

UNITED NATIONS



NATIONS UNIES

OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS

## ***AN EASY REFERENCE***

***To International Humanitarian Law  
and Human Rights Law***

***For Humanitarian Coordinators Operating in  
Situations of Internal Armed Conflict***

## AN EASY REFERENCE

### *To International Humanitarian Law and Human Rights Law*

- This document is intended to provide humanitarian personnel with a quick reference to international humanitarian law and human rights law instruments.<sup>1</sup> This is not intended as a policy document *per se*, but rather as guidance to assist Humanitarian Coordinators in the course of their duties.<sup>2</sup>
- The Easy Reference is divided into three sections:

**Section I. Situations/issues relevant to international humanitarian law and human rights law.** This section offers examples of situations and issues with which field personnel are confronted in internal armed conflict. To facilitate response to these issues, examples are given of relevant international humanitarian law and human rights law instruments and specific articles. *This section (pages 2-9) constitutes the "tool" that the Easy Reference is intended to provide.*

**Section II. Scope of the Easy Reference and an introduction to international humanitarian law and human rights law.** This section provides information on the scope of this document and a brief introduction to international humanitarian law and human rights law, and their legal and practical application in situations of internal armed conflict. *This section (pages 10-16) should be read before applying the "tool" in section I.*

**Annexes.** This section comprises two annexes: annex 1, Basic instruments, listing the complete title and year of adoption of relevant instruments; and annex 2, The status of ratification of some basic international instruments.

- In producing this document, OCHA has consulted with relevant IASC members.<sup>3</sup> If clarification is desired with respect to the interpretation and applicability of these instruments, please contact Yasmine Sherif, Policy Development Unit, OCHA NY (phone: 1-212-963-6571, fax: 1-212-963-1040, e-mail: [sherify@un.org](mailto:sherify@un.org)), or OHCHR, UNICEF or the ICRC.

## **Section I. Situations/issues relevant to international humanitarian law and human rights law**

### **A. Issue: Denial of humanitarian assistance and humanitarian access**

Example: Material assistance is blocked or diverted, and/or humanitarian personnel are not allowed, or only allowed restricted, access to the vulnerable population.

#### ***International humanitarian law***

- **An impartial humanitarian body, such as the ICRC, may offer its services to the parties to the conflict** (common article 3 to the Geneva Conventions);
- **Special protection and right to relief for wounded, sick and children** (Additional Protocol II, articles 4, 5, 7 and 11);
- **Starvation of civilians as a method of combat is prohibited. Prohibition to attack or destroy objects indispensable for the survival of the civilian population** (Additional Protocol II, article 14);
- **Relief societies and relief action—impartial and humanitarian relief actions for the civilian population shall be permitted (subject to the consent of the parties)** (Additional Protocol II, article 18).

#### ***International human rights law***

- **Freedom of movement—of all, including humanitarian personnel** (the Universal Declaration of Human Rights, article 13, and the Covenant on Civil and Political Rights, article 13);
- **Right to survival and development, including food, medical treatment and shelter** (the Universal Declaration of Human Rights, article 3; the International Covenant on Economic, Social and Cultural Rights, articles 11 and 12; the Convention on the Elimination of All Forms of Discrimination against Women, articles 12 and 14; and the Convention on the Rights of the Child, articles 6 and 22).

#### ***ICTY Statute***<sup>4</sup>

The ICTY Statute does not contain an explicit provision on the right to assistance and granting of access.

#### ***ICTR Statute***<sup>5</sup>

The ICTR Statute does not contain an explicit provision on the right to assistance and granting of access.

#### ***ICC Statute***<sup>6</sup>

It should be noted that the International Criminal Court (ICC) defines intentional starvation used as a method of warfare as a war crime only in international armed conflicts (article 8 (2) (b) (xxv), while the Security Council has condemned the deliberate impeding of the delivery of food and medical supplies essential for the survival of the civilian population in an internal armed conflict (Somalia) in its resolution 794 (1992).

## **B. Issue: *Forced displacement***

Example: A certain ethnic, religious, political group and/or minority of the population is forced by violence to leave their homes, and thus this issue should also be read in relation to force (or threat thereof) used in connection with displacement (e.g., execution, torture).

### ***International humanitarian law***

- **Prohibition of forced movement of civilians** (Additional Protocol II, article 17).

### ***International human rights law***

- **Freedom of movement, which implies a right to remain, to leave and to return, and which may not be subjected to restrictions based on discrimination due to race, sex, language or religion—see "Principle of Non-Discrimination", below** (the Universal Declaration of Human Rights, article 13, and the Covenant on Civil and Political Rights, article 13);
- **Prohibition against arbitrary separation of children from their parents** (the Convention on the Rights of the Child, articles 9 and 10).

### ***Regional human rights instruments***

- **Prohibition against expulsion of individuals and mass expulsion targeting national, racial, ethnic or religious groups (Principle of Non-Discrimination)** (the African Charter, article 12; the European Convention on Human Rights, Protocol 4; and the American Convention, articles 22 (3) and (4)).

### ***ICTY Statute***

- **Unlawful deportation or transfer of civilians or prisoners of war protected under the Geneva Conventions** (grave breach of the Geneva Conventions of 1949, article 2 (g));
- **Deportation of any civilian population** (crime against humanity, article 5 (d)).

### ***ICTR Statute***

- **Widespread or systematic deportation of the civilian population on national, political, ethnic, racial or religious grounds** (crime against humanity, article 3 (d)).

### ***ICC Statute***

- **Widespread or systematic deportation or forced transfer of population** (crime against humanity, article 7 (1) (d)).

### ***Other instruments***

- **Guiding Principles on Internal Displacement of 1998** (articles 5 to 9 relate specifically to protection from displacement).

The Guiding Principles, which reflect and are consistent with international humanitarian law and human rights law, provide practical guidance with regard to internally displaced persons. It should be noted that internally displaced persons, by virtue of the fact they are human beings and, usually, civilian victims of armed conflict, are entitled to the full range of protection provided for under international humanitarian law and human rights law.

## **C. Issue: *Arbitrary executions, systematic killings of civilians***

Example: Civilians are executed or killed without final judgement rendered by a competent court; civilians are arbitrarily executed in their villages.

