

# Module 2: Legal Framework

## Lesson 2.1

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General International  
Law relevant for UN-EP



## Learning Outcome

- Identify typical violations of international humanitarian law, human rights law, refugee and criminal law
- Follow a course of action in line with peacekeepers' legal responsibilities



## Lesson Content

- Hierarchy of relevant laws
- International Human Rights Law (IHRL)
- International Humanitarian Law (IHL)
- International Criminal and Refugee Law
- UN-EP Responsibilities – Human Rights, IHRL

# Hierarchy of UN Laws and Policies

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## Peacekeeper Legal Responsibilities

- International Human Rights Law
- International Humanitarian Law (IHL)
- International Refugee Law
- International Criminal Law





# International Human Rights Law (IHRL)

- Human rights protect everyone's **dignity, freedom and equality**. They are **universal** and cannot be taken away
- IHRL continues to apply during **war or other national emergencies**
- IHRL primarily establishes **obligations of states**. Non-state armed groups can also violate or abuse human rights



UN Code of Conduct for Blue Helmets:  
*Respect and regard the human rights of all*



## Examples of Human Rights

### Civil and Political Rights:

- Right to Life
- Freedom from torture
- Protection from discrimination
- Freedom of expression
- Due process in detention

### Economic, Social & Cultural Rights:

- Join a trade union
- Education, including free primary school
- Food, including freedom from Hunger





## International humanitarian law (IHL)

- Applies to **conflict parties** in international and non international armed conflict (IAC/NIAC)
- Military peacekeepers must abide **as long as engaged as combatants** (Secretary-General's Bulletin on IHL)
- Regulates **conduct of hostilities** and restricts **means of warfare**
- Protects those who **do not or no longer engage in hostilities**, including peacekeepers







## Protected Persons Under IHL

- Civilians not directly participating in hostilities
- Medical and religious personnel of armed forces
- Wounded, sick and others *hors combat*
- Prisoners of war & interned armed group fighters
- Peacekeepers (unless engaged in military hostilities)





# International Criminal Law

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## **War crimes:**

key feature: serious violations of IHL **in armed conflict**

## **Crimes against humanity:**

key feature: **systematic or widespread** inhumane acts (murder, rape, torture etc.)

## **Genocide:**

key feature: intent to destroy national, ethnic, racial or religious group

**State duty to prosecute** perpetrators of war crimes, crimes against humanity and genocide

**International tribunals** may have jurisdiction to prosecute (e.g. International Criminal Court)





# International Refugee Law

## 1951 Refugee Convention

- Fear of **persecution** due to race, religion, political opinion etc.
- International protected status / under UNHCR mandate
- Refugee rights (e.g. free movement in country & no refoulement)

## 1969 African Refugee Convention

- Refugee status extended also to persons fleeing **armed conflict** and other
- “events seriously disturbing public order”

## 1984 Cartagena Declaration on Refugees

- also extends to internal conflicts & generalized violence





## UN-EP Responsibilities - Human Rights Violations & IHL

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1. Proactively **identify** human rights and IHL concerns
2. Diligently **record** information on human rights/IHL violations
3. **Report** to chain of command, human rights component, protection of civilians coordinator (based on SOPs)
4. Keep **confidential** sensitive information on victims & witnesses
5. Refer victims to **urgent support**
6. Promptly make appropriate **intervention to protect from further harm**
7. Continue to **follow** the situation



## Learning Activity: Identifying Violations

UN-EP engages in AO with armed group activity to identify vulnerable areas & at risk populations

Based on the information provided by locals to UN-ET identify possible violations of:

- International human rights law
- International humanitarian law
- International criminal law
- International refugee law





## Case 1 – Cattle Herding Boy

*“A militia came to steal our cows. They were shooting at the villagers. We had to flee into the swamps. We are surviving on wild plants & swamp water”*



### **Violations to consider**

- Intentional attack against civilians
- Human rights to life
- War crime of pillaging
- Arbitrary displacement
- Right to housing & freedom of movement
- Human rights to food, water & health





# International Humanitarian Law: Conduct of Hostilities

- **Distinction** between civilians & combatants
- **Precaution** to minimize risks for civilians
- **Proportionality** to limit incidental harm to civilians





## Case 2 – Local Journalist

“The army prohibits humanitarians to give food aid to villagers from a particular ethnic group. They claim that some food will be diverted to rebel fighters. Malnutrition increased drastically , but we are not allowed to report it publicly.”



### Violations to consider

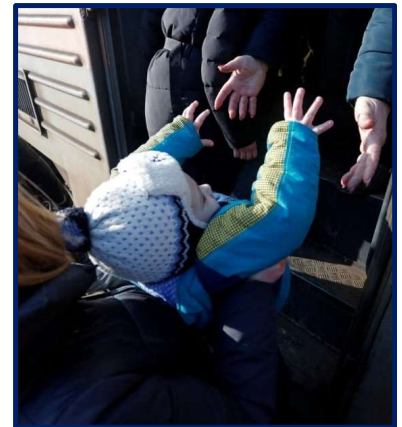
- Rapid and unimpeded passage of humanitarian relief for civilians in need
- Human right to food, including freedom from hunger
- No discrimination on grounds of ethnicity
- Human rights to freedom of expression, media and information.





