath of conflict, to the effective protection of human rights, and to sustained economic progress and development. The principle that everyone – from the individual to the State itself – is accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, is a fundamental concept which drives much of the United Nations work. The main United Nations organs, including the General Assembly and the Security Council, play essential roles in supporting Member States to strengthen the rule of law, as do many United Nations entities. Members of the Group are the principals of 20 United Nations entities engaged in supporting Member States to strengthen the rule of law. Also known as the World Court, it was founded in 1946. Since its founding, the Court has considered over 60 cases, issued numerous judgments on disputes brought to it by states and issued advisory opinions in response to requests by UN organizations. Most cases have been dealt with by the full Court, but since six cases have been referred to special chambers at the request of the parties. In its judgments, the Court has addressed international disputes involving economic rights, rights of passage, the non-use of force, non-interference in the internal affairs of states, diplomatic relations, hostage-taking, the right of asylum and nationality. States bring such disputes before the Court in search of an impartial solution to their differences on the basis of law. By achieving peaceful settlement on such questions as land frontiers, maritime boundaries and territorial sovereignty, the Court has often helped to prevent the escalation of disputes. International Criminal Justice The international community has had long aspired to create a permanent international court to try the most serious international crimes, and, in the 20th century, it reached consensus on definitions of genocide, crimes against humanity and war crimes. Tribunals After the Second World War the Nuremberg and Tokyo trials addressed war crimes, crimes against peace, and crimes against humanity committed during the Second World War. This applies, as well, to three courts established by the states concerned, but with substantial UN support: The International Criminal Court The idea of a permanent international court to prosecute crimes against humanity was first considered at the United Nations in the context of the adoption of the Genocide Convention of 1948. For many years, differences of opinions forestalled further developments. In 1994, the General Assembly directed the International Law Commission to prepare a draft statute for such a court. The massacres in Cambodia, the former Yugoslavia and Rwanda made the need for it even more urgent. The International Criminal Court ICC has jurisdiction to prosecute individuals who commit genocide, war crimes and crimes against humanity. It will also have jurisdiction over the crime of aggression when agreement is reached on the definition of such a crime. The Court has 18 judges, elected by the states parties for a term limited to nine years, except that a judge shall remain in office to complete any trial or appeal which has already begun. No two judges can be from the same country.

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Chapter 5 : IHL and human rights law - ICRC

The idea that international humanitarian law (IHL) and international human rights law (IHRL) are complementary, rather than mutually exclusive regimes generated a paradigmatic shift in the international legal discourse.

It is a violation of the laws of war to engage in combat without meeting certain requirements, among them the wearing of a distinctive uniform or other easily identifiable badge, and the carrying of weapons openly. Later additions[edit] International humanitarian law now includes several treaties that outlaw specific weapons. These conventions were created largely because these weapons cause deaths and injuries long after conflicts have ended. Unexploded land mines have caused up to 7, deaths a year; unexploded bombs, particularly from cluster bombs that scatter many small "bomblets", have also killed many. For these reasons, the following conventions have been adopted: Combatants who break specific provisions of the laws of war lose the protections and status afforded to them as prisoners of war , but only after facing a "competent tribunal". Spies and terrorists are only protected by the laws of war if the "power" which holds them is in a state of armed conflict or war, and until they are found to be an "unlawful combatant". Depending on the circumstances, they may be subject to civilian law or a military tribunal for their acts. In practice, they have often have been subjected to torture and execution. The laws of war neither approve nor condemn such acts, which fall outside their scope. After a conflict has ended, persons who have committed any breach of the laws of war, and especially atrocities, may be held individually accountable for war crimes through process of law. Key provisions and principles applicable to civilians[edit] The Fourth Geneva Convention focuses on the civilian population. The two additional protocols adopted in extend and strengthen civilian protection in international AP I and non-international AP II armed conflict: A "civilian" is defined as "any person not belonging to the armed forces", including non-nationals and refugees. Luis Moreno Ocampo, chief prosecutor of the international criminal court, wrote in A crime occurs if there is an intentional attack directed against civilians principle of distinction It requires parties to an armed conflict to distinguish at all times, and under all circumstances, between combatants and military objectives on the one hand, and civilians and civilian objects on the other; and only to target the former. It also provides that civilians lose such protection should they take a direct part in hostilities. Under IHL, a belligerent may apply only the amount and kind of force necessary to defeat the enemy. Further, attacks on military objects must not cause loss of civilian life considered excessive in relation to the direct military advantage anticipated. Civilians are entitled to respect for their physical and mental integrity, their honour, family rights, religious convictions and practices, and their manners and customs. Adverse distinction based on race, sex, nationality, religious belief or political opinion is prohibited in the treatment of prisoners of war, [46] civilians, [47] and persons hors de combat. Women must be protected from rape and from any form of indecent assault. Children under the age of eighteen must not be permitted to take part in hostilities. Protections should be provided "without any adverse distinction founded on sex". For example, with regard to female prisoners of war, women are required to receive treatment "as favourable as that granted to men". A study of the 42 provisions relating to women within the Geneva Conventions and the Additional Protocols found that almost half address women who are expectant or nursing mothers. UN Security Council Resolutions and , which aim to enhance the protection of women and children against sexual violations in armed conflict; and Resolution , which aims to improve the participation of women in post-conflict peacebuilding. In addition, international criminal tribunals like the International Criminal Tribunals for the former Yugoslavia and Rwanda and mixed tribunals like the Special Court for Sierra Leone have contributed to expanding the scope of definitions of sexual violence and rape in conflict. They have effectively prosecuted sexual and gender-based crimes committed during armed conflict. There is now well-established jurisprudence on gender-based crimes. Nonetheless, there remains an urgent need to further develop constructions of gender within international humanitarian law. Although the modern codification of IHL in the Geneva Conventions and the Additional Protocols is relatively new, and European