### ***International humanitarian law***

- **Prohibition against violence to life and person, arbitrary executions** (common article 3 to the Geneva Conventions of 1949 and Additional Protocol II, article 4).

### ***International human rights law***

- **Right to life; prohibition of arbitrary killing** (the Universal Declaration of Human Rights, article 3, and the Covenant on Civil and Political Rights, article 6).
- **Killing or inflicting serious harm on a national, ethnic, racial or religious**

**group with intent to destroy the group** (the Convention on the Prevention and Punishment of the Crime of Genocide of 1948).

### ***ICTY Statute***

- **Willful killing of persons protected under the Geneva Conventions** (grave breach of the Geneva Conventions of 1949, article 2 (a));
- **Killing or inflicting serious harm on a national, ethnic, racial or religious group with intent to destroy the group** (genocide, article 4);
- **Murder of any civilian population** (crime against humanity, article 5 (a));
- **Extermination of any civilian population** (crime against humanity, article 5 (b)).

### ***ICTR Statute***

- **Killing or inflicting serious harm on a national, ethnic, racial or religious group with intent to destroy the group** (genocide, article 2);
- **Widespread or systematic killing of the civilian population on national, political, ethnic, racial or religious grounds** (crime against humanity, article 3 (a) and (b)).

### ***ICC Statute***

- **Killing or inflicting serious harm on a national, ethnic, racial or religious group with intent to destroy the group** (genocide, article 6);
- **Widespread or systematic murder and extermination of civilians** (crime against humanity, article 7 (1) (a) and (b); and war crime, article 8 (2) (c) (i)).

## **D. Issue: *Torture, mutilation, rape, beatings***

Example: The population is subjected to inhuman and degrading treatment; women or children are subjected to rape; mutilation.

### ***International humanitarian law***

- **Prohibition against cruel treatment, torture, humiliating and degrading treatment and rape** (common article 3 to the Geneva Conventions of 1949; and Additional Protocol II, article 4).

### ***International human rights law***

- **Prohibition against torture and inhuman and/or degrading treatment, including sexual violence** (the Universal Declaration of Human Rights, article 5; the Covenant on Civil and Political Rights, article 7; the Convention on the Rights of the Child, articles 19, 34, 37 and 38; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

#### ***ICTY Statute***

- **Torture or inhuman treatment, including biological experiments; wilfully causing great suffering or serious injury to body or health against persons protected under the Geneva Conventions** (grave breach of the Geneva Conventions of 1949, article 2 (b) and (c), respectively);
- **Torture, rape against any civilian population** (crime against humanity, article 5 (f) and (g), respectively).

#### ***ICTR Statute***

- **Widespread or systematic torture, rape** (crime against humanity, article 3 (f) and (g), respectively);
- **Violence to life, health and physical or mental well-being of persons, inhuman treatment and rape** (violations of article 3 common to the Geneva Conventions and Additional Protocol II, article 4 (a) and (e), respectively).

#### ***ICC Statute***

- **Widespread or systematic torture, rape or other forms of sexual violence against civilians** (crime against humanity, article 7 (1) (g) and (h); and war crime, article 8 (2) (c) (i) and (ii)).

### **E. Issue: *Arbitrary arrest, detention, taking of hostages***

Example: Civilians are arrested or taken hostage and subjected to prolonged detention without judiciary procedures.

#### ***International humanitarian law***

- **Prohibition against hostage-taking, arbitrary sentences** (common article 3 to the Geneva Conventions of 1949 and Additional Protocol II, article 4).

#### ***International human rights law***

- **Prohibition against arbitrary arrest and prolonged detention** (the Universal Declaration of Human Rights, articles 3 and 9; the Covenant on Civil and Political Rights, article 9, and the Convention on the Rights of the Child, articles 37 and 38).

#### ***ICTY Statute***

- **Unlawful confinement of civilians and taking of hostages of persons protected under the Geneva Conventions** (grave breaches of the Geneva Conventions of 1949, article 2 (g) and (h), respectively);
- **Imprisonment of civilians** (crime against humanity, article 5 (e)).

#### ***ICTR Statute***

- **Widespread or systematic imprisonment of the civilian population on national, political, ethnic, racial or religious grounds** (crime against humanity, article 3 (e));
- **Taking of hostages** (violations of article 3 common to the Geneva Conventions and Additional Protocol II, article 4 (c)).

#### ***ICC Statute***

- **Widespread or systematic imprisonment or deprivation of physical liberty in violation of fundamental rules of international law** (crime against humanity, article 7 (2) (a); and war crime, article 8 (2) (c) (iii)).

### **F. Issue: *Forced conscription of children***

Example: Children are taken from their homes or camps and forced to partake in hostilities, and thus this issue should also be read in relation to force (or threat thereof) used in connection with forced conscription of children.

#### ***International human rights law***

- **Children below the age of 15 should not partake in hostilities** (the Convention on the Rights of the Child, article 38);
- **Prohibition against arbitrary separation of children from their parents** (the Convention on the Rights of the Child, articles 9 and 10).

#### ***ICTY Statute***

The ICTY Statute does not contain any provision on recruitment of children.



### ***ICTR Statute***

The ICTR Statute does not contain any provision on recruitment of children.

### ***ICC Statute***

- **Conscripting or enlisting children under the age of 15** (war crime, article 8 (2) (c) (vii)).

## **G. Issue: *Targeting of humanitarian personnel***

Example: Humanitarian personnel are intimidated, shot at, taken hostage, beaten or arbitrarily arrested.

### ***International humanitarian law***

- **Prohibition against violence to life, cruel treatment, hostage-taking etc.** (common article 3 to the Geneva Conventions of 1949 and Additional Protocol II, articles 4, 9 and 12).

### ***International human rights law***

- **Prohibition against torture, arbitrary arrest and/or detention and killing, among other things** (the Universal Declaration of Human Rights, articles 3 and 5; the Covenant on Civil and Political Rights, articles 6 and 7; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

### ***ICTY Statute***

The ICTY Statute does not contain an explicit provision on targeting of personnel, but reference can be made to various breaches, such as taking of civilian hostages or wilful killing, which are considered "grave breaches of the Geneva Conventions of 1949" according to the Statute.<sup>7</sup>

### ***ICTR Statute***

The ICTR Statute does not make any explicit reference to the targeting of personnel. However, as mentioned above, reference can be made to other provisions describing acts perpetrated on personnel.

