
UNOFFICIAL TRAINING OF INTERNATIONAL HUMANITARIAN LAW IN IRANIAN CIVIL SOCIETY

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INTRODUCTION

Iran had ratified the four Geneva Conventions and their two additional protocols since 60 years ago. Creating cultural and educational grounds is prerequisite to promoting human rights and international humanitarian law (IHL) standards in various nations. Islamic Republic of Iran is located in a region where such grounds should necessarily be provided because the Iranian nation is exposed to regional environment and its various positive and negative aspects. Proximity to Caspian Sea in the north and access to warm waters of Persian Gulf

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in the south as well as neighborhood to the Indian Subcontinent, Pakistan and Afghanistan in the east, and with Turkey and Iraq in the west has turned Iran into a civilizational, cultural, economic and political crossroads. Many researchers, especially Middle East researchers, believe that Iran has been a civilizational center in international system.⁽¹⁾ Historical backdrop and current situation of Iran show that it has affected its neighbors while being impressed by them. Some of those interactions can be followed up within frame of international humanitarian law. Conflicts, wars, skirmishes, and invasions, on the one hand; and reconstruction, mediation, and cooperation, on the other hand, have occurred frequently in the four corners of our country. Repetition of such occurrences and the need to spread humanitarian law culture encourage promotion of active and potential capabilities of the country with regard to humanitarian law. The current paper poses a key question: How we can institutionalize humanitarian law education in Iran as an Islamic country?

To answer this question, it is assumed that unofficial education is more efficient for education and institutionalization of humanitarian law in the Islamic countries like Iran. To test this theory, the researcher has taken advantage of such tools as observation, testing and assessment of study results which he has gained over sixteen years of training human rights and humanitarian law at various universities inside and outside of Iran including Tehran and other cities in Iran as Islamic and traditional cities of Islamic republic of Iran (from 1995 to 2011). The research has been carried out according to causative – explanatory method. Data has been collected through library method (taking research notes from book, documents, papers, and interviews) and field (observation, experiment, and statistical analysis of data) studies. The researcher maintains that local and

mental presumptions will have an impact on the content on any study in the field of social science. Therefore, possibility of error resulting from this issue has been taken into consideration. It should be noted that this has been one of a limitation of this study and facilities for a field research have been considered to overcome that limitations. The researcher believes that such a research will be useful by taking advantage of such field methods and availing of such statistical tests as T-test, and Chi-square test.

1. DEFINITION OF IHL

Presenting a single definition of concepts related to social sciences seems difficult, especially when it comes to law. Humanitarian law is a term for which many definitions have been offered. Therefore, humanitarian law can be defined from two angles: international law and human rights.

1.1. Humanitarian law is, in fact, a branch of general international law and shows all its characteristics under that title.⁽²⁾ International humanitarian law is a collection of international regulations which are of contractual or customary origin and are only formulated for the sake of humanitarian issues related to international or national armed conflicts. Humanitarian law also leads to limitations for belligerent parties with regard to using certain war tools and methods due to humanitarian reasons.⁽³⁾ Therefore, international humanitarian law is a branch of international law that limits use of force in armed conflicts through two features: a) differentiating between those who are not directly involved in the conflict; and b) use of needed violence to achieve goals of the conflict.⁽⁴⁾ This definition guides us to principles of international humanitarian law including differentiation between

the military and civilians, avoiding of attacking those who are outside the battlefield, avoiding of inflicting unnecessary suffering, and principle of necessity and proportion. Therefore, humanitarian law entails limitations. International humanitarian law does not advise against use of violence, does to support all belligerent parties, does not differentiate among goals of conflict, cannot forbid one belligerent party from being enemy to the other party, and also, international humanitarian law assumes that belligerent parties behave wisely.⁽⁵⁾