## Right to Humanitarian Assistance

- Authorities must ensure humanitarian essentials, including by requesting international humanitarian aid
- Authorities & conflict parties must not divert assistance or discriminate between populations in need
- Authorities and conflict parties must facilitate free & safe passage of humanitarian aid & access to populations in need





## Case 3 – Rebel Fighter

*“We ambushed a military ambulance with a Red Cross on it because we wanted to capture medicine for our wounded fighters. To our surprise, we found that the ambulance was actually transporting artillery shells. The ambulance driver was wounded. We treated him only once he told us where the ammunitions transport was going.”*



### Violations to consider

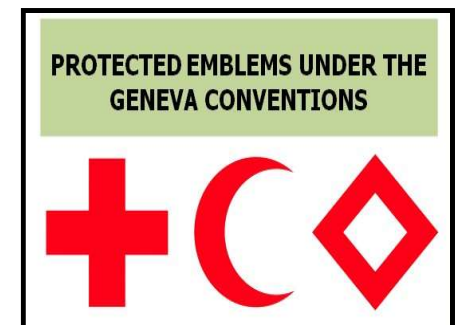
- Attack directed against transport to care for wounded & sick
- Improper use of Red Cross distinctive
- Duty to collect and care for the wounded and sick
- War crime of torture



# Legal Protection of Medical Care in Armed Conflict

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- Conflict parties must provide **wounded & sick** with medical care, prompt & without distinction
- Civilian and military personnel, facilities & transports **exclusively assigned to medical duties** protected in all circumstances. Attacks on them are war crimes
- No improper use of **Red Cross distinctive emblems**, especially for military purposes





## Case 4 – School Teacher

*“Armed fighters came to our school.  
They took some of the girls with them.  
We could not stop them or they would  
kill us.”*



### **Violations to consider**

- Conflict-related sexual violence: Rape & sexual enslavement
- Grave child violations: Attack against schools
- Freedom from torture
- Human right to life
- Non-discrimination based on gender
- Protection of schools as civilian objects
- Human right to education



## Security Council Agenda on Women, Peace & Security Prevention of Conflict Related Sexual Violence

*Incidents or patterns of sexual violence **in conflict or post-conflict** situations which include:*

- *rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, trafficking or any other form of sexual violence of comparable gravity against **women, men, girls or boys***  
(annual Secretary-General's Report on Sexual Violence in Conflict)





## Case 5 – Refugee Woman

*“They are forcing us to go home. But our government will harshly punish us as soon as we cross the border. Our own political police often rapes women who are deported.”*



### Violations to consider

- Freedom from torture (in the form of rape)
- Prohibition of *refoulement* under 1951 Refugee Convention and Convention against Torture
- Deportation as a war crime or crime against humanity.





# Rights of Refugees

- Prohibition of expulsion or return if real risk (“*Refoulement*”)
- Prohibition of discrimination for race, religion or country
- Freedom to practice religion
- Right to acquire property
- Access to courts
- Public education
- Assistance
- Freedom of Movement





## Case 6 - Mother

*"We had to run away from the fighting in the west of the country and live with our relatives here. My children are not allowed to go to the local school because we are not from this district. The authorities also refuse to register me so that I can vote in the next elections."*

IDPs keep their rights, including:

- Right to education
- Right to vote as citizens







## Internally Displaced Persons (IDPs)

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- **Forced to flee** (e.g. due to war or natural disaster) but have **not crossed an international border**.
- Keep all their human rights and citizens rights
- Host state must protect them and not discriminate

### Protected by

- UN Guiding Principles on Internal Displacement
- AU Convention on Internal Displacement in Africa



## Case 7: Ignorant Commander

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- EP has found that soldiers of a particular host state army battalion are regularly looting civilian property and raping local women.
- The UN informs that battalion's commander about this. She insists that she has never given any order to commit such acts and cannot be held criminally responsible for her subordinates' misconduct.

Is the local commander right?  
Or may she become responsible for an international crime?



## Command Responsibility

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Commanders are responsible for war crimes and crimes against humanity under their command if:

- They **knew or should have known** about the crimes

**AND**

- They failed to take all necessary and reasonable measures to **prevent or repress** the crimes, including by investigating and prosecuting the perpetrators

**Criminal responsibility without participation in crime itself!**



## Take Away

- UN-EP should have a good understanding of international human rights, humanitarian and refugee law because it informs your work, especially the identification of at-risk populations.
- UN-EP must be able to recognize, record and report violations, while ensuring due confidentiality for victims and witnesses.



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**QUESTIONS?**