### ***ICC Statute***

- **Intentional attack on humanitarian assistance/peacekeeping personnel, vehicles etc.** (war crime, article 8 (2) (c) (iii)).

### ***Other instruments***

- The Convention on the Safety of United Nations and Associated Personnel entered into force on 15 January 1999. The Convention relates to personnel serving in operations specifically authorized by the Security Council or the General Assembly.

## **Section II: Scope of the Easy Reference and an introduction to international humanitarian law and human rights law**

### **1. Scope**

1.1. This document is limited to **internal armed conflicts**, and thus does not cover international armed conflicts/wars. While the latter have more extensive coverage in international humanitarian law (i.e., all Geneva Conventions), most contemporary armed conflicts are currently defined as internal armed conflicts according to international law (e.g., Afghanistan, Algeria, Angola, Burundi, Congo-Brazzaville, Rwanda, Sierra Leone, Somalia and Sudan).<sup>8</sup>

1.2. While human rights law is applicable in both peace and war (irrespective of the classification of a conflict), human rights law contains provisions permitting the suspension of/derogation from certain rights in times of public emergency. Since an internal armed conflict often has the characteristic of a "public emergency", parts of human rights law can be suspended, while international humanitarian law contains no provision for similar suspension. Nevertheless, human rights law is today considered to play an important complementary role to international humanitarian law, since it offers additional protection for individual rights.

### **2. International humanitarian law**

2.1. International humanitarian law was conceived and developed to limit the suffering of civilians (and prisoners of war) in armed conflict. It is formulated as a series of duties aimed at regulating the behaviour of the combatants in their relation to the civilian population, and it permits certain military acts provided that they do not inflict unnecessary harm on civilians.

2.2. International humanitarian law comprises several detailed instruments, for instance, the St. Petersburg Declaration (prohibiting the use of certain explosive projectiles); the Hague Conventions of 1907 (regulating means of warfare); the Geneva Conventions of 1949; and the two Additional Protocols of 1977 (protecting those not partaking in the hostilities).

2.3. With the exception of common article 3 to the Geneva Conventions of 1949, which stipulates certain minimum guarantees, international humanitarian law was originally developed in the context of international armed conflict (inter-State wars). However, as the number of armed conflicts *within* the State, and *between* the State and non-State actors, has increased over the past 50 years, two additional protocols were created in 1977. Additional Protocol II is specially designed for internal armed conflicts, in which one or more of the belligerents are non-State actors.

2.4. The two principal instruments referred to in the context of **internal armed**

**conflict** are therefore: (a) **common article 3 to the Geneva Conventions of 1949** and (b) **Additional Protocol II of 1977**.

2.5. Common article 3 to the Geneva Conventions of 1949 contains certain minimum guarantees for the treatment of the civilian population. It is applicable to all parties in an internal armed conflict. It reads:<sup>9</sup>

*"In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as minimum, the following provision:*

- (1) *Persons taking no active part in the hostilities ... shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.*

*To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:*

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;*
- (b) Taking of hostages;*
- (c) Outrages upon personal dignity in particular humiliating and degrading treatment;*
- (d) The passing of sentences and the carrying out of executions without previous judgement pronounced by regularly constituted court, affording all the judicial guarantees which are recognized as indispensable;*

- (2) *The wounded and sick shall be collected and cared for.*

*An impartial humanitarian body, such as the International Committee for the Red Cross, may offer its services to the Parties to the conflict" /...*

2.6. Additional Protocol II of 1977 further develops and details the minimum guarantees in common article 3 to the Geneva Conventions.

### **3. Human rights law**

3.1. Human rights law is formulated as a set of rights and freedoms inherent in human nature, which were proclaimed universal standards in the United Nations Universal Declaration of Human Rights in 1948. The Universal Declaration consists of two categories of rights: civil and political rights, on the one hand, and economic, social and cultural rights, on the other, which later were developed into two legally binding covenants, namely: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of 1966.

3.2. Subsequently, an extensive number of declarations and conventions have been created detailing and expanding on the rights and freedoms that were

initially set out in the Universal Declaration, for instance, *the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* of 1984 and *the International Convention on the Rights of the Child* of 1989. Based on the principle of **non-discrimination**, all rights and freedoms should be afforded equally without discrimination. This principle is found, *inter alia*, in article 2 of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Rights of the Child. The Universal Declaration reads:

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin ... "

3.3. While international humanitarian law is designed exclusively for armed conflict, human rights law applies in peace and war, and can thus be referred to in countries not undergoing armed conflict. However, as mentioned above, there are provisions in human rights law instruments which provide for suspension of/derogation from certain so-called "relative rights" (derogable rights) in times of "public emergency".<sup>10</sup> Examples of "relative rights" are: *freedom of movement* and *freedom of expression*. On the other hand, "absolute rights" (so-called "hard-core rights"/non-derogable rights), such as *freedom from torture* and *arbitrary killing*, can never and under no circumstances be suspended.

3.4. The suspension of "relative rights" has to be made in accordance with the principle of non-discrimination, i.e., derogation in times of public emergency (e.g., the State is at war with another State or is affected by an internal armed conflict) is not permitted solely based on race, colour, sex, language, religion, political or other opinion, national or social origin.

3.5. The legality of suspension of/derogation from "relative rights" can often be questioned in **situations of armed conflict**, in which the provision of derogation is usually used for **military** and **political objectives**, and on a **discriminatory** basis. For instance, warring parties might suspend the *freedom of movement* of international personnel and thereby hamper access under the pretext of "security". Another example is when the authorities evacuate all citizens of a certain ethnic or religious group, while others—who are of an "accepted" ethnic or religious group—can remain in their homes. This might be an indication that the right to *freedom of movement* (which implies a right to leave *as well as to remain*) is breached in connection with the principle of non-discrimination, e.g., forced displacement of communities in the former Yugoslavia.

#### **4. Whom do these instruments bind?**

4.1. International humanitarian law refers to the "High Contracting Party", which

traditionally means the State, whereas human rights law refers to the "State party". The general principle is that only States qualify as legal subjects to these instruments, and thus only the State is competent to ratify the same. If the State has not ratified a treaty or instrument, the general rule is that there is no legal obligation to abide by international humanitarian law and human rights law and incorporate these instruments into national legislation. Annex 2 offers information on the status of ratification of three fundamental instruments.

