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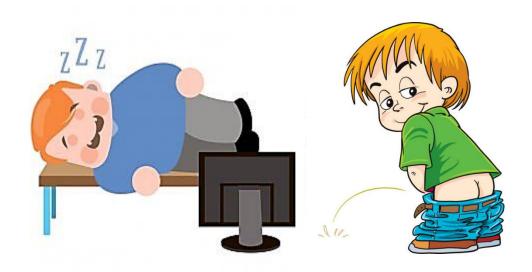


SAFETY AWARENESS





CLASSROOM RULES





Finds your way towards the toilet silently when you feel the urge



If there is any question, just write it down on the comment box for those who are online, for the F2F keep your question to yourself and wait to be acknowledged

REFERENCES

• FC 1-011 ARMY CORE PHILOSOPHY

RULE OF LAW

TERMINAL LEARNING OBJECTIVE

ACTION: Discuss and Identify the Rule of Law

CONDITION: Given in an online and face to face classroom

environment, power-point presentation

STANDARD: The student will be able to know the Bill of

Rights, Human Rights and International

Humanitarian Law, writ of habeas corpus

SCOPE OF LEARNING

- Bill of Rights (Art 3, 1987 Constitution)
- Human Rights and International Humanitarian Law
- Writ of Habeas Corpus

BILL OF RIGHTS



Section 1- No person shall be deprived of life, liberty, or property without due process of law nor shall any person be denied the equal protection of the laws.

Section 2 - The right of the people to be secure in their person's houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Section 3 - The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.\

Any evidence obtained in violation of this or the preceding section shall be inadmissible for proceedings.



Section 4- No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances. Section 5- No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

Section 6- The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.



Section 7- The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

Section 8-The right to people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

Section 9- Private property shall not be taken for public use without just compensation.

Section 10- No law impairing the obligation of contracts shall be passed.

Section 11- Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

Section 12- Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the svcs of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel. No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims torture or similar practices, and their families.

CONSTITUTIONAL GUARANTEES 13 1 1 0 1 3 C 1 1 5

Section 13- All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

Section 14- No person shall be held to answer for a criminal offense without due process of law.

In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial and public trial, to meet the witnesses face to face and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.



Section 15- The privilege of the writ of habeas corpus shall not be suspended except in cases of invasion or rebellion when the public safety requires it.

Section 16- All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

Section 17- No person shall be compelled to be a witness against himself.

Section 18 - No person shall be detained solely by reason of his political beliefs and aspiration.

No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.



Section 19- Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.

The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman condition.

Section 20- No person shall be imprisoned for debt or non-payment of a poll tax.

Section 21- No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Section 22- No ex post facto law or bill of attainder shall be enacted.



INTERNATIONAL HUMANITARIAN LAW

- Means international rules, established by treaties or custom, which limit the right of parties to a conflict to use the methods or means of warfare of their choice, or which protect States not party to the conflict or persons and objects that are or may be affected by the conflict.
- To be more precise, IHL has been drawn up to protect, in time of armed conflict, persons who do not take part or who have ceased to take part in hostilities, like civilian, medical and para-medical personnel, or religious personnel, combatants who have stopped fighting because they are either wounded or sick, or have been captured, or have surrendered or are otherwise defenseless.
- International Law forbids the use or threat of force in international relations except for:
- United Nations enforcement action or peace-keeping operations; and
- Dual or collective self-defense when an armed attack occurs

- Doctrine of incorporation under the Philippine Constitution.
- Philippines is a party to the <u>Geneva</u> Convention and Protocol II since 1952 and 1986 respectively or high contracting party, and therefore bound to undertake to respect and ensure compliance of these treaties.
- Recognizing the importance of Law of Armed Conflict, the President of the Philippines issued Memorandum Order Nr. 259 dated Feb 7, 1995 for the inclusion of IHL and Human Rights in all career course of the Officers and men of the AFP.

THE LAW OF ARMED CONFLICT

- Is a part of international public law. It regulates the rights and duties of the belligerents and the protections of the victims of combat if an armed conflict occurs whatever the cause of that conflict. Its aim is to limit and alleviate as much as possible the calamities of war. The law of armed conflict tends to conciliate the military needs imposed by the tactical situations and the fulfillment of the mission with the requirements set by the humanitarian principles. This law applies in international and internal conflict.

