Certificate in Essentials of humanitarian Practice, Assignment 1

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Abstract

This assignment is done in fulfilment for a certificate in Essentials of humanitarian Practice, it deals with definition of key words used in humanitarian practice as well as definition of framework that aids in understanding of human rights and international humanitarian law.

CERTIFICATE IN ESSENTIALS OF HUMANITARIAN PRACTICE ASSIGNMENT 1

1. **Define Humanitarian Principles.**

First, Humanitarian Principle are two words and they need to be understood separately. **Humanitarian**: There are many meanings for the term ***humanitarian***. In this context humanitarian pertains to the practice of saving lives and alleviating suffering. It is usually related to emergency response whether in the case of a natural disaster or a man-made disaster such as war or armed conflict.

***Principle*** is a proposition or value that is a guide for behavior or evaluation. In law, it is a rule that must be or usually is to be followed, or can be desirably followed, such as the laws about how a system is constructed.

In the broadest sense, humanitarian principles are rooted in international humanitarian law.

Humanitarian principles are rules that are devised to guide the work of humanitarian actors (Mackintosh, 2000). These principles are widely recognized as: humanity, neutrality, impartiality and independence.

**Elaborate in detail two Humanitarians principles.**

* Humanity: Human suffering must be addressed wherever it is found. The purpose of humanitarian action is to protect life and health and ensure respect for human beings.
* Neutrality; Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature.

These principles, derived from international humanitarian law, have been taken up by the United Nations in General Assembly Resolutions 46/182 and 58/114. Their global recognition and relevance is furthermore underscored by the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations in Disaster Relief and the Core Humanitarian Standard on Quality and Accountability.

1. **In your own words what do you understand by the term International Human Rights Law?**

International human rights law is the body of international law intended to promote and protect human rights at the international and domestic levels.

International human rights law (IHRL) governs the obligations of States towards citizens and other individuals within their jurisdiction. Human rights law enshrines the highest of human ideals, that every human being has a set of rights and freedoms. Human rights thus cannot be taken away by States and apply at all times (although specific derogations and limitations are permitted to certain rights and freedoms). Set forth in the Universal Declaration of Human Rights and a host of core treaties, IHRL plays a crucial role in the protection of all people. Human rights law also defines the rights of specific vulnerable groups like IDPs or children.

As a form of international law, international human rights law is primarily made up of treaty law - legally binding agreements between State parties - and customary international law - rules of law derived from the consistent practice of States. While international treaties and customary law form the mainstay of international human rights law, other instruments, such as declarations, guidelines and principles adopted at the international level contribute to its understanding, implementation and development.

**What ought to be the components of International Humanitarian Law?**

International Humanitarian Law also known as the law of armed conflict is a law that regulates or governs the conduct of war.

It is to do with the protection of civilians and civil properties and it protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare and the targets. For example, Article 52 of Addition Protocol I lists those objects that can be subject to lawful attacks and objects that cannot be subjected to attack. The Convention recognizes the distinctive emblems. It has two annexes containing a draft agreement relating to hospital zones and a model identity card for medical and religious personnel (Geneva, 12 August 1949)

This law is based on the principle of humanity, the absence of humanity during the battle of Solferino of 1859, brought the notion of IHL by Henry Dunant the founder of the International Committee of the Red Cross (ICRC). Below here are a few components of international humanitarian law on wounded and sick combatant:

1313 This chapter is one of the most important in the Convention. The Convention may even be said to rest upon it, since it embodies the essential idea championed by the founders of the International Red Cross and Red Crescent Movement, an idea that has dominated all of the Geneva Conventions since 1864 – namely, that the person of the soldier who is wounded or sick, and who is therefore hors de combat, is from that moment inviolable. The wounded and sick, whether friend or foe, must be tended with the same care.

1314 Article 12 is the foundation on which today’s legal protection of the wounded and sick is built. It lays down a system of complementary positive and negative obligations pertaining to the wounded and sick and establishes the fundamental provisions on how they are to be treated and cared for. It also imposes certain obligations with respect to the dead.

1315 Article 15 complements Article 12 by imposing an obligation ‘to search for and collect’ the wounded and sick in order to remove them from the immediate danger zone and to enable them to receive the necessary medical treatment and care. This is further complemented by Article 18, which contains the kernel of Henry Dunant’s idea for civilians to take action to assist and care for wounded and sick members of the armed forces, whether in response to an appeal by the military commander or spontaneously. A Party to the conflict must consider these options when taking ‘all possible measures’ to search for and collect the wounded and sick and in ensuring that they receive the medical care their condition requires.

1316 The purpose of Article 13 is to specify which persons, on their being wounded or falling sick, the First Convention protects. The list includes members of the armed forces and other categories of persons who, while not being members of the armed forces, either have combatant status or are otherwise entitled to prisoner-of-war status.