4.2. It should also be noted that, in addition, special agreements might be established between the United Nations and the Government on whose territory humanitarian activities are carried out. Such an agreement could stipulate a code of conduct based on international law, e.g., the OCHA negotiated principles on the provision of assistance with the Government (and non-State actors) of the Democratic Republic of the Congo (DRC).

4.3. However, given the growing number of internal armed conflicts, in which independent armed groups and rebels are at war with the State (Government) and/or each other, within the State, the traditional definition of "State party" and "combatants" has required a review. Non-State actors in contemporary armed conflict simply do not fit the original concept of legal subjects to international law. Consequently, many parties in contemporary conflicts would not—from a strictly legal interpretation—be in a position to ratify an international instrument or be ruled by the same.

4.4. In view of these developments, a general rule has been developed to cover other actors "under responsible command". Additional Protocol II of 1977 has been designed to create legal obligations for other organized armed groups, e.g., non-State actors who—"under responsible command"—partake in an internal armed conflict on the territory of a High Contracting Party (a Government that has ratified the Geneva Conventions and/or Additional Protocol II). In similar terms, common article 3 to the Geneva Conventions applies to non-State actors.

4.5. Human rights law does not have a corresponding adjustment, since it was originally envisaged to protect the citizens (and others who are present on the territory) against abuse of the State. However, this restricted applicability of human rights law is slowly being broadened (see paragraph 5.7).

## **5. Customary law—minimum standards/guarantees<sup>11</sup>**

5.1. The nature of intra-State armed conflicts challenges not only the concept of "State party" but also the definition of "armed groups under responsible command" as defined in Additional Protocol II. With an increased number of armed civilians and paramilitaries fighting against each other and/or the State, legal definitions on the status of the parties are constantly being challenged, raising many questions with respect to the applicability of the legal framework.

5.2. For instance, what is the accountability of States that have not ratified any instruments? Can armed civilians be made accountable for crimes committed in the course of the conflict, given the fact that they do not have the legal capacity under international law to ratify a convention?

5.3. There are exceptions to the rules of legal subjects and ratification. These exceptions are of particular relevance to contemporary internal armed conflicts, in which atrocities are committed on the civilian population by warring parties whose status often is dubious (whether they are States, groups or individuals who are not parties to any instruments or who do not fulfil the requirements of being under "responsible command"). There are certain articles of international humanitarian law and human rights law that are applicable in internal armed conflicts on the basis of not only ratification by the parties to the conflict but also **customary law** that has been developed through practices, resolutions, *opinio juris* and more flexible interpretations of the current legal framework.

5.4. These standards of customary law are sometimes referred to as "common standards of humanity" or the "**Martens clause**" (which was first mentioned in the Hague Conventions of 1907), and are intended to maintain certain principles of humanity and the dictates of the public conscience; the preamble of Additional Protocol II of 1977 contains the "Martens clause" and reads, *inter alia*:

"Recalling that, in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience".

5.5. In this vein, the Security Council has increasingly referred to international humanitarian law (and to a certain extent to human rights law) in its resolutions, irrespective of legal subjects and/or ratification.<sup>12</sup> The establishment of ad hoc tribunals for the former Yugoslavia and Rwanda as well as the ICC Statute, according to which **individuals can be made accountable** for certain outrageous crimes, such as genocide, crimes against humanity and war crimes, e.g., civilians who partook in the genocide in Rwanda, further reinforces this trend.

5.6. Thus, while a State or a non-State actor may not be party to an international instrument, there exist customary principles of general international law, which are accepted as such by the international community. The Secretary-General's report on minimum humanitarian standards of 5 January 1998 concludes that: "*Like common article 3, the importance of the Martens clause should not be underestimated. It shows a concrete recognition and acceptance by States that rule of customary international law above and beyond existing treaty rules can apply to fighting inside countries*", and: "*It should also be pointed out that the references to the 'public conscience' and 'principles of humanity' appear to envisage going beyond customary rules based on State practice.*"<sup>13</sup>

5.7. Similarly, the reference to human rights law in internal armed conflicts has

developed through general practices and customary law covering "absolute rights"/"hard-core rights" (e.g., *freedom from torture, arbitrary killing and slavery*), and their applicability has been reaffirmed by human rights conferences, UN bodies and expert groups.<sup>14</sup> Moreover, further to the preamble of the two Covenants of 1966, many argue that also non-State actors, who are not legal subjects to human rights law, and thus cannot ratify the same laws, are obliged to respect these instruments:

"Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant".

Examples of customary law are:

- *Common article 3 to the Geneva Conventions;*
- *Absolute rights of human rights law (torture, which includes mutilation and rape; slavery and arbitrary killing);*
- *The crime of genocide, crimes against humanity and war crimes.*<sup>15</sup>
- 

5.8. While the "tool" in section I enumerates both "relative rights" (requiring ratification or agreement) and "hard-core rights"/"absolute rights" (customary law), it would be useful to ensure before invoking any right, in particular "relative rights", that the instrument concerned is in force and that the parties have ratified the same. Ratification of an instrument always facilitates negotiations on protection, since it provides a solid basis for legal claims.

5.9. Yet, it should be borne in mind that ratification by no means guarantees proper conduct on the part of the warring parties. Unfortunately, legal concepts often play a very limited role in the physical protection of civilians at the field level where rational behaviour is overtaken by the dynamics of war. Lack of ratification is rarely cited by parties to a conflict as a justification for breaches of international humanitarian law and human rights law. As a matter of fact, parties often refer to sentiments caused by the war, such as retaliation or self-defence and/or historical, social and cultural causes.

5.10. In such circumstances, negotiations and ad hoc arrangements on practical issues covered by international humanitarian law and human rights law have proved more conducive to the actual protection of civilians on the ground. Thus, reference to "hard-core"/"absolute rights" should preferably be made in such a manner that none of the parties—irrespective of legal status—is left with the impression that there is no individual accountability.

## **6. Selection of instruments**

6.1. The "tool" of the Easy Reference, limited to a few selected instruments, offers a basic introduction to the current legal framework of immediate relevance to humanitarian personnel at the field level, and thus it does not claim to be



exhaustive. It is a compilation of some of the fundamental laws and principles that parties to the conflict may be bound by in internal armed conflict (based on either ratification or, if so defined, customary law), and which cover (or can be interpreted implicitly to cover) the issues in the "tool".