Basic Principles

- (A) Limitation
- (B) Proportionality
- (C) Humanity
- (D) Military Necessity

COMPONENTS OF THE LAW OF ARMED CONFLICT

Geneva-type law

It compromises the four Geneva Conventions of 1949 which provide for the protection of victims of war, that is,

- a) the First Geneva Convention: the protection of wounded and sick on land;
- b) the Second Geneva Convention: protection of wounded, sick and shipwrecked at sea;
- c) the Third Geneva Convention: treatment of prisoner of war; and
- d) the Fourth Geneva Convention: protection of civilians in times of war.

Hague-type Law

It provides rules pertaining to the conduct of hostilities, specifically, the means and methods of combat. In particular, it covers:

- a) conduct of combat;
- b) the concept of occupation; and
- c) the concept of neutrality.

The Law comprises:

- a) the main Haque Conventions of 1899, mostly replaced and completed by the Hague Conventions of 1907 (Land and sea);
- b) the rules of air warfare drafted at the Hague in 1923; and
- c) various treaties relating to specific weapons (e.g. explosive projectiles, expanding bullets, poison and poisonous weapons, gases and bacteriological weapons, non-detectable fragments, booby-traps, mines and other devices, etc.).

Mixed-type Law

A mixed-type of Law consisting of both Hague-type and Geneva-type provisions comprises the following:

- a) the Hague Convention for the protection of cultural property of to the 1954; and
- **b)** the two Additional Protocols to the Geneva Conventions of 1949, namely, **Protocol I** relating to international armed conflicts, and **Protocol II** concerning non-international armed conflicts.
- 1) **Protocol I** Applicable in international armed conflict, including wars of national liberation, ensures the protection of civilians against the effects of hostilites.
- 2) **Protocol II**-Supplements Article 3 common to all for Geneva Convention with more detailed rules applicable in situations which are not covered by Protocol I, that is internal armed conflicts of a certain magnitude this deals with the guarantees of protection for all persons who do not or have ceased to take part in hostilities.

Other conventions and declarations on the conduct of hostilities.

- a) Protocol I prohibits the use of any weapon the primary effect of which is to produce fragments which cannot be located in the human body by x-rays this refers mainly to the despicable invention of fragmentation bombs filled with fragments made of plastics.
- b) Protocol II condemns the use of mine, booby traps and other devices against civilian population or in such an indiscriminate manner as to cause the civilians incidental injury which is excessive with respect to the concrete and direct military advantage sought. This refers in particular to mines placed outside military zones.
- c). Protocol III- prohibits the use of incendiary weapons.
 e). Convention for the protection of cultural property in the event of
 - armed conflict, the Hague, 1954. Article 19 of the convention provides that even in the event of a non-international armed conflict each party to the conflict shall be bound to apply, as a minimum, the provisions of the present convention which relate to respect for cultural property.

INTERNATIONAL RED CROSS AND RED CRESCENT

MOVEMENT AND WAR

ICRC- is a neutral and private organization whose members are all Swiss. As a neutral Intermediary, it contributes to the application of IHL by providing assistance to the wounded, sick and shipwrecked, seeking to improve the conditions and detention of prisoners of war, tracing, missing persons and transmitting family messages

The International Red Cross and Red Crescent Movement comprises the following:

a). International Committee of the Red Cross (ICRC) came into being in 1863, is an independent and neutral institution. It is the founding body of the Red Cross and promote of the Geneva Conventions. In times of armed conflict, international conflict, civil wars and internal disturbances it provides protection and assistance to the military and civilian victims, be they prisoners of war, civilian detainees, war wounded or civilian populations in occupied or enemy territory, if also visits political detainees.

- b). International Federation of Red Cross and Red Crescent Societies, which was founded in 1919, and until very recently was known as the league strives to facilitates the development of the member societies at the national level, to coordinate their activities at the international level, and to encourage the creation of new national societies. It organizes, coordinates and direct international relief operations in the event of natural disasters and encourages the humanitarian work of the national societies with a view to preventing and alleviating human sufferings.
- c). The National Red Cross and Red Crescent Societies its activities ranges from emergency relief to medical services and social work, first aid, training of nurses, blood transfusion and youth program. In times of armed conflict, the national societies act as auxiliaries to the armed forces medical services and come to the aid of civilian and military victims.

The International Committee of the Red Cross

Name: International Committee of the Red Cross.

Date of birth: In 1863, in Geneva.