1317 Article 14 defines the status of a wounded or sick member of the armed forces who falls into enemy hands. In that situation, a member of the armed forces is both a wounded or sick person needing treatment and an individual who is entitled to become – and thus becomes – a prisoner of war.

1318 Article 16 regulates three cardinal issues: the recording and forwarding of information concerning wounded, sick and dead persons who have fallen into the hands of the adverse Party; the preparation and forwarding of death certificates; and the collection and forwarding of the deceased’s personal items. The importance of this provision cannot be underestimated, as without identification and reporting requirements and procedures it is difficult, if not impossible, to account for persons who are missing or to provide information to their families.

1319 Article 17 deals exclusively with the treatment of the dead; it sets out a number of rules regarding burial or cremation, examination of the body prior to burial or cremation, and the maintenance and marking of graves. This provision is essential to guarantee respect for the dignity of the dead and to ensure that they do not go missing.

1320 Some of these provisions were already included in the 1864, 1906 and 1929 Conventions, but they were greatly clarified in 1949 and further complemented by Part II, Section I, of Additional Protocol I.

IHL is very clear on the protection of facilities, IDPs and Refugees camps, schools among others.

**Precautions and a clear message**

A party to an armed conflict must take constant care to spare civilians or civilian objects when carrying out military operations. The party conducting an attack must do everything feasible to verify that the targets are military objectives. It must choose means and methods of attack that avoid, or at least keep to a minimum, the incidental harm to civilians and civilian property.

It must refrain from launching an attack if it seems clear that the losses or damage caused would be excessive in relation to the concrete and direct military advantage anticipated. Effective warning must be given of attacks that may affect the civilian population, unless circumstances do not permit. Precautions must also be taken against the effects of attacks.

For example, military objectives must not, as far as possible, be situated in the vicinity of civilian populations and civilian objects; all other necessary precautions must also be taken.

**Prohibition against causing superfluous injury or unnecessary suffering**

Employing weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering is prohibited. This prohibition refers specifically to combatants: it says that weapons of certain kinds are prohibited because they harm combatants in unacceptable ways.

**Argument against IHL**

Although the rule is generally accepted, there is disagreement about the proper way to decide whether a weapon causes superfluous injury or unnecessary suffering.

The International Court of Justice defined unnecessary suffering as “harm greater than that unavoidable to achieve legitimate military objectives” (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996).

International Humanitarian Law is mandatory for states that are bound by the appropriate treaty.

1. **Define the following terms as used in Humanitarianism**
2. **Humanitarian intervention**

Humanitarian intervention, actions undertaken by an organization or organizations (usually a state or a coalition of states) that are intended to alleviate extensive human suffering within the borders of a sovereign state.

**The Debate Surrounding Humanitarian Intervention**

What underlies the humanitarian intervention debate is a perceived tension between the values of ensuring respect for fundamental human rights and the primacy of the norms of sovereignty, non-intervention, and self-determination which are considered essential factors in the maintenance of peace and international security (Danish Institute of International Affairs 1999, pp. 14-15). These values are set out in the United Nations Charter as fundamental purposes of the United Nations. However, while there are mechanisms within the Charter for the protection and enforcement of peace and international security (i.e., Article 2[4] and Chapter VII), there are no equivalent provisions or mechanisms in the Charter for the protection of human rights (Peterson 1998, pp. 872, 879).

The existing literature on international law and political science takes a distinctly normative approach in addressing the topic of humanitarian intervention. Among legal scholars, the overarching concern deals with the lawfulness of this kind of intervention. They concentrate on the questions of whether and under which legal conditions it is permissible to forcibly intervene in the name of humanity. In short, does a right to interfere in the internal affairs of sovereign state for humanitarian purposes exist according to the body of international law? Their foremost attention is on the legal dilemma of intervention, which rests on competing claims of state sovereignty as a guiding principle in international relations and on the evolving idea of the promotion of human rights. In order to illuminate this problem, some law scholars purposely trace the legal origins of an interventionist doctrine back to the Christian medieval tradition of just war. In addition, they analyse the further development of the notion according to the emergence of natural law theory in the work of such prominent figures as Hugo Grotius and Emerich de Vattel during the seventeenth and eighteenth centuries and in relation to the growth of positive law in the nineteenth century (Fabian Klose 2015)

1. **Disaster Management**

According to International Federation of the Red Cross (IFRC), Disaster Management is defined as the organization and management of resources and responsibilities for dealing with all humanitarian aspects of emergencies, in particular preparedness, response and recovery in order to lessen the impact of disasters.

1. **Humanitarian Assistance**

Humanitarian assistance is defined as inclusive of humanitarian relief or emergency aid as well as development assistance (Bess & Link, 2011)

When used in the context of financing data, the term ‘humanitarian assistance’ refers to financial resources for humanitarian action. (Development Initiatives)

1. **Common Humanitarian Action Plan**

Common humanitarian Action Plan is humanitarian sector’s main tool for coordination, strategic planning and programming (OCHA)