Module 2.1
Applicable Legal Framework for Peace Operations: General International Law
Learning Objectives

• Apply main rules of international law that establish the legal framework for peace operations

• Identify and respond to violations of international humanitarian law, human rights law and refugee law that UNMOs may come across
Peacekeeping under the UN Charter

- Charter prohibits force by states, except in self-defence or with Security Council approval.
- Legal basis for the deployment of missions in Chapter VI and VII.
- United Nations to encourage respect for human rights & uphold international law.
International Human Rights Law (IHRL)

• Protects **dignity, freedom and equality**.

• Primarily establishes **obligations of states**. Non-state armed groups can also abuse human rights

• Continues to apply during **war or other national emergencies**

• UNMOs must “**ensure that human rights are promoted, respected, protected and advanced**” (UNMO Guidelines)
International humanitarian law (IHL)

- Applies to parties to armed conflict
- Applies to military peacekeepers only as long as engaged as combatants
- Regulates conduct of hostilities and restricts means of warfare
- Protects those who do not or no longer engage in hostilities, including peacekeepers
- Parties must respect and ensure respect for IHL
International Criminal Law

• **War crimes:** grave breaches of Geneva Conventions and other serious violations of IHL

• **Crimes against humanity:** key feature: systematic or widespread inhumane acts (murder, rape, torture etc.)

• **Genocide:** requires intent to destroy national, ethnic, racial or religious group as such

• **State duty to prosecute** international crimes

• **International tribunals** may prosecute (e.g. International Criminal Court)
## Main sources of international law

<table>
<thead>
<tr>
<th>International Human Rights Law</th>
<th>International Humanitarian Law</th>
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<td>United Nations Charter</td>
<td><em>International armed conflict:</em></td>
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## International Criminal Law

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<th>Rome Statute of the International Criminal Court</th>
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<td>Customary international law</td>
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UNMO responsibilities on violations of human rights and IHL

(see: Guidelines for UNMOs in Peace Operations / Policy on Human Rights in Peace Operations)

1. Proactively **identify** concerns
2. Diligently **record** information
3. **Report** to chain of command, human rights component, protection of civilians coordinator (based on SOPs)
4. Keep sensitive information **confidential**
5. **Refer** victims to **urgent support**
6. Make appropriate **intervention to protect**
7. Continue to **follow** the situation
Learning Activity: Identifying violations

• Several local sources provide information to an UNMO patrol in a zone with armed group activity.
• Based on the information provided, identify possible violations of:
  ▪ International human rights law,
  ▪ International humanitarian law,
  ▪ International criminal law and/or
  ▪ International refugee law
Case 1 – Cattle herding boy:

“A militia came to steal our cows. We had to flee into the swamps. They were shooting at everyone. We survived on wild plants & swamp water”

Violations to consider:
- Intentional attack against civilians (or) Indiscriminate attack
- Human rights to life
- Pillaging
- Arbitrary displacement
- Right to housing & freedom of movement
- Human rights to food, water & health
International Humanitarian Law: Conduct of Hostilities

- **Distinction** between civilians & combatants
- **Precaution** to minimize risks for civilians
- **Proportionality** to limit incidental harm to civilians
Case 2 – local journalist:

“The army prohibits humanitarians to give food aid to villagers from a particular ethnic group. They claim that some food will be diverted to rebel fighters. Malnutrition increased drastically, but we are not allowed to report it publicly.”

Violations to consider:

- Rapid and unimpeded passage of humanitarian relief for civilians in need
- Human right to food, including freedom from hunger
- No discrimination on grounds of ethnicity
- War crime of intentional starvation of civilians
- Human rights to freedom of expression, media and information.
Case 3 – Captured rebel fighter:

“The army used heavy artillery to shell our military field hospital. Many of my wounded comrades were killed. Those who survived were captured and were not given any medical care by the army.”

Violations to consider:

- Attack directed against hospital/place to care for wounded & sick
- Attack directed against protected persons hors combat/wounded
- Duty to collect and care for the wounded and sick
- Human rights to life, health and physical integrity
Protected Persons under IHL

- Civilians not directly participating in hostilities
- Medical and religious personnel of armed forces
- Wounded, sick and others hors combat
- Prisoners of war & interned armed group fighters
- Peacekeepers (unless engaged in military hostilities)
Case 4 – Girl associated with armed group:

“For the young people here, it is just natural to join the rebels. When I was 14 years old, they gave me a gun and told me to shoot a deserter.”

Violations to consider:

- Grave violation of children’s rights: recruitment
- Optional Protocol on Children & Armed Conflict
- War crime of enlisting children under 15 years
- War crime of murder
- Summary execution
- Human rights to life, integrity and education.
Six Grave Violations against Children in Armed Conflict
(UNSC Resolution 1612)

1. Killing or Maiming
2. Recruitment or use
3. Abduction of children
4. Sexual violence
5. Attacks on schools & hospitals
6. Denial of humanitarian access

Child: Anyone under 18 years!
Case 5 – School teacher:

“Armed fighters occupied our school. They took some of the girls with them. We could not stop them or they would kill us.”

Violations to consider:

• Grave child rights violation: Attack against schools
• Conflict-related sexual violence: Rape & sexual enslavement
• Freedom from torture
• Human right to life
• Non-discrimination based on gender
• Protection of schools as civilian object
• Human right to education
Conflict Related Sexual Violence

Incidents or patterns of sexual violence in conflict or post-conflict situations which include: rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, trafficking or any other form of sexual violence of comparable gravity against women, men, girls or boys.
International Refugee Law

• 1951 Refugee Convention:
  - Fear of **persecution** due to race, religion, political opinion etc.
  - International protected status
  - Protected under UNHCR mandate
  - Refugee rights

• 1969 African Refugee Convention
  Refugees also persons fleeing **armed conflict**

• 1984 Cartagena Declaration on Refugees
  Refugees also persons fleeing internal conflicts & generalized violence
Case 6 – Refugee woman:

“They are forcing us to go home. But our government will harshly punish us as soon as we cross the border. Our political police often rapes women who are deported.”

Violations to consider:

- Freedom from torture (in the form of rape)
- Prohibition of non-refoulement under 1951 Refugee Convention and Convention against Torture
- Deportation as a war crime or crime against humanity.
Rights of Refugees

- Prohibition of expulsion or return if real risk ("Refoulement")
- Prohibition of discrimination for race, religion or country
- Freedom to practice religion
- Right to acquire property
- Access to courts
- Public education
- Freedom of Movement
Internally Displaced Persons (IDPs)

- **Forced to flee** (e.g. due to war or natural disaster)
- Have **not crossed an international border**.
- No special international status. Home state must protect.
- Keep human rights & rights as citizens (e.g. right to vote).
- Protection reinforced by:
  - UN Guiding Principles on Internal Displacement
  - AU Convention on Internal Displacement in Africa
Lesson Take Away

- UNMOs should have a general understanding of the UN Charter, human rights, IHL and refugee law because it informs their work.

- In particular, UNMOs must be able recognize, record and report violations, while ensuring due confidentiality for victims and witnesses.

Questions?
Optional Learning Activity: Group Discussion

An armed group has often attacked refugees looting their property and sometimes abducting young women and girls.

The armed group lives in a village along with civilians of the same ethnic background. The members generally do not wear uniforms.

The state security forces are planning to launch operations to neutralize the group.

How should the operations be conducted to comply with international law?