6.2. The instruments/articles are listed in the following order: (a). **international humanitarian law**; (b).**international human rights law**; (c). **ICTY Statute**; (d) **ICTR Statute**; (e) **ICC Statute**; and (f) **other instruments** (for complete title and year of adoption, please see annex 1).

6.3. While refugee law constitutes an important instrument in the context of armed conflict, it is not included in this reference because the objective of the 1951 Convention Relating to the Status of Refugees is chiefly to determine whether a person qualifies as a "refugee", and thus is entitled to international protection. It should, however, be noted that refugees—like others—enjoy legal protection under international humanitarian law and human rights law.

## [Annex 1](#)

### **Basic instruments**

*International humanitarian law (or based on IHL)*

- **Common article 3 to the Geneva Conventions of 1949**
- **Additional Protocol II of 1977** (internal armed conflicts)
- **The Statute of the International Tribunal for the Former Yugoslavia of 1993**
- **The Statute of the International Tribunal for Rwanda of 1994**
- **The Statute of the International Criminal Court of 1998**

### *International human rights instruments*

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

### *Regional human rights instruments*

- **The American Declaration of the Rights and Duties of Man of 1948**
- **The European Convention on Human Rights of 1950**
- **The American Convention on Human Rights of 1969**
- **The Convention of the Organization of African Unity (OAU) of 1969**
- **The African Charter on Human and People's Rights of 1981**

### *Other instruments*

- **The Convention on the Safety of United Nations and Associated Personnel of 1994**

### *Principles*

- **Guiding Principles on Internal Displacement of 1998**

### ANNEX 2

### **The status of ratification of some basic international instruments**

- **Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June**

1977.

### States parties

Albania	16.07.1993.	Kuwait	17.01.1985.
Algeria	16.08.1989.	Kyrgyzstan	18.09.1992.
Antigua and Barbuda	06.10.1986.	Lao People's Dem.Rep.	18.11.1980.
Argentina	26.11.1986.	Latvia	24.12.1991.
Armenia	07.06.1993.	Lebanon	23.07.1997
Australia	21.06.1991.	Lesotho	20.05.1994.
Austria	13.08.1982.	Liberia	30.06.1988.
Bahamas	10.04.1980.	Libyan Arab Jamahiriya	07.06.1978.
Bahrain	30.10.1986.	Liechtenstein	10.08.1989.
Bangladesh	08.09.1980.	Luxembourg	29.08.1989.
Barbados	19.02.1990.	Macedonia	01.09.1993.
Belarus	23.10.1989.	Madagascar	08.05.1992.
Belgium	20.05.1986.	Malawi	07.10.1991.
Belize	29.06.1984.	Maldives	03.09.1991.
Benin	28.05.1986.	Mali	08.02.1989.
Bolivia	08.12.1983.	Malta	17.04.1989.
Bosnia-Herzegovina	31.12.1992.	Mauritania	14.03.1980.
Botswana	23.05.1979.	Mauritius	22.03.1982.
Brazil	05.05.1992.	Micronesia	19.09.1995.
Brunei Darussalam	14.10.1991.	Moldova (Republic of)	24.05.1993.
Bulgaria	26.09.1989.	Mongolia	06.12.1995.
Burkina Faso	20.10.1987.	Namibia	17.06.1994.
Burundi	10.06.1993.	Netherlands	26.06.1987.
Cambodia	14.01.1998	New Zealand	08.02.1988.
Cameroon	16.03.1984.	Niger	08.06.1979.
Canada	20.11.1990.	Nigeria	10.10.1988.
Cape Verde	16.03.1995.	Norway	14.12.1981.
Central African Republic	17.07.1984.	Oman	29.03.1984.
Chad	17.01.1997	Palau	25.06.1996.
Chile	12.12.1977.	Panama	18.09.1995.
China	14.09.1983.	Paraguay	30.11.1990.
Colombia	14.08.1995.	Peru	14.07.1989.
Comoros	21.11.1985.	Philippines	11.12.1986.
Congo	10.11.1983.	Poland	23.10.1991.
Costa Rica	15.12.1983.	Portugal	27.05.1992.
Côte d'Ivoire	20.09.1989.	Romania	21.06.1990.
Croatia	11.05.1992.	Russian Federation	29.09.1989.
Cyprus	18.03.1996.	Rwanda	19.11.1984.
Czech Republic	05.02.1993.	Saint Kitts and Nevis	14.02.1986.
Denmark	17.06.1982.	Saint Lucia	07.10.1982.
Djibouti	08.04.1991.	Saint Vincent Grenadines	08.04.1983.
Dominica	25.04.1996.	Samoa	23.08.1984.
Dominican Republic	26.05.1994.	San Marino	05.04.1994.
Ecuador	10.04.1979..	Sao Tome and Principe	05.07.1996.
Egypt	09.10.1992.	Senegal	07.05.1985.
El Salvador	23.11.1978.	Seychelles	08.11.1984.
Equatorial Guinea	24.07.1986.	Sierra Leone	21.10.1986.
Estonia	18.01.1993.	Slovakia	02.04.1993.
Ethiopia	08.04.1994.	Slovenia	26.03.1992.
Finland	07.08.1980.	Solomon Islands	19.09.1988.
France	24.02.1984.	South Africa	21.11.1995.
Gabon	08.04.1980.	Spain	21.04.1989.
Gambia	12.01.1989.	Suriname	16.12.1985.
Georgia	14.09.1993.	Swaziland	02.11.1995.

### States parties

Germany	14.02.1991.	Sweden	31.08.1979.
Ghana	28.02.1978.	Switzerland	17.02.1982.

