







The Origin of Modern Humanitarianism and the International Legal Framework

Introduction









It is taken for granted that after a disaster any sort of relief effort is positive, and nobody discusses whether it is legitimate or not. And still less, whether it is legal.




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The Origin of Modern Humanitarianism and the International Legal Framework

Introduction





However, as well as a moral framework, an international legal framework exists, and is widely accepted, that regulates humanitarian action: it is **International Humanitarian Law, International Refugee Law and International Human Rights Law.**





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Introduction





Just as there is a national framework composed of national laws that every actor offering assistance that is present in a country should know and respect.



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The Origin of Modern Humanitarianism



Dunant's ideas and action



Legal framework of humanitarian action

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# The Origin of Modern Humanitarianism and the International Legal Framework



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## The Origin of Modern Humanitarianism and the International Legal Framework

# The Origin of Modern Humanitarianism





ITALIAN UNIFICATION

Major battles

Piedmontese advances

1:27 964 000

300 km

S.XIX

### Battles of Italian unification

In an age in which ideas enlightened by equality and brotherhood among human beings predominate in Europe, the journey of Henry Dunant, a Swiss merchant, to Italy, will be a trigger for the modern humanitarianism.

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The Battle of Solferino

In those days of 1859, in northern Italy, near Solferino, there was one of the bloodiest battles of the Franco-Prussian war, with over 400,000 men in a vicious fight that left on the battlefield more than 40,000 wounded on both sides with no-one to offer help.



1859






1859

During the battle

**Henry Dunant**, who happened to witness the battle, horrified by the spectacle that confronted him, mounted a small relief effort with the women of nearby villages, in particular Castiglione, and managed to save the lives of many soldiers from both sides, bringing a certain humanity to war.




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### A memory of Solferino




Returning to Geneva, and still shocked by his experience, he wrote a book as testimony of his experience, "A memory of Solferino"

The book, which had a great impact on the Swiss at the time, contained the basic ideas of humanitarianism that were to be consolidated during the nineteenth and twentieth centuries.




1862


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## The Origin of Modern Humanitarianism and the International Legal Framework






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## Dunant's ideas and action




The Origin of Modern Humanitarianism

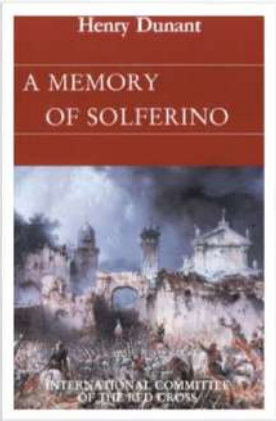


Dunant's ideas and action



Legal framework of humanitarian action






A memory of Solferino




Dunant in his book includes these two thoughts that would subsequently undergo a fertile development: **The first idea** is about **aid or assistance**, which does not refer to any particular kind of relief but one guided solely by the criterion of the victim's needs, and therefore impartial and independent, and conducted by organizations that are similarly impartial and independent.

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## Dunant's ideas and action




The Origin of Modern Humanitarianism




Dunant's ideas and action




Legal framework of humanitarian action






“Will it not be possible during a period of peace, to form relief societies, composed of enthusiastic, dedicated and qualified volunteers whose aim will be to care for the wounded in wartime?”

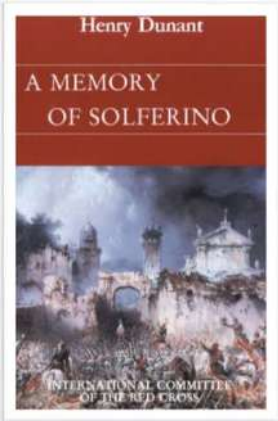
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## Dunant's ideas and action







A memory of Solferino

*The second idea* is that of **protection of the victims by means of legal instruments** and the introduction of elements of humanity in war.


The Origin of Modern Humanitarianism




Dunant's ideas and action



Legal framework of humanitarian action




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## Dunant's ideas and action




“Would not it be desirable, taking advantage of a sort of congress, to formulate some international inviolable principle which, once approved and ratified, would serve as a basis for relief organizations to look after the wounded in the various European countries?”




The Origin of Modern Humanitarianism



Dunant's ideas and action




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### Dunant's ideas and action

Therefore, in its origin, humanitarian action covers to a greater or lesser extent, these three components are...









Assistance




Protection



Testimony




17




The Origin of Modern Humanitarianism and the International Legal Framework


### Dunant's ideas and action

Therefore, in its origin, humanitarian action covers to a greater or lesser extent, these three components are...









Assistance



Protection






Testimony




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As a consequence of the *first idea*, the International Committee for the Relief of the Wounded was formed (Now known as ICRC International Committee of the Red Cross) And later the National Societies of the Red Cross or Red Crescent were formed.




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The Origin of Modern Humanitarianism and the International Legal Framework

### Dunant's ideas and action






Assistance






Protection




Testimony

Therefore, in its origin, humanitarian action covers to a greater or lesser extent, these three components are...

And as a result of the **second idea**, in 1864 the first Convention for the Amelioration of the Wounded in the Field was adopted, with which formal **International Humanitarian Law** was born.





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The Origin of Modern Humanitarianism and the International Legal Framework

### Dunant's ideas and action






Assistance






Protection



Testimony

Therefore, in its origin, humanitarian action covers to a greater or lesser extent, these three components are...

The **third idea**, implicit in the publication of **A Memory of Solferino**, is the **testimony**. What Dunant intended with the book is just that: to bear witness to what he had seen and try to raise awareness, as we say today, of his fellow citizens.



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Assistance

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The emphasis in any one of the components will depend on each situation and each humanitarian organization interprets each component differently.

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Legal framework of humanitarian action

### Legal Framework

Humanitarian action has a legal justification in various **instruments of international law**, although it is not referred to it through that concept but through the relief actions themselves.

### Instruments of international law

Amongst them are:

- ✓ International Human Rights Law.
- ✓ International Humanitarian Law.
- ✓ Legislation about refugees.
- ✓ Legislation on the international response to disasters.
- ✓ UN resolutions.

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**KALU Institute** Legal framework of humanitarian action

**Human Rights.**

**International Refugee Law.**  
Guiding Principles on Internal Displacement.

**International Humanitarian Law.**

**Principles, guidelines and policy frameworks on disasters and humanitarian assistance.**

The right to live with dignity.

The right to protection and security.

The right to receive humanitarian assistance.



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Human Rights and Humanitarian Aid

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Human Rights Violation in Humanitarian Crises

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Human rights

Human rights and humanitarian aid

Human rights violation in humanitarian crises

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Human Rights and Humanitarian Aid

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Human Rights

Human Rights, as a body of law, consist of a series of documents for the promotion and protection of Human Rights. Some are legally binding, some are not.  
Let’s see something more about them:

01

International law of human rights.

02

Positive rights and Negative rights.

03

International bill of human rights.

Human Rights

Human Rights & Humanitarian Aid

Human Rights Violation in Humanitarian Crises

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01

Human Rights and Humanitarian Aid

Human Rights



International law of human rights

It is the branch of Human Rights integrated in PUBLIC INTERNATIONAL LAW, and as such it is composed of a series of international instruments that are MANDATORY for states to comply with. They are therefore more EFFECTIVE in protecting human rights at the international, regional and national level and can be said to create an ENFORCEABLE SYSTEM OF PROTECTION.

There are other human rights instruments which, not being part of the IHRL and not being legally binding, contribute to the implementation, understanding and development of human rights.