1.2. Another definition of international humanitarian law says that international humanitarian law is a branch of international human rights law which applies to international armed conflicts and, to some extent, to domestic armed conflicts. Some have defined humanitarian law as principles and rules which restrict use of force in armed conflicts and whose aims include: supporting those who are not directly involved in a conflict, that is, the injured, patients, shipwrecks, prisoners of war and civilians; as well as limiting violent consequences of war in order to achieve objectives. In other words they exhort against vengeance which has nothing to do with achieving a war's objectives.⁽⁶⁾

In view of the abovementioned definitions, which were based on international law and human rights, humanitarian law is divided in two broad categories: A) principles that restrict the right of belligerent parties for using war methods and tools; and B) principles that support individuals during armed conflicts.⁽⁷⁾ Such definitions of humanitarian law complicate education of international humanitarian law; so that, without theoretical and operational backdrop, you cannot teach international humanitarian law to others in a correct way. The ex-representative of International Committee of Red Cross (ICRC) office in Iran believed that we must learn how to support people in wartime,

not through reading books, but in practice.⁽⁸⁾ This seems true in view of vastness and complexities of international humanitarian law.

2. GOALS AND SOURCES OF INTERNATIONAL HUMANITARIAN LAW

The main goals of international humanitarian law include assuring peace and supporting people along with the establishment of a sustainable order, promoting social progress and ensuring freedom. For this reason, it is believed that international humanitarian law is part of the law which is meant to govern armed conflicts, which usually culminate in war.⁽⁹⁾ War is a threat to peace, human life, development and freedom. International humanitarian law is trying to reduce war through creating obstacles to accepting war and changing methods that are used in war. Also, international humanitarian law tries to support civilians and other parties who are not engaged in armed conflicts. As for sources of international humanitarian law, the main source of such law was religious and cultural rules and regulations up to the 19th century. Since the beginning of the 19th century, new developments took place in international humanitarian law which led to establishment of new regulations based on governments' experiences in modern wars⁽¹⁰⁾; so that, current sources for international humanitarian law include: 1. custom, 2. conventions, contracts and treaties, 3. judicial procedure, 4. UN resolutions, and 5. resolutions issued at international conferences of International Committee of the Red Cross and Red Crescent Society.

Today, the four Geneva conventions of 1949 and two protocols that were added to them in 1977 and the third in 2005, are specially mentioned as major sources for international humanitarian law. Those

conventions are considered to be the most important international tools for defending human dignity in war.⁽¹¹⁾ Until December 20, 2010, some 194 countries have joined the four conventions, 170 countries have signed the first additional protocol and 165 countries have also acceded to the second additional protocol and 54 countries have joined the third protocol.⁽¹²⁾ It should be noted that Article 90 of the first additional protocol to Geneva conventions has projected issuance of a statement for accepting qualification of an international fact-finding commission on the four Geneva conventions and two additional protocols and 72 countries have accepted that statement up to December 20, 2010.⁽¹³⁾ Due to comprehensive nature of those conventions, due attention is needed to providing cultural grounds in every country. Training humanitarian law in every country is closely related to training four Geneva conventions and their additional protocols. According to those conventions, the political units including states, international governmental and non-governmental organizations, transnational corporations and specially International Committee of the Red Cross, shoulder the main responsibility for educating and expanding humanitarian law culture.⁽¹⁴⁾ Domestically in Islamic Republic of Iran, this will highlight the role of such educational and political institutions as Presidential Office; Ministry of Science, Research and Technology; High Council of Cultural Revolution; Interior Ministry; Ministry of Foreign Affairs; Education Ministry; Ministry of Information (Intelligence Services); Religious Clerics and Religious Schools; and the Red Crescent Society of the Islamic Republic of Iran. Also, consultative and operational assistance by nongovernmental organizations with regard to international humanitarian law are very useful. From international viewpoint, role and measures taken by International Committee of the Red Cross,

especially the role of its representative office in Iran become more prominent. Logical and dynamic interaction with local office of ICRC along with providing technical and professional assistance is very influential in achieving the goals of four Geneva conventions. The global community has asked ICRC to support countries' efforts for translating international humanitarian law for educational and executive purposes.⁽¹⁵⁾ The United Nations' subsidiaries as well as nongovernmental organizations can help International Committee of the Red Cross promote suitable culture for the acceptance of international humanitarian law.

