



INTERNATIONAL HUMANITARIAN LAW

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International Humanitarian Law (IHL) is crucial to International Law. It is the law that governs behaviour during times of war and protects all individuals present during a conflict. This report will first outline what IHL is and how it is enforced, and then examine the University of Plymouth's IHL teaching project, including its impact on the lives of the university and secondary school students involved in the project.

Humanitarian is defined in the Cambridge English Dictionary as 'a belief in improving people's lives and reducing suffering'. It is based on the view that all human beings have a quintessential right to respect and dignity. IHL enshrines this principle into International Law and seeks to protect all individuals who are not participating in hostilities. The European Commission defines IHL as 'a set of rules that seek to limit the effect of armed conflict. It lays out the responsibilities of states and non-state armed groups during an armed conflict.'² It intends to balance strategic advantage with limiting all suffering, thus reducing the damage caused by war.

There are two main aims of IHL. The first aim is to protect and assist all individuals affected by conflict. The International Committee of the Red Cross (ICRC) plays a crucial role in this, as it aims to alleviate human suffering, protect all life and health, and uphold human dignity, with a specific focus on situations involving armed conflict.³ The second aim relates to the restrictions and regulations placed upon the means and methods of warfare. This is achieved by several principles that will be discussed later in this report.

The Geneva Convention is a core piece of IHL that seeks to protect individuals who are not involved in fighting, such as civilians, medical professionals, aid workers, and those who are

¹ Molly is currently in the final year of her law degree.

² European Commission, 'International Humanitarian Law, Factsheet' (2020)

³ ICRC, 'Who we are', (2022) <<https://www.icrc.org/en/who-we-are>>

no longer able to fight, such as the wounded, sick, shipwrecked, prisoners of war and victims of war.⁴ It contains additional protocols that relate to the use of weapons, military tactics, people, and goods.⁵ Another crucial piece of legislation is the Hague Convention, which created prohibitions on specific means and methods of warfare, specifically focusing on conduct during hostilities.⁶ Four main principles of IHL were enshrined into law by both The Geneva Convention and The Hague Convention: Distinction, Military Necessity, Unnecessary Suffering and Proportionality.⁷

Firstly, the principle of distinction protects civilians and civilian objects from the effects of military operations by distinguishing between civilians and those taking part in hostilities. Attacks must not be directed at civilians, and all parties must be able to distinguish between civilians and combatants at all times.⁸ During the conflict in Somalia between 1992 and 1994, this principle was established as being crucial.⁹ In short, this involved a group of United Nations aid workers entering Somalia with the intention of providing food and medical support to civilians suffering from the effects of war. A cease-fire was called in order to provide this support; however, the Somali militants disregarded this and engaged in hijacking and looting the food convoys. The US provided the aid workers with military support, but this was beset with difficulties, as a result of a lack of national Somali leadership causing constant attacks. The United Nations and US in combination made several attempts to capture the leader of these Somali militant groups but failed, resulting in a resolution calling for apprehension of those responsible for several massacres that had occurred.¹⁰ In a final attempt to capture the leaders, the US military staged an attack but were quickly surrounded by Somali fighters and were unable to hold them off. This fight caused the death of over 300 Somali citizens and led to all forces being withdrawn in 1994, as well as the United Nations Security Council authorising Resolution 897 and taking a less active role in the conflict. This resolution authorised 'the gradual reduction of... force[s]' and stated that although the situation 'continues to threaten peace and security, the people of Somalia bear the ultimate responsibility for setting up viable national political institutions and for reconstructing their country'.¹¹

⁴ The Geneva Convention 1949 Article. 4; Additional Protocols 1977

⁵ Additional Protocols 1977 Article. 36

⁶ The Hague Convention 1907

⁷ N 3; Ibid

⁸ The Geneva Convention Additional Protocol I, Article. 48; Additional Protocol II, Article 13.1

⁹ ICRC, 'Practice Relating to Rule 1, The Principle of Distinction between Civilians and Combatants' (IHL Database)

¹⁰ ICRC, 'Somalia, IHL violations in Somalia's long-running armed conflict' (How does the law protect in war?) <<https://casebook.icrc.org/case-study/somalia-ihl-violations-somalias-long-running-armed-conflict>>

¹¹ United Nations, 'Security Council: Resolution 897 (1994)' S/RES/897

Secondly, the principle of military necessity was established with the intention of realising the purpose of armed conflict: to gain military advantage, whilst minimizing human and physical destruction. This originated from the Hague Convention 1907 and is mentioned in various Geneva Conventions and Additional Protocols but is not specifically defined in them. Francis Lieber, the creator of this principle, defines it as ‘necessity of measures which are indispensable for securing the ends of the war, which are lawful... no more force or greater violence should be used to carry out a military operation than is necessary in the circumstances.’¹² Damage to individuals and their property must therefore not be excessive when compared to the military advantage that could be gained. This means that any hazards that do exist must not be disproportionate to the military usefulness of the act. This principle accepts that there may be some casualties to war and can be used as a defence in court, but it ensures that the damage caused does not go over and above what was needed in order to achieve a specific military goal.¹³ An example of this would be a military company deciding against an attack on the enemy, as it would be a diversion from its military objectives and would serve no real purpose.¹⁴