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02

Human Rights and Humanitarian Aid

Human Rights



Positive and negative rights

- ✓ NEGATIVE RIGHTS refer to those rights that impose an obligation on the state NOT TO INTERFERE with the exercise of certain rights. For example, the right to **property**, **freedom of expression**, **freedom of religion** or the right to **life itself**.
- ✓ POSITIVE RIGHTS, in turn, impose an obligation on the state to provide them or to facilitate their provision. For example, the right to **education**, or the right to **health care**.

They are often closely linked: The right to life is negative in that the state must not attack you, but it is positive in that the state is also obliged to protect you. Similarly, it cannot prevent you from accessing education and it must not impose a particular education on you, but it has an obligation to provide you with education. On the other hand, positive rights depend on the state's ability to provide or facilitate services, while negative rights can always be fulfilled.

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Human Rights



International bill of human rights.

Refers to the following set of human rights instruments proclaimed by the United Nations:

- ✓ Universal Declaration of Human Rights.
- ✓ International Covenant on Civil and Political Rights (ICCPR).
- ✓ International Covenant on Economic, Social and Cultural Rights (ICESCR).
- ✓ and their corresponding optional protocols.

The International Covenants (ICCPR and ICESCR) develop the Declaration of Human Rights and constitute **BINDING** agreements:

- ✓ They specify legal obligations of the rights contained therein
- ✓ and establish bodies to monitor their compliance.

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1945



Human Rights and Humanitarian Aid

Human Rights



Human rights are seen as preconditions for peace.

In 1945, the United Nations organization was created with the objective of preventing future wars, and one of the UN’s main purposes is to promote the respect for human rights and for fundamental freedoms for everybody without any distinction.

**1945 Preamble of the Charter of the United Nations.**  
“We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind...”



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Human Rights

Human rights are seen as preconditions for peace.

1945

1948

**1948 Preamble of the Universal Declaration on Human Rights**

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people...”

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Human Rights

Human rights are seen as preconditions for peace.

1945

1948

In 1948 the Universal Declaration on Human Rights (UDHR) was created. It was the first UN document identifying the fundamental rights of all human beings. It is “just” a “declaration”. Its purpose was to exert moral and political pressure on states, but it was not legally binding.



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1945

Human Rights and Humanitarian Aid

Human Rights

Human rights are seen as preconditions for peace.

The UDHR accurately identifies the fundamental human rights that belong to all of us.

The United Nations then planned to develop a convention, based on the UDHR, which states could legally enforce in their own countries.





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1945

Human Rights and Humanitarian Aid

Human Rights

Human rights are seen as preconditions for peace.

But this was not possible.

Free countries, argued for the supremacy of civil and political rights, such as the right to life, and the freedom of movement, association, thought, press, religion, opinion and speech (the Negative Rights).





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Human Rights

Human rights are seen as preconditions for peace.

1945

Socialist countries, led by the Soviet Union, did not want to hear about liberties or civil rights and talked about economic and social rights instead, such as the rights to work, health care and education (the Positive Rights).



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Human Rights

Human rights are seen as preconditions for peace.

1945

Consequently, two separate treaties were developed: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

1966

1966 Development of the International Covenant on Civil and Political Rights.  
“Recognizing that (...) the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights, ...”



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Human rights are seen as preconditions for peace.

Both of which entered into force in 1976. States could sign whichever one they so chose. These instruments, the UDHR, the ICCPR and the ICESCR, along with their Optional Protocols constitute the International Bill of Rights (IBR), and are the core building blocks of human rights law.

1945

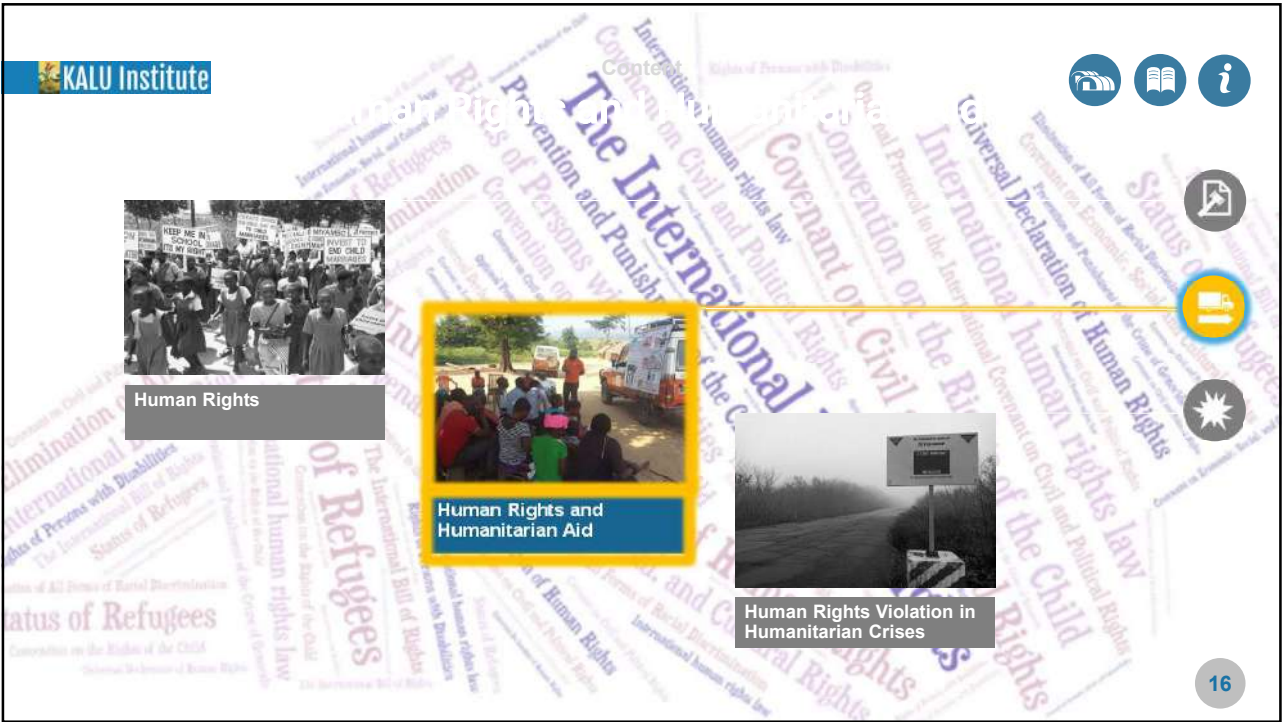
1966


1976




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Human Rights Violation in Humanitarian Crises



International legislation on human rights provides us with a general and indisputable legal framework, which includes legal texts such as:

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- ✓ Universal Declaration of Human Rights (1948).
- ✓ Convention on the Prevention and the Punishment for the Crime of Genocide (1948).
- ✓ International Convention on the Elimination of all Forms of Racial Discrimination (1965).
- ✓ International Covenant on Civil and Political Rights (1966).
- ✓ International Covenant on Economic, Social and Cultural Rights (1966).
- ✓ International Convention on the Elimination of All Forms of Discrimination against Women (1979).
- ✓ Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984).
- ✓ Convention on the Rights of the Child (1989).

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Human Rights Violation in Humanitarian Crises




In addition, there are regional human rights treaties:

✓ The **European Convention** on Human Rights.

✓ **African Charter** on Human and People's Rights.

✓ **American Convention** on Human Rights.

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Human Rights




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Human Rights Violation in Humanitarian Crises








If the fundamental aim of Humanitarian Aid is to protect life and ensure dignity, any one of these texts, signed by governments, serves the various humanitarian actors in supporting and justifying the relief activity.