3. EDUCATIONAL NECESSITIES OF HUMANITARIAN LAW IN ISLAMIC REPUBLIC OF IRAN

As we said at the beginning of this study, Iran's political geography and Islamic ideology is a good reason for more attention to enforcement of humanitarian law. Iran is one of three non-Arab countries of the Middle East. The region has been engaged in many long-term and short-term conflicts due to ideological, historical and political reasons. Arab – Israeli conflicts, imposed war between Iran and Iraq, Iraq's invasion of Kuwait and response of US allies to that country, as well as to 10 years of assaults by the United States on Afghanistan and Iraq, are but examples of regional tensions. Naturally, those conflicts encompass issues that are directly related to humanitarian law. Breakout of such wars and conflicts necessitates comprehensive and sustainable education of international humanitarian law because our region and neighbors have continuously been involved in bloody conflicts. For example, Iran's northwest neighbors in Caucasus have gone through challenging conflicts with

Armenia and Republic of Azerbaijan still being far from complete peace. Iran, especially Red Crescent Society, played a laudable role in reducing people's suffering during those clashes. Institutionalization of that role in the light of education of international humanitarian law is one of the necessities that put more stress on education of international humanitarian law. Another matter that necessitates such an education is extreme importance of our eastern borders. The United States' attack on Afghanistan and downfall of Taliban regime, were two issues which could be followed up (both during and after the battle) within frame of international humanitarian law. Since March 2003, US assault on Iraq has been added to human rights discussions in our region. The said conflicts have caused many refugees to flow into Iran. During past three decades, Iran played host to about three million Afghans, Iraqis, Kuwaitis and Azeris asylum seekers. For several straight years, Iran has ranked the first in the world in terms of hosting asylum seekers. According to state figures, there were about 1.7 million Afghan refugees and 202,000 Iraqi refugees in Iran in 2003. According to figures released by the United Nations High Commissioner for Refugees, 630,000 Afghan refugees have returned to their country between downfall of Taliban and December 9, 2003.⁽¹⁶⁾ According to the UNHCR they are 982,210 refugees in Iran until December 2011.⁽¹⁷⁾

Presence of about 3 million asylum seekers in Iran and the country's first rank in terms of hosting such people, calls for more attention to education of international humanitarian law to authorities and related organizations. Diversity of nationalities in Iran's neighboring countries and the country's high capacity for accepting various ethnoses has encouraged asylum seekers of any nationality to see Iran as a good haven during domestic conflicts. Kurds living in northern

and Shias living in southern parts of Iraq after the second Persian Gulf war; a high number of Afghan people after occupation of Afghanistan by the former Soviet Union and also during civil war in that country; emigration of many Kuwaitis during the second Persian Gulf war; and asylum seeking of many Azeris during war with Armenia, are major instances of refugee case that remind our country of the necessity to pay more attention to international humanitarian law in the region and inside the country. In addition to its neighbors, Iran has always kept its doors open to Muslims from Bosnia and Herzegovina and also Palestine who were injured during clashes. Exercise of such humanitarian conduct by Iran indicates interest of the Iranian nation in the issue of international humanitarian law. This interest, in addition to regional necessities, require use to make education of international humanitarian law a top priority of Islamic Republic of Iran.

We must also not forget about natural disasters. Many natural disasters are linked to relief aid by humanitarian institutions. Earthquakes in Roudbar and Bam, long draught and annihilation of natural lagoons, storms and tempests are but few examples of natural disasters that have dealt heavy blows on Islamic Republic of Iran. Mortalities and damages resulting from some of those disasters are sometimes much higher than human conflicts. If a country has not thought of a good plan to manage the aftermath of such disasters, or if they are handled in an irresponsible manner, its gravity will not be less than breaching Geneva conventions. For this reason, relief training and availing of assistance of such humanitarian bodies as International Committee of the Red Cross, International Federation of the Red Cross and Red Crescent Societies, Medecin Sans Frontiere (MSF: Physicians without Frontiers), and similar bodies, is a necessity. The experience in Bam was a great lesson with regard to taking advantage

of trainings and techniques of modern relief aid in the country and close cooperation with International Committee of the Red Cross.

