

Training in international humanitarian law

by

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Through that branch of international law known as international humanitarian law, or the law of armed conflict, the international community seeks to mitigate the horrors of war. Humanitarian law protects combatants no longer able to take part in the fighting (for example, the wounded, sick and shipwrecked and prisoners of war), persons not taking part in the conflict, such as civilians, and also civilian objects such as cultural and private property. It prohibits or restricts the use of certain weapons and obliges military commanders to observe certain rules relating to the methods of warfare. It also lays down rules governing the relationship between States engaged in armed conflict.

The core treaties of international humanitarian law are the four Geneva Conventions for the Protection of War Victims, of 12 August 1949. The year 1999 marked the 50th anniversary of those Conventions, which today bind 188 States. It might be thought that this was an event to celebrate, yet a sober look at what has happened on the world's battlefields since the Second World War is more likely to be cause for dismay. True, the rules of international humanitarian law were by and large observed in "traditional" or "conventional" wars such as those fought in Korea, Viet Nam, the Middle East, on the

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Falklands/Malvinas and in the Gulf region. In spite of a number of horrendous exceptions, international humanitarian law did protect thousands of victims of those conflicts. But the face of the modern battlefield has undergone a fundamental change.

Somewhere, soldiers belonging to an international force continue to discover new mass graves, the results of barely imaginable ethnic cleansing operations. In another conflict, guerrilla fighters routinely mutilate civilians, sometimes even children. Another report shows children hacking with knives at enemy corpses. One of them triumphantly holds up the intestines of a fallen soldier, in full view of the camera. Barbarity without end at the turn of the 20th to the 21st century?

One especially disturbing trend emerging from today's predominantly internal armed conflicts is that according to expert estimates, between 80 and 90 per cent of the victims of modern wars are civilians. On 12 February 1999 the President of the International Committee of the Red Cross, Cornelio Sommaruga, speaking before the United Nations Security Council in New York, appealed to States, reminding them that in many conflicts around the world "civilians are the first and principal target. Women, children, the elderly, the sick, refugees and internally displaced persons have been attacked in large numbers and methodically driven from their homes. (...) Genocide, ethnic cleansing, attacks on humanitarian personnel and the repudiation of the principles of humanity, impartiality, independence and neutrality have become increasingly prevalent. (...) The unimaginable pain ... can leave none of us indifferent. Not only that, it compels us to take action on their behalf."

The obvious solution is to try and influence the parties to armed conflicts, but here, too, we are faced with new and different conditions and challenges. In addition to the "regular" combatants, a growing number of "arms bearers" — security forces, special police troops, border troops, paramilitary units, armed groups belonging to liberation movements, guerrilla fighters and armed clans — are today all convinced that they have to fight for a better future or even just for their own interests. How are we to reach and speak to them, to influence their conduct?

The behaviour of individual combatants appears to be determined primarily by the actions of their leaders, by instruction and training in the appropriate cultural, social and military environment, and by acceptance of a minimum of discipline and hence a willingness to comply with certain rules. It follows that if combatants are to act in accordance with the rules of international humanitarian law, raising awareness thereof among their leaders and providing effective instruction and training play a decisive role.

The international community has asked the ICRC to support States in translating the principles of international humanitarian law into instruction and training activities. In his address to the Security Council, President Sommaruga recalled that “through its programme of dissemination to the armed forces, the ICRC has for many years been training and raising awareness among those who bear arms all over the world”.

Experience worldwide shows that in several countries instruction in humanitarian law places too heavy an emphasis on theory and that it is difficult to incorporate into practical training exercises. Military commanders have never been particularly inclined to deal with the finer points of international law, and have preferred to leave that to “specialists”. There are thirty major international treaties comprising over 660 articles — who could provide instruction in them and, more importantly, who could absorb all that information? Do the provisions of these treaties not overly restrict military leaders' freedom of action? Another question of current interest: what ways and means are available to reach the many armed groups worldwide and urge them to observe certain rules?

Specific aspects of training in international humanitarian law

“Leadership” could tentatively and generally be defined as the “targeted influencing of people”. Instruction and training form an integral part of this. If something is not practised in times of peace it cannot be expected to work in times of war. In the military field this statement is of timeless validity.

Anyone wanting his troops to display tactically efficient, correct and disciplined behaviour in combat must continuously invest in instruction and training, which must include international humanitarian law. Instruction and training should be seen as an ongoing process. Commanders should not underestimate the importance of continuous dialogue with their subordinates.