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Human Rights and Humanitarian Aid




Human Rights



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Human Rights Violation in Humanitarian Crises




✓ The right to life is recognized as *"inherent in the human being"* in article 6 of the Covenant of Civil and Political Rights,

✓ and respect for the dignity of life, article 11 of the Covenant of Economic, Social and Cultural Rights states that everyone person has the right to *"an adequate standard of living for himself and his family, including food clothing and housing, and a continuous improvement in living conditions"*




✓ and article 12 adds the right *"to the enjoyment of the highest attainable standard of physical and mental health"*



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Human Rights and Humanitarian Aid




The supreme right to life involves two questions ...

✓ That **victims** of a natural disaster or conflict **have a right** to the necessary measures being taken to safeguard, protect and improve their lives if threatened.

✓ And **the duty of others** to take these measures.

The supreme right to life, understood as a life worthy of human dignity as enshrined in legal texts article 3 of the Universal Declaration of Human Rights, and in other legal texts.



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Human Rights Violation in Humanitarian Crises

So...  
Who will take such measures?



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Human Rights Violation in Humanitarian Crises

First of all, it is the responsibility of states, as defined in the agreements signed by them ...



...but this does not absolve other players from offering humanitarian assistance when the population lacks their own means to mitigate the consequences of the threat.

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Therefore, article 11 of the Convention of Economic Rights recognizes *"the essential importance of international co-operation based on free consent"*.



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Human Rights and Humanitarian Aid

The Convention on the Rights of the Child, recognizing the right to life (art. 6) and the right *"to enjoy the highest attainable standard of health and facilities for the treatment of illness and rehabilitation of health"*(Art. 24), notes the obligation of states to adopt the necessary measures to ensure this and adds that *"they should undertake to promote and encourage international cooperation to achieve full realization of the right."*



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And, just as human rights support a right to humanitarian assistance, Humanitarian Aid clearly protects the following human rights:



Right to life and physical integrity



Right to food



Right to health






Right of return

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Human Rights and Humanitarian Aid



"Humanism embraces the human species in general; humanitarianism belongs to the domain of the victims and, further on, some try to humanise the world and others war; some are concerned with the quality of life, others with life itself; some speak of rights, others of health; humanism recognises humans by the biological characteristics they share (all people are equal), in humanitarianism the unifying element is pain (all victims are equal)".

**Jordi Raich**  
Founding member of Doctors Without Borders.



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Human Rights and Humanitarian Aid



Human Rights Violation in Humanitarian Crises

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Human Rights and Humanitarian Aid

Human Rights Violation in Humanitarian Crises





Human Rights



Human Rights & Humanitarian Aid



Human Rights Violation in Humanitarian Crises



How to face human rights violations on the field

We have just seen how human rights legally justify humanitarian action and how humanitarian action protects human rights.

But this relationship can be even closer in **humanitarian crises** where there are human rights violations by the state or armed groups and where the population becomes a military target.

In humanitarian crises

In this type of environment we can find:

- ✓ Forced displacement.
- ✓ Confinement of populations.
- ✓ Murder of human rights defenders, community leaders or political representatives.
- ✓ Rape as a weapon of war.
- ✓ Kidnappings.
- ✓ Forced disappearances.
- ✓ ...

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Human Rights Violation in Humanitarian Crises



How to face human rights violations on the field

As we have seen, it is the responsibility of States to protect the rights of citizens, including the most fundamental rights such as human rights. However, this is not always fulfilled, either because in conflict situations the authorities have lost the capacity to do so, or because the authorities themselves are the perpetrators of rights violations.

Indeed, "classical" humanitarian aid is capable of providing a certain level of protection in these circumstances. The mere fact of offering assistance, or of interposing international personnel, can have a protective effect on victims or deter aggression.



Human Rights

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Human Rights Violation in Humanitarian Crises

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Human Rights Violation in Humanitarian Crises



How to face human rights violations on the field

But there will be other circumstances in which this is not possible and specific protection or advocacy strategies have to be developed, or even to step aside and facilitate the work of organisations specialised in human rights protection.

In this way, and although human rights advocacy is not explicitly part of our organisation's mandate, we will almost always be able to refer them to professional organisations that are active in the country.



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Human Rights Violation in Humanitarian Crises



How to face human rights violations on the field

We can help these organisations is by providing verified information, testimonies and evidence of rights violations that they can use in their public denunciation work or before the competent courts in the cases they manage to prosecute.



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Human Rights Violation in Humanitarian Crises



Human Rights

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Human Rights Violation in Humanitarian Crises

Here are some examples of human rights organisations with which we can collaborate on a confidential basis:



In **Chechnya**, national organisations such as *Memorial* or international organisations like *Human Rights Watch* deal with the protection of rights, from serious cases such as illegal detentions or allegations of torture, to legal advice for people displaced by the conflict to access the financial compensation and social assistance to which they are entitled. If cases do not find legal recourse in Russia, they are taken to the European Court of Human Rights in Strasbourg.



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Human Rights Violation in Humanitarian Crises



Here are some examples of human rights organisations with which we can collaborate on a confidential basis:



In **Palestine**, the Israeli organisation *B'Tselem* works to denounce violations by the Israeli state such as the demolition of houses in the occupied territories, arbitrary arrests, the policy of "collective punishment", the confinement of the population and the repression of the Palestinian population in general.



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Human Rights Violation in Humanitarian Crises



Here are some examples of human rights organisations with which we can collaborate on a confidential basis:



In **Colombia**, Peace Brigades International volunteers accompany populations displaced by the conflict or returning to their communities of origin, as well as people under threat, to protect them with their deterrent presence in the face of security threats.



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Human Rights



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Human Rights Violation in Humanitarian Crises





How to face human rights violations on the field

Another context in which we may encounter a **situation of human rights violations** is in the exit phases of humanitarian crises.

Overcoming a humanitarian crisis

The following factors must be taken into account in order for a humanitarian crisis to be considered over:


- Humanitarian indicators in all basic sectors of intervention are above international standards of well-being (the Sphere Standards, which we will see in the Technical Sectors of Intervention modules).
- There are social protection networks in place that guarantee access to minimum services for the entire population (health, education, minimum vital income).
- There is an operational strategy for transition to reconstruction, rehabilitation and development.
- Rights, especially human rights, are guaranteed in the country.

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Human Rights Violation in Humanitarian Crises




Human Rights



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Human Rights Violation in Humanitarian Crises





Guarantee of human rights

This is the greatest challenge in post-conflict situations because people's need for security often remains unresolved. In the absence of rule of law, the lack of an independent legal system leaves the population unprotected against abuses by the authorities that affect access to basic rights and encourage corrupt practices (arbitrary arrests, disappearances or assassinations of political opponents or social leaders, lack of freedom of expression, etc.).

Therefore, even if the humanitarian crisis is over, it is essential to maintain a protective presence, preferably in coordination with local and national governmental structures, in order to improve the quality of good governance and justice, while pursuing the overall protection objectives for the safe return of displaced and refugee populations.