4. EDUCATIONAL SOLUTIONS

4.1. OFFICIAL EDUCATIONS

A) Schools and Universities: Educating international humanitarian law along with culture of peace and tolerance can be institutionalized through official educational bodies. Elementary school, junior high school, high school, pre-university centers, universities and colleges can play a lofty role in this regard. Taking advantage of innovative educational methods, especially simulation, case studies and clinical method can be very helpful in this regard.⁽¹⁸⁾ Though schools and universities contain the biggest part of the Iranian population, they have not used all their capacity for this purpose. When it comes to educational method, schools and universities are mainly teacher-based. Due to excessive reliance on memory of students, this method will lose in effectiveness in the long-run. Educating international humanitarian law requires educational methods that will help students to remember the contents over a long period of time.

B) Disciplinary and Military Institutions: Disciplinary forces (police), the Army, Islamic Revolutionary Guards Corps and Basij are obliged to learn about principles of international humanitarian law due to the Islamic Republic of Iran's commitment to observe Geneva conventions. This arises from articles 47, 48, 137, and 144 of the first, second, third, and fourth Geneva conventions. According to those articles, member governments of the said conventions are duty-bound to disseminate concepts and texts of the said conventions and include them in educational programs considered for the military as well as in

their national curricula: “The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programs of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.”⁽¹⁹⁾ Also, according to Article 83 of the first additional protocol of Geneva conventions dated August 12, 1949; which was approved on June 8, 1977, “The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programs of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population.”⁽²⁰⁾ Interaction between disciplinary and military forces and international humanitarian law will help them behave suitably in this regard. This will also include relief and medical forces besides fire brigades and other centers responsible for handling unexpected accidents. Since they are official institutions of a country, educating them through specialistic educational centers would be very effective.⁽²¹⁾ Predicting an international humanitarian law educational program, encompassing main topics, subjects, and sections is a must.

4.2. UNOFFICIAL EDUCATIONS

Iran is a country where unofficial educational institutions can play a role in education international humanitarian law to children, young adults, youth, and adults. Besides modern unofficial tools such as newspapers, magazines, radio, television, satellite, Internet, websites

and weblogs, cinema, theater, culture houses etc., the Iranian society enjoys good background in terms of using Islamic and traditional tools of education. Nobody can deny the important role played by mosques, Iranian traditional poetry and music, books, passion plays and so forth in unofficial education of the Iranian youth.⁽²²⁾ Many topics related to international humanitarian law can be educated through such unofficial institutions. The factor that can highlight their role is drawing up contents of international humanitarian law texts which would be taught through such unofficial institutions. Many principles of international humanitarian law can be found in epic religious texts of Iran.⁽²³⁾ Putting religious and national beliefs of the Iranian nation in order, will make them play a greater role in promoting peace and tolerance in the country. Educating principles of humanitarian law can be carried out through cooperation between specialists and officials in the field of unofficial educations. Taking advantage of other countries' experiences will help reconcile traditional culture with principles of humanitarian law. The Japanese have tried to blend principles of international humanitarian law with the teachings of Buddha. After Japan lost three million people during the World War II, the Japanese came to realize the value of peace and took advantage of Buddhist teachings, powerful Japanese traditions, and a correct understanding of the new international system to promote and institutionalize principles of international humanitarian law, peace and friendship in the Japanese society.⁽²⁴⁾