Founding fathers: Henry Dunant and four other citizens of Geneva: General

Guillaume-Henry Dufour, Gustave Moynier, Dr. Louis Appia and Dr. Theodore Maunoir.

Sponsors: Almost all the countries of the world.

Occupation: To protect and assist the civilian and military victims of

conflicts and of their direct consequences.

Place of work: Everywhere in the world, in time of war, civil war, internal

disturbances and tensions.

Tasks: As the promoter of the Geneva Conventions which stipulate that the

human being must be respect even in armed conflict, the ICRC's tasks is to develop and disseminate International Humanitarian Law. As the guardian of the fundamental principles, it plays a major role in discussions about the movement's philosophy and activities.

Distinguishing

characteristics: A private, independent and Swiss institution, the ICRC

has a right of initiative, recognized throughout the world, to take any humanitarian action in line with its position as a neutral and independent body.

Domicile: 19, avenue de la Paix – 1202 Geneva, Switzerland (+ several delegations in

different part of the world).

CONTROL OF ARMED CONFLICT

- This part deals with the general strategic concepts relative to the prevention and management of armed conflict and with the measures to be taken accordingly by the states. Such measures will avoid the risk of an escalation of violence, which besides unleashing atrocities, will also constitute an impediment to the restoration of peace.

Preparatory Measures in peace time

1) **Strategic Measures**- a clear national security policy and abstention from provocative action and/or behavior.

a) Preventive Measures-

- Avoiding armed conflict from breaking out
- Remaining out of an armed conflict occurring between other states or within a state

2) Executive and Administrative Measures

- a) Making the law of war known to the armed forces and the civilian population.
- b) Rendering organizational and executive procedures effective to ensure the application of the law of war in the event of armed conflict. The necessary national implementing legislation shall be enacted to ensure the application of the law of war.

Control Measures during Armed Conflict

- 1) **Strategic Measures** Parties to the relevant treaties particularly the belligerent parties and neutral states shall take necessary actions for the execution of their obligation under the law of war from the outbreak of hostilities onwards, the belligerent parties shall:
 - a) As a rule, aim at the restoration of peace
- b) Constantly ensure respect for the law of war within their sphere of influence.
- c) Keep the armed conflict under control to avoid or at least restrict escalation.

- 2) **Executive and Administrative Measures** whenever suitable, special agreement shall be concluded between the belligerent parties or with neutral states, for instance;
- a) To keep given areas (e.g. hospital zones or locality, demilitarized zones) at an appropriate distance from the military operations.
- b) Suspension or interruption of hostilities in a given area (e.g. to search for wounded, to established a neutralized zone).
- c) For medical transportation, particularly by air (e.g. over flight of enemy controlled area, use to distinctive signals).
 - d) Repatriation or transfer into neutral territory of prisoners of war.
- e) Markings with distinctive signs of non-defended localities and demilitarized zones.

Control Measures after an Armed Conflict

- a) End of hostilities
- b) Restoring normal conditions
- c) Repatriation and release of persons and objects
- d) Missing and dead persons

EXERCISE OF COMMAND

- a) **Command Responsibility -** The commander of the force engage in military operation has the general responsibility for ensuring respect for the law of armed conflict. This is a matter of order and discipline.
- b) **Cooperation -** To reduce risk incurred by civilian person and objects from military operation, commander shall seek close cooperation with the civilian authorities.
- c) **Instruction -** Special attention should be given to the distinction between combatants and non-combatants.
- d) **Exercise of Command -** is initiated by the mission which is conditioned by the military situation. The mission has to be consistent with the law of armed conflict, relevant aspect of which have to be introduced into the decision-making process of the commander and their staff.

Elements of the Decision-Making Process

- a) Intelligence/Information
- b) Precaution
- c) Analysis

WRIT OF HABEAS CORPUS

The Writ of Habeas Corpus (Article 1, Section 9)

Habeas corpus (/'heɪbiəs 'kɔːrpəs/; Latin for "you [shall] have the body") is a legal action or writ by means of which detainees can seek relief from unlawful imprisonment. In the Bill of Rights of the Philippine constitution, habeas corpus is guaranteed in terms almost identically to those used in the U.S. Constitution. in Article 3, Section 15 of the Constitution of the Philippines states that "The privilege of the writ of habeas corpus shall not be suspended except in cases of invasion or rebellion when the public safety requires

Any Question?



CHECK ON LEARNING

SUMMARY