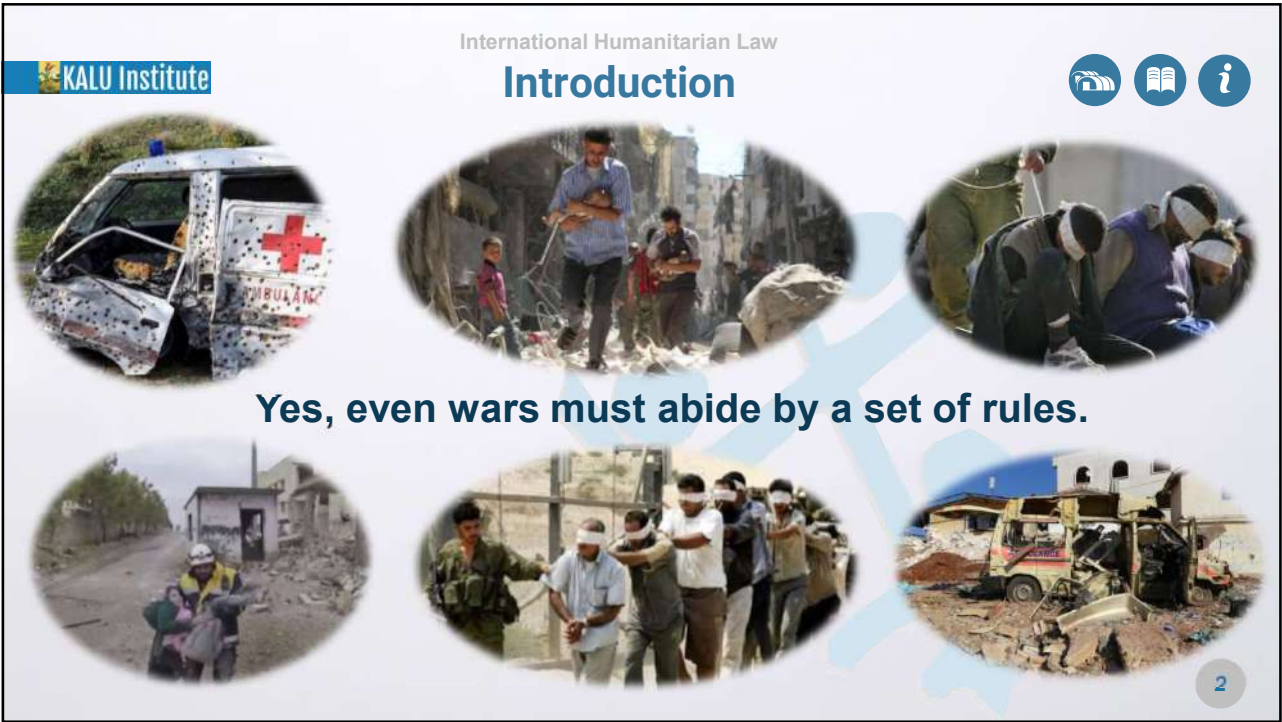
Overcoming a humanitarian crisis

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- There is an operational strategy for transition to reconstruction, rehabilitation and development.
- Rights, especially human rights, are guaranteed in the country.**

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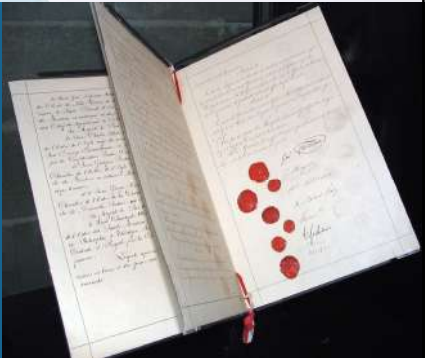
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International Humanitarian Law

Introduction



As we have seen, International Humanitarian Law arose from the proposals of Henry Dunant after the battle of Solferino and the convening of an international conference that adopted the first Geneva Convention for the Amelioration of the Wounded in the Armed Forces in 1864.



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International Humanitarian Law

Introduction


International Humanitarian Law-IHL

They are a set of rules, originating in conventional or customary law, applicable in armed conflict, international or not, which is why it is also called "law of armed conflict" or "law of war."

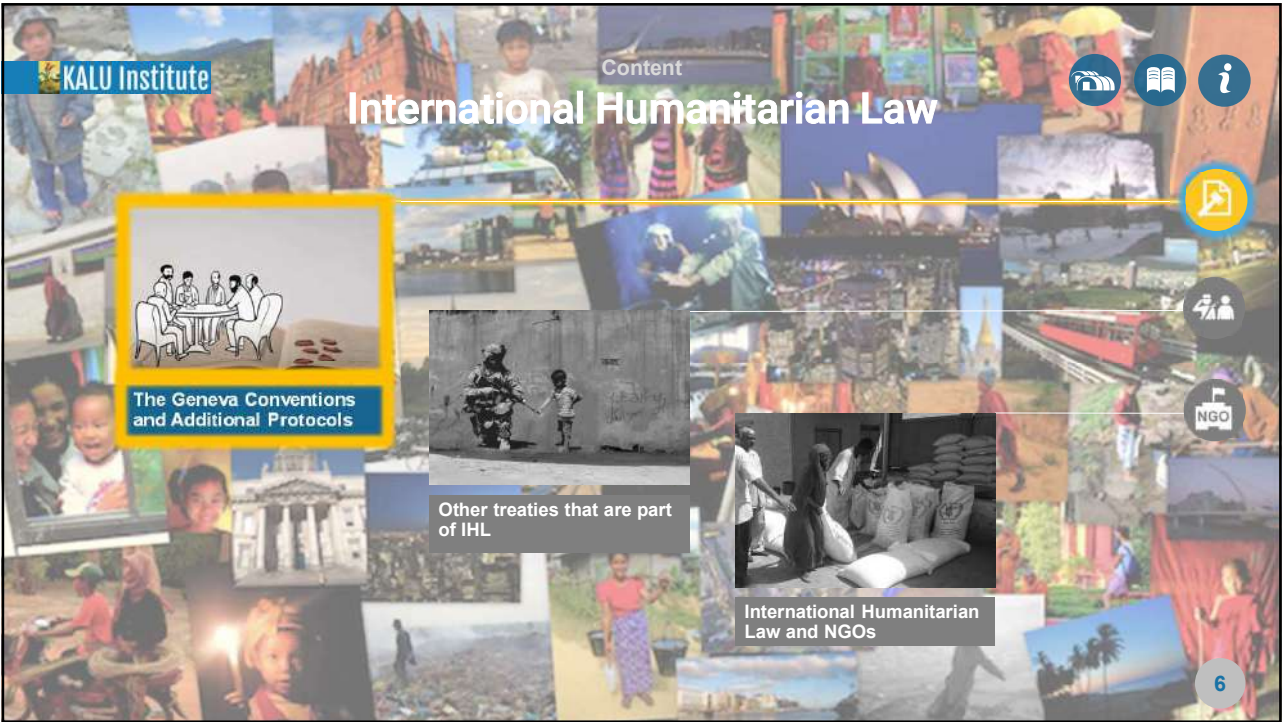
Therefore, IHL forms part of the rules of public international law that aim to alleviate the suffering of victims of armed conflict.

These rules limit the ability of combatants in the choice of means and methods of combat.

They also protect people who are held by the other party, such as prisoners of war or the inhabitants of an occupied territory.






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International Humanitarian Law

The Geneva Conventions and Additional Protocols



1864

The first Geneva Convention, celebrated in 1864, had one exclusive goal: caring for the wounded, but later, the standards set out in this instrument were adapted to cover warfare at sea and the treatment of prisoners of war.



In 1949, the Conventions were revised and expanded:

- ✓ First Convention: for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.
- ✓ Second Convention: for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.
- ✓ Third Convention: relative to the Treatment of Prisoners of War.
- ✓ Fourth Convention: relative to the Protection of Civilian Persons in Time of War.

1949

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These texts are international Conventions signed by states and, therefore, binding on them.


1977

In 1977 two protocols were added:

- ✓ Protocol I relating to the protection of victims of international conflicts
- ✓ Protocol II: relating to the protection of victims of non-international armed conflicts.

In 2005 a new additional protocol was adopted:  
Protocol III: Relating to the Adoption of an Additional Distinctive Emblem.

2005



INTERNATIONAL COMMITTEE OF THE RED CROSS

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International Humanitarian Law

The Geneva Conventions and Additional Protocols






The International Committee of the Red Cross

It is the states that recognize and provide the mandate of protection and assistance to **the ICRC**, which also has a right to help in cases of non-international conflict and can undertake humanitarian tasks in support of victims, and whose presence must be recognized by states.