CONCLUSION

What happened after victory of the Islamic Revolution, especially during eight years of imposed war with Iraq, posed serious challenges

to humanitarian law culture and literature. Blatant breach of international humanitarian law by an invading country⁽²⁵⁾ and silence of other countries, especially big powers and international bodies, were major challenges to international humanitarian law. On the other hand, denying positive historical backdrop of humanitarian law and suggesting new ways, which only lasted for a short time, were major pitfalls in the country with regard to international humanitarian law. Choosing the symbol of crescent which was not used at any Iranian temple and was not associated with any historical honors by Iranian citizens, especially imposition of an eight-year war on Iran by a Muslim and neighboring country (Iraq) and all-out support of other Arab countries for the invader, greatly damaged the morale of Iranian citizens. However, despite blatant breaches of human rights by the aggressor, Iranian military forces never ignored the minimum humanitarian standards. Despite questioning performance of modern international institutions by the government and public opinion, this was a result of unofficial and traditional teachings. Those teachings resulted in good behavior with prisoners of war, not attacking civilian places, attention to the wounded and observing principles of manliness in war. Despite the end of that war, the Iranian society is currently facing many challenges as a result of invasion of Afghanistan and Iraq by the United States.

On the other hand, long-term economic sanctions imposed on Iran by the United States have led to domestic tensions and perpetuated damages done to international humanitarian law literature and have even cast doubts on their credibility. Can we suffice to official educations for promoting culture and literature of international humanitarian law under such conditions? Especially, when taking into account that principles of international humanitarian law should be

taught to all citizens.⁽²⁶⁾ This has added to complexity of international humanitarian law education in Iran. Conditions, methods and solutions for educating and training international humanitarian law vary from one country to another.⁽²⁷⁾ The writer believes that capabilities of the Iranian society with regard to Islamic and unofficial education can still be used for promotion of humanitarian law in the country. Iran enjoys good historical background with respect to international humanitarian law culture and literature and taking advantage of national achievements along with religious teachings can be very beneficial. A renewed approach to history of ancient Iran, Iranian poetry and music, Norouz (New Year) and Mehregan (autumn) festivals in addition to attention to role of mosques and religious centers is very important. Moreover, studying damages done to international humanitarian law requires an accurate scientific research by taking advantage of statistical tests and field studies. The following points are important in this regard:

1. Islamic, Unofficial, and traditional education is the most useful method for promoting international humanitarian law culture in the Islamic Republic of Iran;
2. Official humanitarian law education in Iran should be done through modern methods such as case study, simulation or other research-based methods;
3. Taking advantage of unofficial education requires accurate and scientific planning in addition to merging epic and religious literature with principles of international humanitarian law as stipulated by Geneva conventions and their additional protocols;
4. Reviewing official and unofficial literature of the country on humanitarian law should be priority number one of long-term plans in the country;

5. Promoting humanitarian law culture is intertwined with large-scale issues in Iran. Without solving major cultural, economic, political and industrial problems humanitarian law cannot be promoted in the country.

6. Performance of big powers, international organizations and International Committee of the Red Cross toward the Islamic Republic of Iran will promote international humanitarian law culture in the country;

7. Taking advantage of statistical methods and field studies is necessary for recognizing damages done to humanitarian law culture and literature in Iran;

8. Special attention should be paid to taking advantage of modern, national, and traditional symbols. Taking advantage of the symbol of the Red Cross, Red Lion and Sun, Red Crescent and Red Cristal due to the third additional protocol, the Islamic Republic of Iran should made a revision policy toward its national symbol form Red Crescent to the Red Lion and Sun symbol. This revision will be an appropriate decision in view of Geneva conventions. Islamic Republic of Iran must also encourage neighbor countries in the area to use common symbols as the third additional protocol mentioned. In that way Iran could encourage other Muslim-Persia civilization countries to use symbol of Red Lyon and Sun as one of the third additional protocol which are rooted in their culture and civilization or in the culture and civilization of the region. Countries such as Tajikistan, Azerbaijan, or Afghanistan could be joining to this symbol of the Geneva Conventions and its third additional protocol.⁽²⁸⁾ ❖

NOTES:

1. See James A. Bill and Robert Springborg, *Politics in the Middle East*, New York: Addison Wesley Longman, 2000.

2. Cristina Pellandini, *Le droit international humanitaire*, Geneve: CICR, 1996, p. 5.

3. Cristina Pellandini, *International humanitarian law*, Strasbourg, I.I.H.R, 1996, p. 1; also see Mehdi Zakerian, "International Humanitarian Law: US and Israel's Positions," *Regional Studies Quarterly*, 1st year, No. 2, Spring 2001, pp. 31-44.