Greece	15.02.1993.	Tajikistan	13.01.1993.
Grenada	23.09.1998	Tanzania (United Rep.of)	15.02.1983.
Guatemala	19.10.1987.	Togo	21.06.1984.
Guinea	11.07.1984.	Tunisia	09.08.1979.
Guinea-Bissau	21.10.1986.	Turkmenistan	10.04.1992.
Guyana	18.01.1988.	Uganda	13.03.1991.
Holy See	21.11.1985.	Ukraine	25.01.1990.
Honduras	16.02.1995.	United Arab Emirates	09.03.1983.
Hungary	12.04.1989.	United Kingdom	28.01.1998
Iceland	10.04.1987.	Uruguay	13.12.1985.
Italy	27.02.1986.	Uzbekistan	08.10.1993.
Jamaica	29.07.1986.	Vanuatu	28.02.1985.
Jordan	01.05.1979.	Venezuela	23.07.1998
Kazakhstan	05.05.1992.	Yemen	17.04.1990.
Korea (Republic of)	15.01.1982.	Yugoslavia	11.06.1979.
		Zambia	04.05.1995.
		Zimbabwe	19.10.1992.

- **International Covenant on Civil and Political Rights of 1966**

Ratification, Accession (a)  
Succession (d)

### **States parties**

Afghanistan 24 Jan 1983 a	Albania 4 Oct 1991 a
Algeria 10 Dec 1968 12 Sep 1989	Angola 10 Jan 1992 a
Argentina 19 Feb 1968 8 Aug 1986	Armenia 23 June 1993 a
Australia 18 Dec 1972 13 Aug 1980	Austria 10 Dec 1973 10 Sep 1978
Azerbaijan 13 Aug 1992 a	Barbados 5 Jan 1973 a
Belarus 19 Mar 1968 12 Nov 1973	Belgium 10 Dec 1968 21 Apr 1983
Belize 10 Jun 1996 a	Benin 12 Mar 1992 a
Bolivia 12 Aug 1982 a	Bosnia and Herzegovina 1 Sep 1993 d
Brazil 24 Jan 1992 a	Bulgaria 8 Oct 1968 21 Sep 1970
Burkina Faso 4 Jan 1999 a	Burundi 9 May 1990 a
Cambodia 17 Oct 1980 26 May 1992 a	Cameroon 27 Jun 1984 a
Canada 19 May 1976 a	Cape Verde 6 Aug 1993 a
Central African Republic 8 May 1981 a	Chad 9 Jun 1995 a
Chile 16 Sep 1969 10 Feb 1972	China 5 Oct 1998
Colombia 21 Dec 1966 29 Oct 1969	Congo 5 Oct 1983 a
Costa Rica 19 Dec 1966 29 Nov 1968	Côte d'Ivoire 26 Mar 1992 a
Croatia 12 Oct 1992 d	Cyprus 19 Dec 1966 2 Apr 1969
Czech Republic 22 Feb 1993 d	Democratic People's Republic of Korea 14 Sep 1981 a
Democratic Republic of the Congo 1 Nov 1976 a	Denmark 20 Mar 1968 6 Jan 1972
Dominica 17 Jun 1993 a	Dominican Republic 4 Jan 1978 a
Ecuador 4 Apr 1968 6 Mar 1969	Egypt 4 Aug 1967 14 Jan 1982
El Salvador 21 Sep 1967 30 Nov 1979	Equatorial Guinea 25 Sep 1987 a
Estonia 21 Oct 1991 a	Ethiopia 11 Jun 1993 a
Finland 11 Oct 1967 19 Aug 1975	France 4 Nov 1980 a
Gabon 21 Jan 1983 a	Gambia 22 Mar 1979 a
Georgia 3 May 1994 a	Germany 9 Oct 1968 17 Dec 1973
Greece 5 May 1997 a	Grenada 6 Sep 1991 a
Guatemala 5 May 1992 a	Guinea 28 Feb 1967 24 Jan 1978
Guyana 22 Aug 1968 15 Feb 1977	Haiti 6 Feb 1991 a
Honduras 19 Dec 1966 25 Aug 1997	Hungary 25 Mar 1969 17 Jan 1974
Iceland 30 Dec 1968 22 Aug 1979	India 10 Apr 1979 a
Iran (Islamic	Iraq 18 Feb 1969 25 Jan 1971

Republic of) 4 Apr 1968 24 Jun 1975	
Ireland 1 Oct 1973 8 Dec 1989	Israel 19 Dec 1966 3 Oct 1991
Italy 18 Jan 1967 15 Sep 1978	Jamaica 19 Dec 1966 3 Oct 1975
Japan 30 May 1978 21 Jun 1979	Jordan 30 Jun 1972 28 May 1975
Kenya 1 May 1972 a	Kuwait 21 May 1996 a
Kyrgyzstan 7 Oct 1994 a	Latvia 14 Apr 1992 a
Lebanon 3 Nov 1972 a	Lesotho 9 Sep 1992 a
Liberia 18 Apr 1967	Libyan Arab Jamahiriya 15 May 1970 a
Liechtenstein 10 Dec 1998 a	Lithuania 20 Nov 1991 a
Luxembourg 26 Nov 1974 18 Aug 1983	Madagascar 17 Sep 1969 21 Jun 1971
Malawi 22 Dec 1993 a	Mali 16 Jul 1974 a
Malta 13 Sep 1990 a	Mauritius 12 Dec 1973 a
Mexico 23 Mar 1981 a	Monaco 26 Jun 1997 28 Aug 1997
Mongolia 5 Jun 1968 18 Nov 1974	Morocco 19 Jan 1977 3 May 1979
Mozambique 21 Jul 1993 a	Namibia 28 Nov 1994 a
Nepal 14 May 1991 a	Netherlands 25 Jun 1969 11 Dec 1978
New Zealand 12 Nov 1968 28 Dec 1978	Nicaragua 12 Mar 1980 a
Niger 7 Mar 1986 a	Nigeria 29 Jul 1993 a
Norway 20 Mar 1968 13 Sep 1972	Panama 27 Jul 1976 8 Mar 1977
Paraguay 10 Jun 1992 a	Peru 11 Aug 1977 28 Apr 1978
Philippines 19 Dec 1966 23 Oct 1986	Poland 2 Mar 1967 18 Mar 1977
Portugal 7 Oct 1976 15 Jun 1978	Republic of Korea 10 Apr 1990 a
Republic of Moldova 26 Jan 1993 a	Romania 27 Jun 1968 9 Dec 1974
Russian Federation 18 Mar 1968 16 Oct 1973	Rwanda 16 Apr 1975 a
Saint Vincent and the Grenadines 9 Nov 1981 a	San Marino 18 Oct 1985 a
Sao Tome and Principe 31 Oct 1995	Senegal 6 Jul 1970 13 Feb 1978
Seychelles 5 May 1992 a	Sierra Leone 23 Aug 1996 a
Slovakia 28 May 1993 d	Slovenia 6 Jul 1992 d
Somalia 24 Jan 1990 a	South Africa 3 Oct 1994 10 Dec 1998
Spain 28 Sep 1976 27 Apr 1977	Sri Lanka 11 Jun 1980 a
Sudan 18 Mar 1986 a	Suriname 28 Dec 1976 a
Sweden 29 Sep 1967 6 Dec 1971	Switzerland 18 Jun 1992 a
Syrian Arab Republic 21 Apr 1969 a	Tajikistan 4 Jan 1999 a
Thailand 29 Oct 1996 a	the former Yugoslav Republic of Macedonia 18 Jan 1994 d
Togo 24 May 1984 a	Trinidad and Tobago 21 Dec 1978 a
Tunisia 30 Apr 1968 18 Mar 1969	Turkmenistan 1 May 1997 a
Uganda 21 Jun 1995 a	Ukraine 20 Mar 1968 12 Nov 1973
United Kingdom 16 Sep 1968 20 May 1976	United Republic of Tanzania 11 Jun 1976 a
United States of America 5 Oct 1977 8 Jun 1992	Uruguay 21 Feb 1967 1 Apr 1970
Uzbekistan 28 Sep 1995 a	Venezuela 24 Jun 1969 10 May 1978
Viet Nam 24 Sep 1982 a	Yemen 9 Feb 1987 a
Yugoslavia 8 Aug 1967 2 Jun 1971	Zambia 10 Apr 1984 a
Zimbabwe 13 May 1991 a	