ICRC

- Regarding the ICRC, its mandate is derived from International Humanitarian Law.



The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL




IHL and NGOs


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International Humanitarian Law

The Geneva Conventions and Additional Protocols


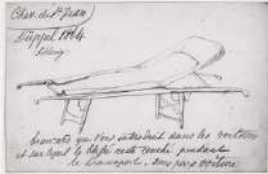




The founders: The Committee of Five.



Armband worn by Louis Appia on several battlefields, 1864, with dates and places written on the inside.



War of Schleswig 1864. Stretcher. Drawing by Dr. Louis Appia.

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International Humanitarian Law

### How are civilians protected under IHL?

International humanitarian law (IHL) is a set of rules that seek for humanitarian reasons to limit the effects of armed conflict. IHL protects persons who are not or who are no longer participating in Hostilities.




The Geneva Conventions and Additional Protocols



Other treaties that are part of IHL



IHL and NGOs

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International Humanitarian Law

### How are civilians protected under IHL?

These Conventions provide specific rules to safeguard combatants, or members of the armed forces, who are wounded, sick or shipwrecked, prisoners of war, and civilians, as well as medical personnel.



The Geneva Conventions and Additional Protocols



Other treaties that are part of IHL




IHL and NGOs

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International Humanitarian Law

How are civilians protected under IHL?



Let us now study how civilians are specifically protected.




The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL




IHL and NGOs

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International Humanitarian Law

Fourth Convention



Fourth Convention


The Geneva Convention relative to the Protection of Civilian Persons in Time of War. It consists of 159 articles drafted to protect civilians in conflict zones.

It describes:


The protection owed to the population against certain effects of war.

And the treatment they should receive.

However, what happens if a country has signed other conventions but not this one? Or if we're not dealing with an international conflict? Are civilians not protected in that case?




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International Humanitarian Law

## Common Article 3




**Common Article 3**


Article 3 is the same for all four Geneva Conventions.

- ✓ It is the so-called “common Article 3”, which extends general protection to all non-international conflicts.
- ✓ This article is considered a “miniature Convention” and is recognised as a “minimum standard”, binding in ALL armed conflicts, and is a reflection of “elementary considerations of humanity”.

As we can see, even if only one agreement is signed, minimum standards are already being accepted.




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International Humanitarian Law


## Common Article 3



**Common Article 3**


- ✓ Any armed confrontation requires some elementary rules, such as those of common Article 3, which apply to all conflicts.
- ✓ Their enforcement is based on humanitarian principles without regard to the prior existence of other requirements or the ability of the disputants to observe them: their application is unconditional, immediate and non-reciprocal.

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International Humanitarian Law

### Common Article 3




**Common Article 3**

- ✓ It contains provisions that constitute basic rules of coexistence that must not be broken even in a context of armed conflict, whether internal or international.
- ✓ It imposes an obligation to treat people who are not or can no longer take a direct part in hostilities with humanity, and provides that the wounded and sick must be cared for and collected.




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International Humanitarian Law


### Common Article 3




**Common Article 3**

- ✓ It contains the “hard-core” human rights such as the right to life or physical integrity and its norms constitute a minimum standard of protection.

These “hard-core” human rights refer to those that cannot be limited even during a conflict.




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International Humanitarian Law

### Common Article 3




**Common Article 3**


Specifically, Article 3 prohibits:

- ✓ violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- ✓ taking of hostages;
- ✓ outrages upon dignity, in particular humiliating and degrading treatment;
- ✓ and the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court.

And it says that the wounded and sick shall be collected and cared for; the International Committee of the Red Cross or another impartial humanitarian agency may offer its services to that end.




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International Humanitarian Law


### The Geneva Conventions and Additional Protocols




And what happens if a country decides not to sign any of these documents?



It doesn't really matter anymore...



In 1993 the United Nations Security Council concluded that the Geneva Conventions had become customary international law, making them binding on countries involved in armed conflicts, even if they have not signed them.



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Content

International Humanitarian Law







The Geneva Conventions and Additional Protocols



Other treaties that are part of IHL






International Humanitarian Law and NGOs


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International Humanitarian Law


The Law of The Hague



The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL

IHL and NGOs



The Law of The Hague

While "Geneva Law" focuses on protecting civilians, "Hague Law" stems from the principle that the parties do not have an unlimited right to choose the methods and means of waging war. This includes 3 basic rules:

1. the principle of distinction between civilian persons and property and military objectives.

2. the prohibition on the use of weapons of indiscriminate effect.

3. the prohibition of causing superfluous injury or unnecessary suffering to combatants.

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International Humanitarian Law

The Law of The Hague


World War I  
1914 –1918

After World War I, the convention prohibiting the use of asphyxiating, toxic or similar gases is signed.




World War II  
1939 -1945

After World War II, successive conventions (the last one in 1993) developed the Convention on the Prohibition of the Production and Stockpiling of Bacteriological, Biological and Toxin Weapons and on Their Destruction.



Further on...


Later on, an additional goal is to avoid causing damage to the natural environment, taking into account its importance for the survival of mankind as a whole.



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International Humanitarian Law

The Law of The Hague



The Law of The Hague

However, the rules under Hague Law will completely prohibit the use of certain means and methods of combat, but there will also be cases in which this prohibition will be rather relative in e to such measures will depend on certain circumstances.

For example, the prohibition of starvation of the civilian population.

This is the case of imperative military necessity justifying non-compliance with the obligation not to engage in forced displacement.

The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL

IHL and NGOs

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International Humanitarian Law

# The Ottawa Treaty



1997



## The Ottawa Treaty

- ✓ The Ottawa Treaty (1997) commits signatory states to not use, not manufacture, not sell and destroy existing stockpiles of anti-personnel mines (APL) in the country.
- ✓ In addition, signatory states that have experienced armed conflict on their territory commit to decontaminating the country and declaring it free of mines and other Explosive Remnants of War (ERW) within a period of time to be agreed with the Treaty Committee.
- ✓ They also commit to providing care and protection to the victims.

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## Convention on Certain Conventional Weapons

Subsequently, given the evidence of the harm caused by other types of weapons to civilians in most conflicts, the **Convention on Certain Conventional Weapons** was signed, prohibiting, among other things, the use of booby traps and incendiary bombs.




1981-83

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2008-2010



Convention on Cluster Munitions




Subsequently, the **Convention on Cluster Munitions** was signed and banned for two reasons:


1. Because they spread over a wide area when dropped, indiscriminately affecting the population without distinguishing between civilians and the military.
2. And because most of them do not explode on contact with the ground and remain in a very dangerous state for a long time, threatening the civilian population and impeding economic and social development.

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Member States

- ✓ By the end of 2017, 164 states had signed the Treaty, although military powers with a leading role in many of today's conflicts around the world, such as the United States, Russia, China, Pakistan and India have not signed the Treaty.
- ✓ 29 States Parties and 2 non-States Parties have completed the clearance of all mines on their territory since the Treaty entered into force in 1999. However, it is often the case that due to the complexity of humanitarian demining and the lack of resources, this deadline agreed with the Ottawa Committee has to be revised and postponed.
- ✓ However, in recent years, some Ottawa signatory countries where humanitarian demining is carried out have seen new mines replanted due to the persistence of armed conflict: Afghanistan, Iraq, Yemen, Nigeria and Colombia. Nevertheless, the laying of new mines is attributed to non-state armed groups and not to the military forces of these states.