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in name, the core concepts are not new, and laws relating to warfare can be found in all cultures. ICRC studies on the Middle East, Somalia, Latin America, and the Pacific, for example have found that there are traditional and long-standing practices in various cultures that preceded, but are generally consistent with, modern IHL. It is important to respect local and cultural practices that are in line with IHL. Relying on these links and on local practices can help to promote awareness of and adherence to IHL principles among local groups and communities. There are areas in which legal norms and cultural practices clash. Violence against women, for example, is frequently legitimised by arguments from culture, and yet is prohibited in IHL and other international law. In such cases, it is important to ensure that IHL is not negatively affected.

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Chapter 6 : International Law and Justice | United Nations

The body of international human rights law continues to grow, evolve, and further elaborate the fundamental rights and freedoms contained in the International Bill of Human Rights, addressing.

International Humanitarian Law Instruments International Humanitarian Law Instruments Several international agreements regulate or ban the use of landmines and explosive remnants of war. These instruments are part of international humanitarian law. International human rights law protects the rights of persons affected by these weapons. Explore the body of international law that guides and informs mine action. This unprecedented coalition used advocacy to raise public awareness of the impact of antipersonnel landmines on civilians and to rally global support for a total ban. The anti-personnel mine ban treaty entered into force on 1 March. The Convention was opened for signature on 3 December, and as of 28 March had signatories, and had been ratified by 55 states. The Convention entered into force on 1 August, six months after the 30th state submitted its instrument of ratification. The Convention on Cluster Munitions prohibits all use, production, stockpiling and transfer of cluster munitions. It also provides countries with deadlines for clearance of affected areas and the destruction of stockpiled cluster munitions. It includes articles concerning assistance to victims of cluster munitions incidents. Under the Convention on Cluster Munitions states parties will be obligated to: Download the full text versions of the Convention here: They encounter myriad physical and social obstacles that: It is the first comprehensive human rights treaty of the 21st century and is the first human rights convention to be open for signature by regional integration organizations. The Convention has particular significance for mine action as it details the rights of survivors of mines and ERW. While the Convention does not identify new rights, it provides guidance on how to ensure that persons with disabilities can exercise their existing rights without discrimination. It provides a solid legal framework for the provision of assistance to survivors of mines and ERW. It will familiarise field practitioners with the content of the Convention, and guide efforts to encourage ratification and to contribute to implementation and monitoring. Human Rights Law International human rights law establishes the rights of persons, including those affected by mines and ERW. Five of the core human rights treaties all contain relevant provisions in these areas. Refugee Law The Convention relating to the Status of Refugees adopted on 14 December and its Additional Protocol establish the legal framework for the protection of refugees. Apart from the real and imminent threat of harm, the presence of these weapons restricts free movement and consequently seriously risks limiting access to basic means of survival, including water and food, farmland, and medical services. Other International Humanitarian Law In addition to restricting the means and methods of warfare, international humanitarian law protects persons who are not or are no longer participating in the hostilities. The Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules limiting the most deleterious effects of war. They protect people who do not take part in the fighting civilians, medics, aid workers and those who can no longer fight wounded, sick and shipwrecked troops, prisoners of war.

Chapter 7 : What is the difference between IHL and human rights law? | International Committee of the Red Cross

Intense, comprehensive, rich and rewarding: the Geneva Academy's LLM in International Humanitarian Law and Human Rights is the foundation of all of my subsequent professional opportunities and, even several years on, the substance continues to inform my work on a daily basis.

Chapter 8 : International Humanitarian Law and Human Rights – Human Rights Careers

International human rights law: Is a set of international rules, established by treaty or custom, on the basis of which

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individuals and groups can expect and/or claim certain behaviour or benefits from governments.

Chapter 9 : OHCHR | Basic Principles and Guidelines on the Right to a Remedy and Reparation

international humanitarian law and calling upon States "to give particular attention to the education of all members of security and other armed forces, and of all law enforcement agencies, in the international law of human rights and international humanitarian law applicable in armed conflicts".