In particular when it comes to international humanitarian law, training should consist of more than the transmission of information, of presentations, seminars and courses which result in statements such as “yes, I have heard of it and we usually implement it”.

The key is integration. International humanitarian law is not a specialized field for the legal profession, it is an obligation and challenge for leaders at all levels. Long-term success can be achieved only if we are able to adapt instruction and training in the principles of international humanitarian law to the function of different units, and to integrate them in a very practical way into all training programmes for military commanders. A squadron leader, for example, should have both theoretical knowledge of and practical training in how to treat a lightly-wounded enemy soldier (disarm him, give him first aid, search him, move him from the danger area, evacuate him) but need not necessarily know all aspects of a demilitarized zone.

The general conditions for training in international humanitarian law differ widely from one country to the next and are so complex that it would be impossible to come up with any kind of recipe for perfect training in international humanitarian law. The following examples from contexts around the world and specific principles of international humanitarian law training might help readers to understand the situation in their own country and possibly allow them to draw some conclusions.

What is the objective of training in international humanitarian law?

The aim is for all soldiers in regular armed and security forces and all members of armed groups to be familiar with the principles of international humanitarian law and to have a grasp of the rules which are important for carrying out the combat tasks falling to them by virtue of their rank and function.

At the tactical level, training aims in particular at making correct and disciplined behaviour the reflex action in a particular situation. At the operational level, the emphasis is on the automatic incorporation of the principles of international humanitarian law into decision-making, planning, command and control processes. The objective is for leaders of all ranks to intervene immediately if the rules of international humanitarian law are violated.

A number of additional training principles are summarized below:

1. At meetings and planning conferences, when issuing orders and holding discussions, senior military leaders should remind officers that it is a national responsibility to make international humanitarian law training an integral part of instruction and training activities.
2. The principles of international humanitarian law should be introduced into appropriate training material in a form which is comprehensible to military leaders. A model manual prepared by the ICRC and focusing on correct conduct on the battlefield may serve as an example.
3. The obligation to provide training in international humanitarian law should be mentioned in annual training guidelines and directives.
4. Training in international humanitarian law is not the domain of specialists. At the tactical level it is the responsibility of the direct superior, who should do the training himself to make it more convincing. Legal advisers are sources of essential expertise and work side by side with operational commanders.
5. Close cooperation among the legal, operational and training divisions in ministries and general staff is vital. Such cooperation ensures that topics related to international humanitarian law are systematically incorporated in accordance with clear objectives into all leadership training curricula.
6. All large-scale exercises should as a matter of principle include items related to the implementation of international humanitarian law and humanitarian challenges. Provision for this should be made already at the level of preparatory planning conferences.

7. Training can be said to have been successful when subjects related to international humanitarian law have been skilfully incorporated into tactical and combat exercises. Training in international humanitarian law always includes a practical component. The aim is to achieve a balance between information, basic knowledge and practical application, for example through demonstrations, stationary training and short exercises, allowing for effective individual and group training in small-scale scenarios.
8. Commanders should receive continued training in how to incorporate humanitarian law and how to use the training material.
9. Preparations for peace-keeping and peace support operations should include a refresher course in international humanitarian law.
10. At the lower levels of the command structure and for all leaders of armed groups in a “non-peace” situation, personal commitment and interest are of decisive importance. Leaders must demonstrate by example that even wars have limits, that we are helping to protect the victims of war and violence by following certain rules.

Rules of conduct for international and internal armed conflicts

There exist several internationally recognized principles and codes of conduct for the tactical level. They are part of the four 1949 Geneva Conventions and their 1977 Additional Protocols, or are derived from other international humanitarian law treaties and from customary law. All these rules serve as a basis for international humanitarian law training for combatants engaged in armed conflicts.

To mark the 50th anniversary of the Geneva Conventions, the ICRC undertook to inform the leaders of all armed groups of the following basic principles and call on them to enter into dialogue with their subordinates to discuss both the principles and the possibilities for their implementation and consequences for training:

You, as a responsible, experienced military commander, are willing to acknowledge certain internationally recognized rules of

conduct in warfare, to integrate them into training in your area of responsibility and to observe and enforce these rules in combat. In your daily discussions and preparations and in the orders you issue you will persuade your subordinate officers that compliance with these rules, which require you and all those under your command to act humanely even in the most difficult conflict situations, strengthens their solidarity, fighting spirit and discipline. All of these rules contribute to a life in freedom and dignity after the conflict has ended. The following rules must be observed:

1. Concentrate on locating and fighting the enemy. Under no circumstances fight the civilian population. Women, children and the elderly are the first to suffer from the consequences of battle. Respect and protect women's dignity. Do not rape them. If you fight well and help the weak you show true courage.
2. Never kill or torture a person who has fallen into your hands during combat. Protect prisoners of war and internees. Respect their life and dignity. Administer first aid even to a wounded enemy. Intervene if your comrades overstep the limits of the law. Set a positive example — you could end up in a similar situation.
3. No matter how tense the situation, be disciplined and refrain from acts of revenge, as otherwise you start a spiral of uncontrolled violence. Have a moderating influence on your comrades. Look to your leader, wait for instructions and follow his example.
4. Never attack persons or objects bearing the red cross or red crescent emblem. They are there to help the victims of war. Allow them to carry out their humanitarian activities, support them and, above all, give them protection. The enemy will usually follow your good example.
5. Respect the property of others. Do not loot.
6. Respect the white flag as a sign that the enemy wants to negotiate or surrender. Hold your fire, inform those next to you, wait for instructions and respect the other protective emblems.
7. Never take hostages.
8. Never attack civilian persons or objects. Destroy only to the extent absolutely essential to your mission.
9. Children are especially threatened and vulnerable. Never

recruit a person under 15 years of age. Endeavour to recruit only persons over the age of 18. Protect children from abuse by others. Prevent children from taking part in combat. Talk to them. Give them the feeling that someone is looking after them. Inform your leader, who will establish contact with an international organization.

10. Be especially careful when using mines or booby traps. Irresponsible use of such mines will cost innocent people their lives for a long time to come.

11. Treat all those in your power humanely. War will never be humane, but you know the rules and restrictions and can prevent unnecessary suffering. Set a positive example for everyone: *I obey the rules. Follow my example.*

12. Support all measures to maintain discipline in your operational unit. Take immediate action if you notice violations of these rules. Inform your leader. Deliberate misconduct will be punished. Above all you are responsible for your own behaviour in combat. There will be situations in which you will find it difficult to obey these rules. In the long term, your positive behaviour is an important contribution to a better future, a life in freedom, dignity and humanity.

Looking to the future

In the long term, proper conduct in compliance with the rules of international humanitarian law on the battlefields of tomorrow will be achieved only if the necessary investment is made in instruction and training, if military commanders of all ranks make a personal commitment, if the principles of international humanitarian law are made a part of practice-oriented training material, and implementation moves from theory to more practical training which takes closer account of the realities of combat. Instruction and training in international humanitarian law should be viewed as an ongoing process.

The fact that the armed forces of the future will face increased challenges of a humanitarian nature should be reflected in their training and military exercises. As was stressed above, integration is the key: what is needed is not to create a specialized field for experts

but to make international humanitarian law an integral part of all training programmes and incorporate it appropriately into all other leadership, tactical, logistics and combat training.

Better protection of the civilian population in armed conflicts, especially internal armed conflicts, and the prevention of humanitarian disasters occurring during or as a result of wars, for example because of a growing number of refugees, will be some of the challenges of the decades ahead.

Convincing all armed groups to comply with at least a minimum of internationally recognized rules and to incorporate them into training will be the biggest challenge of all. There is no magic formula for this. At present, patience, persuasion and direct discussions with the leaders in charge on the spot seem to hold the most promise. In this regard, the ICRC with its specialized experience has much to offer.

The international community is urged to maintain its efforts to incorporate the principles of international humanitarian law into instruction and training. Both the regular armed and security forces and troops serving in peace support operations can and must set an example which will have a positive influence on all parties to conflict. Although the International Criminal Court, once established, is likely to have a deterrent effect, persuasion is to be preferred over the threat of punishment.

We can do better than to start the next millennium with more barbarity. Making international humanitarian law a part of instruction and training will continue to be the real challenge for all leaders of armed groups.



Résumé

Le droit international humanitaire a-t-il encore une chance ?

par DIETMAR KLENNER

Même si ses traités sont bien développés et si son corps de règles s'est adapté à la guerre moderne, le droit international humanitaire n'a de raison d'être que s'il est effectivement respecté au cours des conflits armés. Pour être efficace, le droit doit d'abord être connu des acteurs de la violence. Le problème se pose aujourd'hui avec acuité de savoir comment atteindre les combattants irréguliers, ceux qui se battent sans faire partie de forces armées structurées. L'auteur suggère quelques démarches pratiques pour atteindre ce public. Il propose, par ailleurs, un résumé des règles essentielles et principales du droit international humanitaire à l'attention de ceux qui sont appelés à les enseigner sur le terrain.