Parties to the Ottawa Treaty (Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction)


Países firmatarios del Tratado de Ottawa (Convención sobre la Prohibición del Empleo, Almacenamiento, Producción y Transferencia de Minas Antipersona y sobre su Eliminación)


Hay cinco países que aún no han firmado el Tratado de Ottawa (entre ellos, Estados Unidos, Rusia y China) y que almacenan en su conjunto, aproximadamente, 160 millones de minas

2017









**2021**

### Treaty on the Prohibition of Nuclear Weapons


Finally, the treaty making the use of nuclear weapons illegal under international law entered into force in January 2021.



Content

## International Humanitarian Law








The Geneva Conventions and Additional Protocols



Other treaties that are part of IHL



International Humanitarian Law and NGOs




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International Humanitarian Law


IHL and NGOs


But then...  
What is the position of NGO under IHL?





The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL


IHL and NGOs

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International Humanitarian Law

IHL and NGOs







IHL and NGOs


These international rules may also apply in some cases to NGOs, not as directly related subjects, but ones provided with protection.  
Thus, NGOs, in the international scene, can be declared as legally- recognized organizations under **Article 71 of the Charter of the UN.**  
And, secondly, International Humanitarian Law recognizes staff of NGOs as protected persons acting as impartial humanitarian organizations.


Article 71

✔ The **Economic and Social Council** may make suitable arrangements for **consultation** with **non-governmental organizations** which are concerned with matters within its competence



The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL

IHL and NGOs

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International Humanitarian Law


IHL and NGOs



The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL

IHL and NGOs



IHL and NGOs

While in 1949 there were few international agencies and peacekeeping was essentially the task of organizations created after World War II, non-governmental organizations appeared gradually on the scene, carrying out charitable activities in their own countries without showing much interest in working abroad.







Perhaps this explains why Article 59 of the Fourth Geneva Convention (IVGC), speaking about relief efforts for civilians in an occupied territory, mentioned only states in addition to impartial humanitarian organizations such as the ICRC.

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International Humanitarian Law


IHL and NGOs



The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL

IHL and NGOs




IHL and NGOs


Françoise Bouchet-Saulnier, legal directress of MSF, interprets this article and similar ones to the 1977 Protocols **to include her organization** among those impartial humanitarian organizations to which IHL awards responsibility of providing assistance and protection to victims.

To include her organization

- ... based on the fact that historically the ICRC had the responsibility to negotiate because it was the only humanitarian organization on the scene. Whereas after the Biafran war and the emergence of MSF, more organizations were able to seek and defend the right of access to victims, as well as to witness the cases where states violate this "supreme" principle.






FRANÇOISE BOUCHET-SAULNIER  
Directrice juridique de Médecins sans frontières




International Humanitarian Law


IHL and NGOs




The Geneva Conventions and Additional Protocols




Other treaties that are part of IHL



IHL and NGOs






IHL and NGOs

But changes in the world between 1949 and 1977 had to be reflected in IHL. Consequently, assistance must be provided not only in wars between two states, but in more complex forms of conflict.




Thus, the two Protocols of 1977 contain rules that relate to current assistance activities and to the expectations of humanitarian organizations that had already undertaken this type of international activity.

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International Humanitarian Law


IHL and NGOs




The Geneva Conventions and Additional Protocols




Other treaties that are part of IHL



IHL and NGOs





IHL and NGOs

While Article 59 of the Fourth Geneva Convention referred to assistance in occupied territories, Article 70 of Protocol I regulates relief efforts taking place within national borders, which requires a state to accept relief actions that are undertaken for the benefit of its people.


In case of non-international conflicts, it is Article 18 of Protocol II which deals with relief efforts.

In both cases

- ✓ In both cases it is not specified who should undertake such action, but combining the two articles with Article 59 of the Fourth Geneva Convention, we see that, in addition to the ICRC, states and any impartial humanitarian organization can undertake relief efforts, without resulting in a violation in sovereignty of the State in which they take place.




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International Humanitarian Law

IHL and NGOs



The Geneva Conventions and Additional Protocols

Other treaties that are part of IHL




IHL and NGOs

IHL and NGOs

Although neither the text nor the rulings of the Geneva Institute of International Law explicitly mention NGOs, the doctrine means in general that a State is obliged to accept the help, provided that it fulfills the requirements of humanitarianism, non-discrimination and impartiality.

We see that international law can also increase the legitimacy of the actions of NGOs in situations of conflict .

Today, most relief efforts are carried out in situations of non-international conflict.



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Legislation on Refugees and Internal Displacement

Introduction

International legislation

There is international legislation or standards regulating both situations:


- ✓ The Convention on the Status of Refugees (1951)
- ✓ The Protocol on the Status of Refugees (1967)
- ✓ The Guiding Principles on Internal Displacement (1998)




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Legislation on Refugees and Internal Displacement



Legislation about refugees




Assisting refugees






Guiding Principles on Internal Displacement




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Content


Legislation on Refugees and Internal Displacement








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Legislation on Refugees and Internal Displacement

Legislation about refugees



Legislation about refugees


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Guiding Principles on Internal Displacement

	<i>“For the purposes of the present Convention, the term “refugee” shall apply to any person who [...] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.</i>


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Legislation on Refugees and Internal Displacement

Legislation about refugees






Geneva Convention

So says Article 1 (A) 2 of the 1951 Convention Relating to the Status of Refugees.

The Convention contains a definition that might seem outdated today as it refers to the situation prior to 1951.

However, the doctrine and humanitarian actors understand that a person is a refugee when...

...having well-founded fear for his life and integrity and freedom, crosses the borders of his country and seeks refuge elsewhere.




Legislation about refugees

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Legislation on Refugees and Internal Displacement

Legislation about refugees




The Host State




The Convention says it is **the Host State** which has almost all the obligations regarding the respect for fundamental civil, cultural and other rights which a refugee would have in his own country.

Thus, several articles regarding education, health and welfare indicate that the state should accord them the same treatment as it accords its own nationals.

Non Refoulement

And two articles explicitly prohibit their deportation back to their country of origin where their lives or freedom would be threatened on account of race, religion, political opinion, nationality or membership of an ethnic group.





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Legislation about refugees



UNCHR

Throughout the Convention and its protocol no humanitarian actor other than UNHCR is mentioned, with the only exception being "any other UN body which would succeed it in carrying out its functions".





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Legislation on Refugees and Internal Displacement



