



СЕВАСТОПОЛЬСКИЙ
ГОСУДАРСТВЕННЫЙ
УНИВЕРСИТЕТ

COURSEWORK

By discipline

«Modern Problems of Legal Science»

on the theme: «Humanitarian law as the emerging
doctrinal basis of world legal science»»

Speaker
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The object of study focuses on the system of humanitarian law.

The subject of the study is law enforcement as the emerging doctrinal basis of world legal science.

The aim of the study is humanitarian law as the emerging doctrinal basis of the world's legal sciences.

The objectives of the study are:

Study the historical development of international humanitarian law;

To study the development of international humanitarian law in the Russian Empire;

Study the Hague Conference and the further development of international humanitarian law;

Define the principles of international humanitarian law;

Study the Saint Petersburg Declaration;

To define the classification and principles of international humanitarian law;

Consider the protection of civilians;

Consider the protection of the wounded and sick;

Consider the protection of respect for international humanitarian law.

1. Russian participation in the codification of international humanitarian law

1.1. Historical development of international humanitarian law

The history of human civilization largely consists of an endless series of military conflicts through which States and peoples sought to resolve acute economic and political differences. At the same time, at any stage in history there have always been people openly advocating the humanization of the rules of war. The origins of contemporary international humanitarian law, or as it was commonly called until the middle of the XX century «Law of War», are linked to the general evolution of international law and the development of peacemaking ideas in the New Age

1. Russian participation in the codification of international humanitarian law

1.2. Development of international humanitarian law in the Russian Empire

Russian representatives took part in the work of the Geneva Conference of 1863, and in May 1867 the Russian Empire ratified this international act.

The Austro-Prussian War of 1866 demonstrated the need to clarify and expand a number of provisions of the Geneva Convention. In 1868, a regular congress was held in Paris, the purpose of which was to extend the Geneva articles to naval battles, so-called «additional articles of 1868».

The Hague Peace Conference was the next important stage in the development of international humanitarian law. The initiative to convene the «first Parliament of the World» came again from the Russian Government, concerned about lagging behind in the arms race with other great powers

1. Russian participation in the codification of international humanitarian law

1.3. The Hague Conference and further development of international humanitarian law

The first peace conference opened on Thursday 6 (18) May 1899 in one of the most ancient and beautiful cities of the Netherlands - The Hague, in a small picturesque castle of the 17th century, named «Huis ten Bosch» (Forest Castle). The Hague is the Netherlands' National Park. A total of 109 delegates from 26 countries attended the conference.

The preparatory work of the representative assembly was divided among the three commissions:

The first Commission considered issues related to the arms reduction mechanism

The second Commission dealt with the problems of the humanization of war. The second

Commission was divided into two Subcommissions:

1st Sub-Commission to elaborate a convention on the laws and customs of war

The Second Sub-Commission considered the possibility of extending the provisions of the Geneva Convention, as supplemented, to naval battles.

A third commission, which examined the possibility of using mediation and arbitration institutions in military conflicts.

Despite certain shortcomings, the Hague Peace Conference of 1899 was a crucial stage in the codification of international law, the first serious step in humanizing the war. However, the Hague Peace Conference of 1899 was an important step towards the humanization of the war.

2. Fundamental principles of international humanitarian law

2.1. Principles of international humanitarian law

For any branch of law, including international law, the principles underlying the starting point are central.

Together, the principles of international law regulate public relations at the inter-State level and express the fundamental rules of conduct of the participants in the sphere of regulation of the norms of international law.

The principles take on particular importance in situations of armed conflict, as the main bases for the legal regulation of the sphere of social relations in question in the area of the beginning and end of war and the rules governing its conduct. Without principles, the meaning and purpose of specific rules of war cannot be fully understood and utilized.

2. Fundamental principles of international humanitarian law

2.2. Saint Petersburg Declaration

The fundamental principles were first established in the Saint Petersburg Declaration on the Abolition of the Use of Explosive and Incendiary Bullets of 1868, which became the basis for all subsequent international legal regulation of the conduct of hostilities. These include the following:

The principle of distinction excludes all attacks against the civilian population and any indiscriminate attacks.

Prohibition of unnecessary suffering. According to the wording of the Saint Petersburg Declaration «the use of such a weapon, which upon inflicting a wound on the enemy for no use increases the suffering of the people put out of order, or makes their death inevitable, must recognize not the mentioned purpose».

The principle of proportionality, which is aimed at prohibiting acts likely to cause destruction or loss of life that are inconsistent with the objective of weakening the enemy's military forces; is not dictated by imperative military necessity or excessive in relation to the concrete and direct military advantage to be achieved in this way.

2. Fundamental principles of international humanitarian law

2.3. Classification and principles of international humanitarian law

Some scientists see the system of principles as follows:

The principle of humanity as the central principle of the system, ensuring its logical finality and linking all principles together. All other principles are, in essence, specific;

The principle of the inadmissibility of the use of barbarous and inhumane means of combat, or the principle of restricting the means and methods of warfare at war;

The principle of the protection of civilians and civilian objects;

The principle of military necessity;

The principle of responsibility of parties to armed conflicts for war crimes.

3. Principles of humanitarian law in the conduct of hostilities

3.1. Protection of civilians

The civilian population in ISL(international state law) is defined to the contrary as including all persons who are not members of the armed forces of a party to the conflict or participants in spontaneous mass action (levee en masse). Thus, the definition includes civilians accompanying the armed forces but not part of them, such as war correspondents and, generally, private contractors and civilian intelligence or law enforcement officials, even though some of them may be entitled to prisoner of war status after capture. On the other hand, as has been shown, all armed forces, groups and units demonstrating a sufficient level of military organization and acting de facto on behalf of and with the consent of a party to the conflict, shall be considered as part of its armed forces and shall therefore not apply to civilians, regardless of their right to prisoner of war status or the privilege of a combatant.

3. Principles of humanitarian law in the conduct of hostilities

3.2. Wounded and sick

Initially, treaty-based ISL governing international armed conflicts strictly limited its protection to wounded, sick and shipwrecked members of armed forces.

And only in 1977 with the adoption of the Additional Protocols I and II the concepts of «wounded», «sick» and «shipwrecked persons» were finally defined as including all persons, regardless of their military or civil status

Respect, protection and care

Wounded, sick and shipwrecked persons shall be respected and protected in all circumstances and wherever they may be

3. Principles of humanitarian law in the conduct of hostilities

3.3. Respect for international humanitarian law

Over the past 150 years, ISL has become one of the most extensively codified areas of international law, complemented by an extensive body of customary rules. ISL currently imposes a variety of restrictions on means and methods of warfare and proposes detailed regimes for the protection of the civilian population and other categories of persons affected by the conflict. Thus, modern ISL effectively refutes Cicero's assertion that *in silent enim leges inter arma* (in time of war the laws are silent), and clearly proves that armed conflicts and those who lead them are not outside the scope of the law.

Many different factors influence compliance with ISL in times of war: material interest, expectation of reciprocity, mutual trust and respect, public opinion, criminalization as a deterrent.

Humanitarian law enforcement as the emerging doctrinal foundation of the world's legal sciences - to seek to alleviate human suffering caused by armed conflict

THANK YOU FOR THE
ATTENTION!