4. Marco Sassoli and Antoine A. Bouvier, *How Does Law Protect in War*, Geneva: ICRC, 1999, p.67.

5. *Ibid.*, pp.67-68.

6. For further information see Thomas Buergental, *International Human Rights*, St. Paul, Minn: West Publishing Co., 1996, pp. 262-298.

7. Brigitte Oederlin, *Droit international humanitaire*, Strasbourg, IIOH, 1998, p.3.

8. Peter Shtoker, *Discussion Meeting Between Doctorate Students of International Law of Science and Research Unit and Head of Representative Office of International Committee of the Red Cross in Iran*, December 10, 2003.

9. Hans Peter Gasser, *Le droit international humanitaire*, Geneve: Institut Henry Dunent, 1993, p. 3.

10. CICR, *Qu'est que le droit international humanitaire*, Geneve: services consultifs en droit international humanitaire, CICR, 1998, p. 1.

11. Christophe Girod, "les voix de la guerre," *Faits et gestes*, No. 9, Mars 1955, p. 1.

12. CICR, "conventions de Geneve de 12 aout 1949 et Protocoles Additionnels de 8 juin 1977: Ratification, Adhesions, et successions," State Parties to the International Humanitarian Law and Other Related Treaties as of 20-Dec-2010

<http://www.cicr.org/parties>, p. 8.

13. Ibid.

14. Umesh Kadam, "Teaching International Humanitarian Law: An Overview of an ICRC Dissemination Programme," *International Review of the Red Cross*, No. 841, 31.05.2001, p. 167.

15. Dietmar Klemmer, "Training in International Humanitarian Law," *International Review of the Red Cross*, No. 839, p. 654.

16. Philippe Lavanchy, "The Diplomacy of UNHCR in Negotiating with Countries," *Lecture at Imam Sadeq University*, 9 December 2003, p. 2.

17. <http://www.unhcr.org/cgi-bin/txis/vtx/page?page=49e486f96>.

18. See Mehdi Zakerian, *Simulation in International Relations*, Tehran: Strategic Studies Center, 2003.(available in Persian)

19. International Committee of the Red Cross, *International Humanitarian Law: Answer to Your Questions*, translated by Hajar Siah-Rostami, Tehran: Amir Kabir Press, 2002, p. 19.

20. Ibid.

21. See Mehdi Zakerian, "Simulation in International Relations (Discourse)", *Newsletter of Foreign Ministry's Faculty of International Relations*, 1st year, No. 4, June 2001, p. 7.

22. See Iraj Vamaqi, "Impact of Iranian Civilization on Other Civilizations", *Political – Economic Ettelaat*, 15th year, Nos. 1 & 2, October & November 2000, 157 – 158, pp. 4-19.

23. See Mohammad ibn Jamaledin Makki al-Ameli, *Al-Lomat el-Dameshqiyyah*, Part II, Al-Jihad Book, al-Najaf, Manshurat Jame'at al-Najaf al-Dini, Bitra Press, pp. 396-400.

- CICR, *Extraits des chroniques arabo-islamiques*, Caire: Elias Modern Press, 1993.

24. See: A Lecture by Dr. Kusei Morimoto at Japan and Civilizational Dialogue Roundtable, Tehran, International Center for Dialogue among Civilizations, September 2003.

25. Secretary general of the United States announced Iraq as beginner of the imposed war against Iran in a report that was published after reviewing documents and national evidence.

26. Umesh Kadam, op. cit.

27. Dietmar Klenner. op. cit.

28. Many countries in the Iranian civilizational area can adopt the third recognized symbol of Geneva conventions. Many Central Asia and Caucasus countries as well as Afghanistan can be potentially consulted by Foreign Ministry of the Islamic Republic of Iran.