- **International Covenant on Economic, Social and Cultural Rights of 1966**

Ratification, Accession (a)  
Succession (d)

### States parties

Afghanistan 24 Jan 1983 a	Albania 4 Oct 1991 a
Algeria 10 Dec 1968 12 Sep 1989	Angola 10 Jan 1992 a

Argentina 19 Feb 1968 8 Aug 1986	Armenia 13 Sep 1993 a
Australia 18 Dec 1972 10 Dec 1975	Austria 10 Dec 1973 10 Sep 1978
Azerbaijan 13 Aug 1992 a	Bangladesh 5 Oct 1998 a
Barbados 5 Jan 1973 a	Belarus 19 Mar 1968 12 Nov 1973
Belgium 10 Dec 1968 21 Apr 1983	Benin 12 Mar 1992 a
Bolivia 12 Aug 1982 a	Bosnia and Herzegovina 1 Sep 1993 d
Brazil 24 Jan 1992 a	Bulgaria 8 Oct 1968 21 Sep 1970
Burkina Faso 4 Jan 1999 a	Burundi 9 May 1990 a
Cambodia 17 Oct 1980 26 May 1992 a	Cameroon 27 Jun 1984 a
Canada 19 May 1976 a	Cape Verde 6 Aug 1993 a
Central African Republic 8 May 1981 a	Chad 9 Jun 1995 a
Chile 16 Sep 1969 10 Feb 1972	China 27 Oct 1997
Colombia 21 Dec 1966 29 Oct 1969	Congo 5 Oct 1983 a
Costa Rica 19 Dec 1966 29 Nov 1968	Côte d'Ivoire 26 Mar 1992 a
Croatia 12 Oct 1992 d	Cyprus 9 Jan 1967 2 Apr 1969
Czech Republic 22 Feb 1993 d	Democratic People's Republic of Korea 14 Sep 1981 a
Democratic Republic of the Congo 1 Nov 1976 a	Denmark 20 Mar 1968 6 Jan 1972
Dominica 17 Jun 1993 a	Dominican Republic 4 Jan 1978 a
Ecuador 29 Sep 1967 6 Mar 1969	Egypt 4 Aug 1967 14 Jan 1982
El Salvador 21 Sep 1967 30 Nov 1979	Equatorial Guinea 25 Sep 1987 a
Estonia 21 Oct 1991 a	Ethiopia 11 Jun 1993 a
Finland 11 Oct 1967 19 Aug 1975	France 4 Nov 1980 a
Gabon 21 Jan 1983 a	Gambia 29 Dec 1978 a
Georgia 3 May 1994 a	Germany 9 Oct 1968 17 Dec 1973
Greece 16 May 1985 a	Grenada 6 Sep 1991 a
Guatemala 19 May 1988 a	Guinea 28 Feb 1967 24 Jan 1978
Guinea-Bissau 2 Jul 1992 a	Guyana 22 Aug 1968 15 Feb 1977
Honduras 19 Dec 1966 17 Feb 1981	Hungary 25 Mar 1969 17 Jan 1974
Iceland 30 Dec 1968 22 Aug 1979	India 10 Apr 1979 a
Iran (Islamic Republic of) 4 Apr 1968 24 Jun 1975	Iraq 18 Feb 1969 25 Jan 1971
Ireland 1 Oct 1973 8 Dec 1989	Israel 19 Dec 1966 3 Oct 1991
Italy 18 Jan 1967 15 Sep 1978	Jamaica 19 Dec 1966 3 Oct 1975
Japan 30 May 1978 21 Jun 1979	Jordan 30 Jun 1972 28 May 1975
Kenya 1 May 1972 a	Kuwait 21 May 1996 a
Kyrgyzstan 7 Oct 1994 a	Latvia 14 Apr 1992 a
Lebanon 3 Nov 1972 a	Lesotho 9 Sep 1992 a
Liberia 18 Apr 1967	Libyan Arab Jamahiriya 15 May 1970 a
Liechtenstein 10 Dec 1998 a	Lithuania 20 Nov 1991 a
Luxembourg 26 Nov 1974 18 Aug 1983	Madagascar 14 Apr 1970 22 Sep 1971
Malawi 22 Dec 1993 a	Mali 16 Jul 1974 a
Malta 22 Oct 1968 13 Sep 1990	Mauritius 12 Dec 1973 a
Mexico 23 Mar 1981 a	Monaco 26 Jun 1997 28 Aug 1997
Mongolia 5 Jun 1968 18 Nov 1974	Morocco 19 Jan 1977 3 May 1979
Namibia 28 Nov 1994 a	Nepal 14 May 1991 a
Netherlands 25 Jun 1969 11 Dec 1978	New Zealand 12 Nov 1968 28 Dec 1978
Nicaragua 12 Mar 1980 a	Niger 7 Mar 1986 a
Nigeria 29 Jul 1993 a	Norway 20 Mar 1968 13 Sep 1972
Panama 27 Jul 1976 8 Mar 1977	Paraguay 10 Jun 1992 a
Peru 11 Aug 1977 28 Apr 1978	Philippines 19 Dec 1966 7 Jun 1974
Poland 2 Mar 1967 18 Mar 1977	Portugal 7 Oct 1976 31 Jul 1978
Republic of Korea 10 Apr 1990 a	Republic of Moldova 26 Jan 1993 a
Romania 27 Jun 1968 9 Dec 1974	Russian Federation 18 Mar 1968 16 Oct 1973
Rwanda 16 Apr 1975 a	Saint Vincent and the Grenadines 9 Nov 1981 a
San Marino 18 Oct 1985 a	Sao Tome and Principe 31 Oct 1995
Senegal 6 Jul 1970 13 Feb 1978	Seychelles 5 May 1992 a
Sierra Leone 23 Aug 1996 a	Slovakia 28 May 1993 d
Slovenia 6 Jul 1992 d	Solomon Islands 17 Mar 1982 d
Somalia 24 Jan 1990 a	South Africa 3 Oct 1994