Thirdly, the principle of unnecessary suffering prohibits the employment of means of warfare that could result in superfluous injury.¹⁵ It attempts to strike a balance between humanity and military necessity. It focuses on the effect that some weapons have on combatants, specifically prohibiting weapons such as laser weapons, incendiary weapons, exploding bullets, nuclear weapons, poison, mines, and chemical and bacteriological weapons.¹⁶ There is a significant amount of history behind each of these prohibitions. Focussing specifically on landmines, these have caused a significant number of civilian deaths. Between 1940 and 1973, Egypt was contaminated with approximately 23,000,000 landmines that were placed during different conflicts.¹⁷ This caused a large number of civilian casualties and impacts upon developments on over 22% of Egypt’s landmass. It also causes a strain on Egypt’s economy due to the limited use of fields, wells, water sources, and hydroelectric installations.¹⁸

Lastly, the principle of proportionality prohibits military attacks that are ‘expected to cause incidental loss of civilian life, injury to civilians, damage to civilians objects, or a combination

¹² ICRC, ‘*The Use of Force in Armed Conflict: Interplay Between the Conduct of Hostilities and Law Enforcement Paradigms*’ <<https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4171.pdf>>

¹³ Home Office, ‘*The Law Governing Armed Conflict*’ para. 27

¹⁴ David Turns, ‘*Military Necessity*’ (Oxford Bibliographies, 2017)

¹⁵ ICRC, ‘*Unnecessary Suffering*’ (How does law protect in war?)

¹⁶ The Geneva Convention Additional Protocol I Article 35(2)

¹⁷ ‘*Facts about Landmines*’ (*Minesweeper*) <<https://www.landminefree.org/2017/index.php/support/facts-about-landmines>>

¹⁸ *Ibid*

thereof, that would be excessive in relation to the concrete and direct military advantage anticipated.¹⁹ The clearest example of this was the bombings of Hiroshima and Nagasaki by the United States in 1945. Here it was argued that the military advantage gained from the bombings was sufficiently strong to justify them, as evidenced by the prompt Japanese surrender, thus eliminating the necessity of an allied attack. However, it was decided that the use of atomic bombs was illegal, as a result of the tremendous destruction caused by the bomb.²⁰

There are also several other principles, mentioned in the Geneva Convention and the Hague Convention, that are crucial to IHL. For example, women and children are granted additional respect and protect against rape or assault, and children must not take part in armed conflict.²¹ IHL also enshrines the principle of non-discrimination based on race, nationality, religious belief, political opinions, sex, or gender. One problem that is continuously faced in IHL is child soldiers.²² Thousands of children are forced to serve, from as young as 8 years old, in government forces and army opposition groups. They are targeted due to their susceptibility to influence and are often forced to join.²³ Children who survive this often suffer extreme psychiatric damage, behavioural problems such as heightened aggression, and poor literacy and numeracy. The United Nations and a number of aid groups, such as the ICRC, work to stop this and protect children from the effects of conflict.²⁴

The IHL teaching project was set up several years ago by the University of Plymouth. It can be chosen as part of a Work-Based Learning module in any law student's second or third year of study at the university. It centres around the principle of street law, which involves law students going into local high schools and teaching young people about legal issues, using different interactive methods. The aim of this is to promote their understanding of different areas of law, and to enable young people to have a greater understanding of issues around the world. The project works in partnership with the Devon and Dorset Red Cross and teaches university students about IHL and the role of the ICRC. These university students are then supported whilst they teach secondary students at Devonport High School for Girls about all that they have learnt.

Charlotte was a student at Devonport High School for Girls during the first year of this project

¹⁹ Additional Protocol I, Article 51(5)(b); Emanuela-Chiara Gillard, *'Proportionality in the Conduct of Hostilities: The Incidental Harm Side of the Assessment'*, International Law Programme, December 2018

²⁰ Bernard L Brown, *'The Proportionality Principle in the Humanitarian Law of Warfare: Recent Effort at Codification'* (Cornell International Law Journal, 1976)

²¹ N 3 Article. 76, Part IV, Chapter II

²² Ibid Article. 77

²³ Wessels, Michael (1997). 'Child Soldiers'. *Bulletin of the Atomic Scientists*. 53 (4): 32

²⁴ ICRC, *'Child Soldiers, and other children associated with armed forces and armed groups'* (in brief, 2000)

and was recently interviewed by two university students who had chosen to undertake the Work-Based Learning module. The questions they asked centred around her experience as a student that was taught during the IHL project, and the effect it had on her decision to study Law at the University of Plymouth.

Charlotte began by discussing the ways in which the university students taught her. She stated that it was a subject area that she had never studied before and confessed it was something she previously knew nothing about. The teaching style was different than anything she had experienced before, and it made a very engaging and motivating environment. It began with lessons around the sources of IHL and what exactly IHL is. Charlotte mentioned that these gave her a good baseline knowledge of the context behind IHL and enabled her to understand the more complex topics that they moved onto. The topic that had the most impact on her was around child soldiers. This was a very distressing topic; however, she stated that the university students approached it with the utmost respect and sensitivity. As a young person herself at the time, she was able to fully understand the trauma these children are put through and it made her want to take positive action.

Charlotte felt that the entire course was engaging and important. She stated that as a young person, she was naïve about the world and did not have a good understanding of how international conflicts are managed. She had always been told that she was good at science and therefore should be a doctor, but these IHL lessons allowed her to realise her real passion. Having the university students involved in this project teach her about IHL allowed her to broaden her horizons and eventually became the reason she applied to the University of Plymouth to study Law. Since then she has gone on to work in the Refugee Family Reunion Project within the Law Clinic.