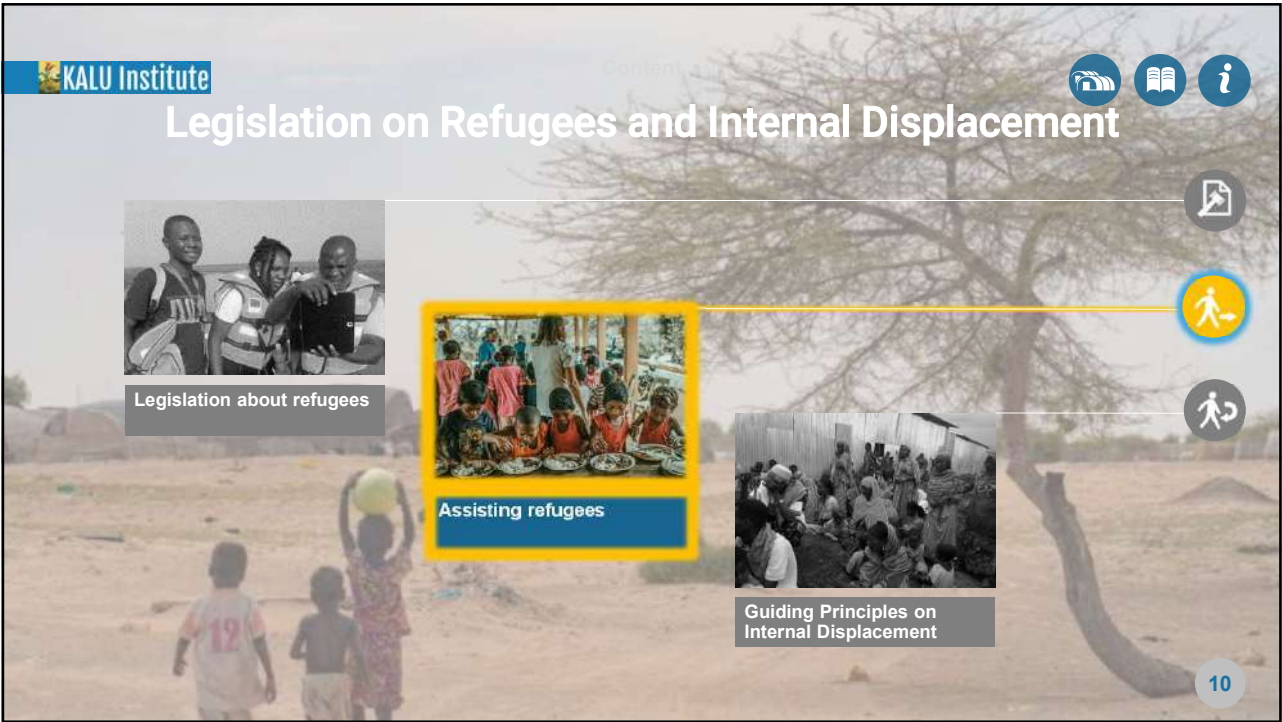
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Legislation on Refugees and Internal Displacement

Assisting refugees

Before defining what assisting or caring for refugees means, it is necessary to determine who actually is a refugee....




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Legislation on Refugees and Internal Displacement


Prima facie group determination of refugee status

Prima facie group determination of refugee status.


Prima facie group determination means that a State or the UNHCR grant refugee status based on clear and objective circumstances in the country of origin or, in the case of stateless asylum seekers, the country of former habitual residence.

A prima facie approach recognises that those fleeing these circumstances are at such risk of harm that they fall within the applicable refugee definition.

This is the approach commonly used by most humanitarian organisations.






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Legislation on Refugees and Internal Displacement


Refugee Status Determination (RSD)




Refugee Status Determination (RSD).

*Refugee Status Determination (RSD)* is the legal and administrative process by which either States or the UNHCR determine whether a person seeking international protection is considered a refugee on the basis of national or international law.

RSD is an essential process to help refugees obtain their rights.




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Legislation on Refugees and Internal Displacement

Assisting refugees





Finally, we can talk about how we can help them.



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Assisting refugees

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### Sustainable solutions for refugees



#### Sustainable solutions for refugees

The UNHCR estimates that refugee crises last 10 years on average. During this time both the UNHCR, due to its mandate, and other organisations should work to support the following sustainable solutions, in order of priority:

- ✓ **Return.**
- ✓ **Reintegration.**
- ✓ **Resettlement.**

#### Return

- ✓ Return to the country of origin, provided it is voluntary and safe.

#### Reintegration

- ✓ Reintegration in such a way that refugees are not seen as a burden, but as a contribution to the society and economy of the host country for as long as they are forced to remain there, and avoiding as far as possible settlements in camps where stigma, cost and dependency are higher.

#### Resettlement

- ✓ Resettlement in a third country that can offer rights, protection and a future of dignified life to refugees.

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### Comprehensive Refugee Response Framework



#### CRRF

It recognises that:

- ✓ refugee crises are increasingly protracted,
- ✓ that the vast majority of refugees settle in urban areas in host countries,
- ✓ that most of these are low or middle income countries,
- ✓ and that the international response in terms of reception and funding is inadequate...

In September 2017, the **New York Declaration** was signed in order to develop a more predictable and comprehensive response.

#### Comprehensive Refugee Response Framework

- ✓ The tangible outcome of this compact is the *Comprehensive Refugee Response Framework*, or CRRF, a guide for governments and international organisations to support host communities in integrating refugees and helping them to rebuild their lives in a productive way and with dignity.

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Comprehensive Refugee Response Framework



CRRF

Its four main goals are:

- ✓ Ease pressure on countries that welcome and host refugees.
- ✓ Build self-reliance of refugees.
- ✓ Expand access to resettlement in third countries and other complementary pathways.
- ✓ Foster conditions that enable refugees voluntarily to return to their home countries.



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Helping refugees to thrive

Helping refugees to thrive, and not just survive

- ✓ The Global Compact on Refugees hopes for a world where refugees have access to countries where they feel safe, where they are better integrated, do not have to live in camps and are not totally dependent on humanitarian assistance.
- ✓ It recognises that when refugees are given the opportunity they can support themselves and their families, and make positive contributions to their host communities. In this virtuous circle, refugees and host communities strengthen each other, socially and economically.



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Content


Legislation on Refugees and Internal Displacement









Legislation about refugees



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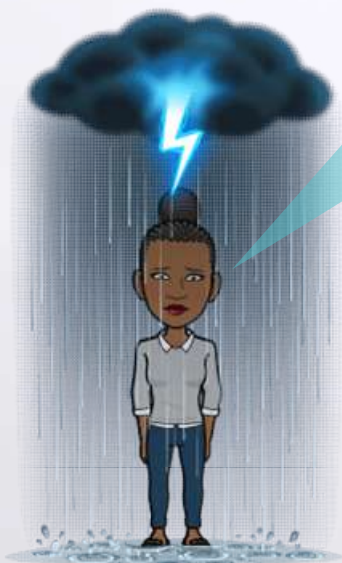


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Legislation on Refugees and Internal Displacement




Guiding Principles on Internal Displacement



Internally displaced persons are persons or groups who have been forced or obliged to flee or to leave their home or place of habitual residence, in particular as a result of, or to avoid the effects of, armed conflict, situations of generalized violence, violations of human rights, or natural or man-made disasters.



and have not crossed an internationally recognized state border.






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Legislation on Refugees and Internal Displacement



## The 30 Principles

In 1998, Francis Deng, with the support of a team of experts in international law, and at the request of the United Nations Commission on Human Rights, presented the Guiding Principles on Internal Displacement.





Legislation on Refugees and Internal Displacement



## The 30 Principles

The 30 Principles are grouped into 5 sections:

01  
SECTION

General Principles.

02  
SECTION

Protection from Displacement.

03  
SECTION

Protection during Displacement.

04  
SECTION

Humanitarian Assistance.

05  
SECTION


Return, resettlement and reintegration.

Before the five sections there is an introduction, point 4 of which states:

*"These Principles should be disseminated and applied as widely as possible"*




22





Legislation on Refugees and Internal Displacement

# Guiding Principles on Internal Displacement

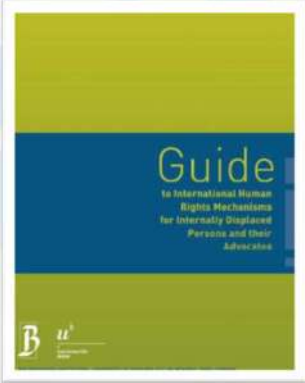


Legislation about refugees


Assisting refugees

**Guiding Principles on Internal Displacement**

Its purpose is to provide guidelines in working with displaced people to governments and other competent authorities, intergovernmental organizations and NGOs.






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Legislation on Refugees and Internal Displacement

# Guiding Principles on Internal Displacement

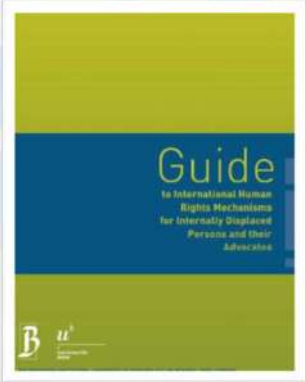


Legislation about refugees


Assisting refugees

**Guiding Principles on Internal Displacement**

To this end the Brookings Institution has written a guide for applying these Principles.  
It presents a series of recommendations for staff of development and human rights organizations, both for general implementation and for the specific application of each section.