Spain 28 Sep 1976 27 Apr 1977	Sri Lanka 11 Jun 1980 a
Sudan 18 Mar 1986 a	Suriname 28 Dec 1976 a
Sweden 29 Sep 1967 6 Dec 1971	Switzerland 18 Jun 1992 a
Syrian Arab Republic 21 Apr 1969 a	Tajikistan 4 Jan 1999 a
the former Yugoslav Republic of Macedonia 18 Jan 1994 d	Togo 24 May 1984 a
Trinidad and Tobago 8 Dec 1978 a	Tunisia 30 Apr 1968 18 Mar 1969
Turkmenistan 1 May 1997 a	Uganda 21 Jan 1987 a
Ukraine 20 Mar 1968 12 Nov 1973	United Kingdom 16 Sep 1968 20 May 1976
United Republic of Tanzania 11 Jun 1976 a	United States of America 5 Oct 1977
Uruguay 21 Feb 1967 1 Apr 1970	Uzbekistan 28 Sep 1995 a
Venezuela 24 Jun 1969 10 May 1978	Viet Nam 24 Sep 1982 a
Yemen 9 Feb 1987 a	Yugoslavia 8 Aug 1967 2 Jun 1971
Zambia 10 Apr 1984 a	Zimbabwe 13 May 1991 a

## End notes

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<sup>1</sup> See the Secretary-General's Reform Programme of 1997, which calls for the integration of human rights into all major activities of the Organization, part 1, section b, paragraphs 78-79. In 1998, the IASC established a Reference Group on Humanitarian Action and Human Rights (ICRC, ICVA, OHCHR, OCHA, UNHCR and UNICEF), which has designed several projects aimed at integrating human rights into humanitarian activities.

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One of these projects is the development of *Field Practices on International Humanitarian Law, Human Rights and Refugee Law* for use by humanitarian personnel.

<sup>2</sup> An internal discussion paper titled "OCHA and rights-based humanitarian action" is currently being prepared. The objective of the paper is to generate an internal discussion, and hence policy, on OCHA's role with respect to international humanitarian law and human rights.

<sup>3</sup> Comments were received from the Reference Group on Humanitarian Action and Human Rights, including the ICRC, OHCHR and UNICEF as well as OLA and WFP.

<sup>4</sup> The International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. The tribunal was established by Security Council resolution 827 (1993) of 25 May 1993.

<sup>5</sup> The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994. The tribunal was established by Security Council resolution 955 (1994) of 8 November 1994.

<sup>6</sup> The Statute of the International Criminal Court, adopted in Rome on 17 July 1998, has not yet entered into force.

<sup>7</sup> In the case of Bosnia-Herzegovina, the three parties to the conflict were invited by the ICRC on 22 May 1999 to sign an agreement on compliance with the Geneva Conventions of 1949.

<sup>8</sup> The applicability of international humanitarian law may, *inter alia*, be assessed on the basis of the "external/international" or "internal/national" status of the actor/party to an armed conflict. For instance, during the armed conflict in the province of Kosovo in 1998/99, provisions relevant to internal armed conflict applied in the relation between the forces of the Federal Republic of Yugoslavia (FRY) and the Kosovo Liberation Army (KLA), while all the Geneva Conventions (solely applicable in international armed conflicts) applied to the code of conduct between the Federal Republic of Yugoslavia and NATO.

<sup>9</sup> These are "minimum rules" applicable to all armed conflicts as affirmed by the International Court of Justice (ICJ) in the case of military and paramilitary activities in and against Nicaragua in 1986 (C. Sommaruga, ICRC, "Human rights and international humanitarian law", *UN Bulletin of Human Rights*, 91/1).

<sup>10</sup> Article 4 of the International Covenant on Civil and Political Rights (1966) outlines the circumstances which may constitute "public/State emergency" and thus may allow derogation: "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin".

<sup>11</sup> See also the analytical report of the Secretary-General on minimum humanitarian standards submitted pursuant to Commission on Human Rights resolution 1997/21, report of the Subcommission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1998/87), 5 January 1998.

<sup>12</sup> E.g., resolution 688 (1991) on Iraq; resolution 978 (1995) on Rwanda; and resolution 1019 (1995) on the former Yugoslavia.

<sup>13</sup> Analytical report of the Secretary-General on minimum humanitarian standards submitted pursuant to Commission on Human Rights resolution 1997/21, report of the Subcommission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1998/87), 5 January 1998, paragraph 85.

<sup>14</sup> The application of human rights in armed conflict was first considered by the UN at the International Conference on Human Rights in Tehran in 1968, which adopted resolution XXIII, "Human rights in armed conflicts". The Vienna Conference on Human Rights in 1993 reaffirmed the linkage between human rights and international humanitarian law in armed conflicts (the Vienna Declaration, part II, E, paragraph 96).

<sup>15</sup> According to the ICC Statute, the definition of "war crime" applies only to international armed conflicts, while "genocide" and "crime against humanity" have a wider application, including internal armed conflict.