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Legislation on Refugees and Internal Displacement


# Guiding Principles on Internal Displacement




Let us look at the general recommendations for applying the principles.



Legislation about refugees

Assisting refugees


Guiding Principles on Internal Displacement

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Legislation on Refugees and Internal Displacement

# How can we apply the Principles?



01

Disseminate the Principles and information about them.

02

Advocate widely for application of the Guiding Principles.

03

Support training on the Guiding Principles and on International Humanitarian Law and Human Rights Law.

04

Monitor and disseminate information according to the Guiding Principles.

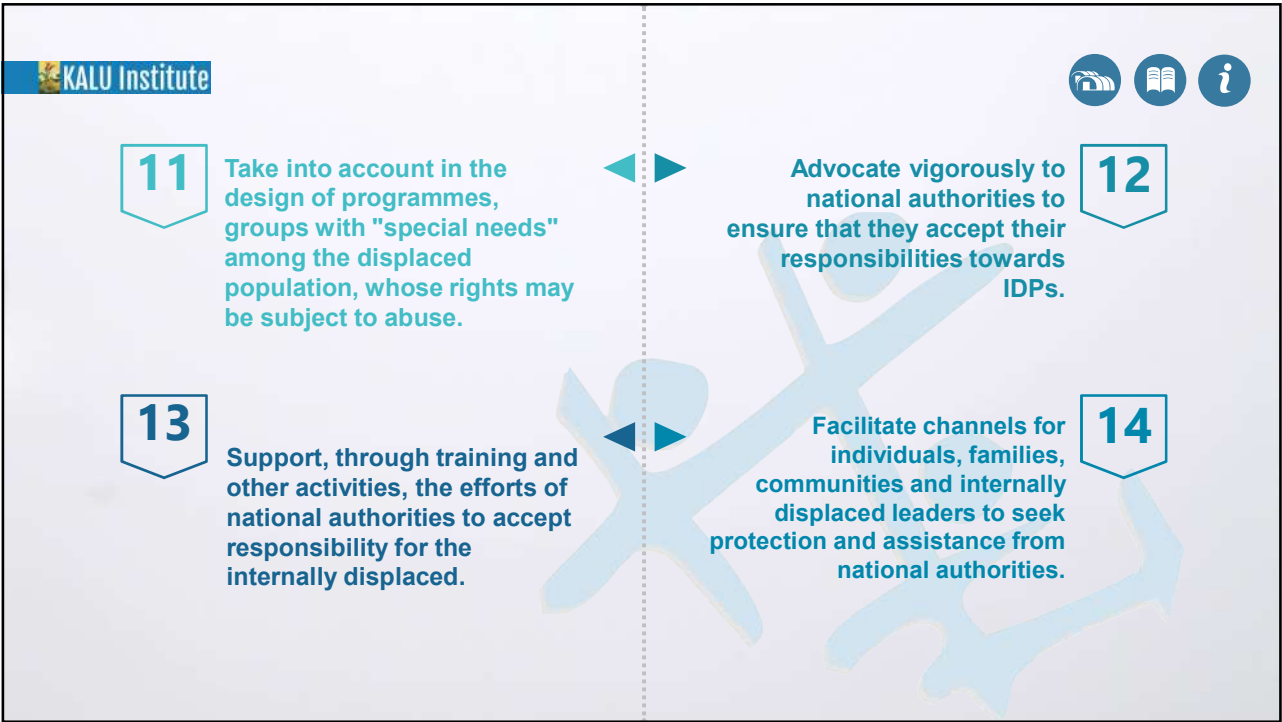
05

Support data collection to provide accurate information on the number of internally displaced persons and their condition.

06

Promote, support and participate in inter-agency coordination directed at the internally displaced, ensuring that local organizations, including organizations of the displaced themselves, are partners in such coordinated efforts.

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Legislation on International  
Disaster Responses

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IDRL




And what is the international legal framework for natural disasters?


2




 IDRL 





As we have seen, international humanitarian law applies in armed conflicts, and we also have specific tools for cases involving refugees and displaced persons.




But when humanitarian crises fall outside these categories, there is no international legal framework to support the response.




3


 IDRL 




To fill this gap in international law, the Federation of Red Cross and Red Crescent Societies is developing the law on international disaster response.



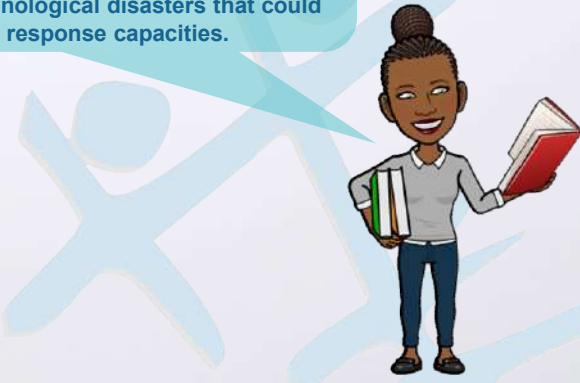
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IDRL




They are called  
“The International Disaster Response Laws, Rules and Principles” (IDRL)  
This project seeks to find legal mechanisms that could regulate and facilitate international humanitarian assistance in the event of natural or technological disasters that could overwhelm domestic response capacities.




5







IDRL




This project is not intended to draft new rules or create new legal bodies but to rationalize legal instruments, conventions and standards that already exist to give them an identity, such as a body of rules, similar to IHL and refugee law, and make them widely known.







6

 IDRL   


The issue is that much of the existing regulation is diluted in other legislation, such as laws regarding airspace, development, communications, etc., where solutions to some of these issues range from simple guidelines to legally binding provisions.



7

 IDRL   

Hence the effort to rationalize them and to verify their applicability to situations that occur today, fill gaps with new rules and then make a great effort to get governments to remember their responsibilities and to ensure that the humanitarian community knows them and can conduct their relief work effectively.



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IDRL

## The main ideas of the IDRL standards

The main ideas of the IDRL standards:

1. Responsibility for the response lies with national authorities. International response should be designed as complementary to local efforts but not as a substitute for them.
2. International actors involved in the response must be committed to humanitarian principles and minimum standards of quality and coordination in accordance with international norms such as the Code of Conduct for the International Red Cross and Red Crescent Movement or the Sphere Humanitarian Charter and minimum standards.

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IDRL

## The main ideas of the IDRL standards

3. International actors need all the legal and logistical support that the affected government can provide:
  - Visa issuance and customs process facilitation for personnel, assistance equipment and goods.
  - Transport and storage facilitation.
  - Tax and duty exemptions for relief and humanitarian aid activities.
  - Facilitation of legal registration of international organisations in the affected country.
4. Legal support and enabling of international organisations' operations is conditional on their compliance with humanitarian and ethical principles and quality standards.

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**Alberto Martos Sauquillo, President of Proyecto KALÚ**

HEREBY CERTIFIES THAT:

**Omar Saleh Abdullah Al-hajj**

**has completed** the course "**The International Legal Framework**"

which includes the following contents:

- Origin of current humanitarianism and international legal framework for humanitarian action.
- International human rights Law.
- International Humanitarian Law.
- Legislation on refugees and internally displaced people, and Disaster response legislation.

This is a 100 hours continuing education course, and was given with an e-learning methodology. This course was completed on 11 March 2022 .



**Alberto Martos**  
**President**