

Advancing together

RULE OF LAW UPDATES AND PERSPECTIVES



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LexisNexis® Capital Monitor's editorial team prepares the Advancing Together, Rule of Law Updates and Perspectives from the Asia Pacific bulletin. The team is located in the Press Gallery of Parliament House, Canberra.

Antoaneta Dimitrova

Head of Current Awareness, LexisNexis Pacific

Tamlyn Hex

Corporate Marketing & Event Manager

Michelle Santos

Graphic Designer

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This is a special issue to commemorate the 75th anniversary of the Geneva Conventions, the cornerstone of international humanitarian law. The issue features the humanitarian work of the International Committee of the Red Cross, a neutral, impartial and independent organization with an exclusive mandate to help people around the world affected by armed conflict and other violence.



ICRC

IN THIS ISSUE



Image credit to the International Committee of the Red Cross.

4 International humanitarian law and the private sector

Fauve Kurnadi

7 Myanmar: Language as a tool for accessibility and respect of IHL

Thaw Tar Swe Zin

9 Republic Act 11188: A progressive law providing special protection to children affected by armed conflict in the Philippines

Allelu de Jesus

13 The rules of war reflecting the earnest wish to see peace prevail among people

Hitomi Makabe



ANTOANETA DIMITROVA
HEAD OF CURRENT AWARENESS
LexisNexis Pacific

A message from Antoaneta

Hello, and welcome to another edition of Advancing Together where we excitedly share with you the latest updates from our own and other organisations' efforts to strengthen the Rule of Law across the Pacific region.

First and foremost, we are thrilled to announce the successful launch of our Cook Islands Project earlier this year. In a groundbreaking initiative, LexisNexis, partnered with the Cook Islands Government to launch a website that simplifies access to the laws of the Cook Islands. This project, developed in collaboration with the Cook Islands Parliamentary Services, involved a major consolidation of laws and marks a significant advancement in accessibility to the law.

The new platform, accessible at <https://cookislandslaws.gov.ck> since June 24, is a testament to the commitment of both LexisNexis and the Cook Islands Government to enhance the transparency, efficiency, and accessibility of legal resources. By leveraging LexisNexis' editorial and publishing technology, the Laws of the Cook Islands website makes the full, recently consolidated text of Cook Islands legislation freely available.

This development not only symbolizes a leap forward in legal accessibility but also strengthens the rule of law in the Cook Islands by ensuring that legislators, legal practitioners, scholars, and the public have easy and free access to the consolidated legislation of the nation.

The collaboration between LexisNexis and the Cook Islands Government, with the invaluable support of the Cook Islands Parliamentary Services and Cook Islands Crown Law Office, represents a shared vision for a more informed and legally empowered society, see [here for more](#).

But now, I would like to take you to the heart of this edition, where we celebrate the anniversary of the four [1949 Geneva Conventions](#) and the 160th anniversary of the first Geneva Convention of 1864 in a special dedicated issue with the International Committee of the Red Cross (ICRC) as they share some of the invaluable work they do in the Pacific region.

The ICRC's efforts in promoting international humanitarian law, protecting civilians in armed conflicts, and aiding those affected by violence and natural disasters are truly commendable. We are honoured to feature the projects they have chosen to highlight here today as we share the pursuit of upholding human rights and the Rule of Law.

In this issue, you will find insightful articles and expert analyses that delve into the latest developments and challenges in the legal landscape in the Pacific. We invite you to explore these resources and engage with us as we continue to shape a more just and equitable future for the region.

Thank you for your unwavering support and commitment to the Rule of Law. Together, we can make a lasting impact and create a brighter tomorrow for the people of the Pacific.

Happy reading,

Antoaneta



DAVE TUCK
HEAD OF MISSION FOR THE
INTERNATIONAL COMMITTEE OF
THE RED CROSS
Australia

A message from Dave

As Head of Mission for the International Committee of the Red Cross in Australia, I would like to express my sincere appreciation to Lexis Nexis Asia Pacific for the opportunity to mark the anniversary of the four [1949 Geneva Conventions](#) and the 160th anniversary of the first Geneva Convention of 1864 in a special dedicated edition of the *Advancing together: Rule of Law Updates and Perspectives* publication.

As one of the cornerstones of modern international humanitarian law, commemoration of the Geneva Conventions is taking place in complex, uncertain and tense times. According to our assessment as a global humanitarian response organization with a mandate to act in armed conflict, applying international legal criteria to factual circumstances, today there are over 120 of such conflicts ongoing around the world. Many of these are increasingly protracted and involve more than 60 states and 120 non-state armed groups.

The International Committee of the Red Cross continues to work in approximately 100 countries around the world to prevent and mitigate the humanitarian consequences of armed conflict. We carry out this work drawing on 160 years of experience as a global humanitarian actor and the guardian of international humanitarian law; experience which proves that when the law is respected, lives are saved and our shared humanity is protected.

By focusing on the protection of people through rules that uphold basic human values, international humanitarian law has stood the test of time. The existing law, including as enshrined in the Geneva Conventions, plays a vital role in addressing the humanitarian consequences of armed conflict. It may have to adapt to address the humanitarian consequences of future battlefields, including new means and methods of warfare, and States must continue to ensure that the it evolves, but any new rules must build on and strengthen existing legal frameworks, including international humanitarian law. States must continue to ensure that the law evolves, and any new rules must build on and strengthen existing legal frameworks, including international humanitarian law.

We must remember the stakes and purpose for upholding and recommitting to the rules codified in international humanitarian law is, at its core, to reduce human suffering. The Geneva Conventions have been fundamental to protecting persons affected by armed conflict in the past 75 years. The principle of humanity underpinning international humanitarian law is a value shared by the whole international community through the universal ratification of the Conventions. Australia, for example, became one of eighty-three States in 2022 that endorsed the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas ([Political Declaration](#)). The Political Declaration is a new and significant development in the long-standing and ongoing efforts to protect civilians from the use of explosive weapons in populated areas – an issue which has been of growing concern for a number of states, the United Nations, the International Committee of the Red Cross and civil society for more than a decade.

Now, as ever, it is crucial that we come together to stand behind our shared commitment to humanity, compliance with international humanitarian law and respect for the humanitarian values that underpin it. We are proud to continue our neutral, independent, impartial, humanitarian action as part of the Red Cross / Red Crescent Movement, which includes over 190 national societies, such as the Australian Red Cross.

In service of this goal, the articles included in this publication highlight just some of the ongoing humanitarian work of ICRC Delegations around the Asia Pacific: Myanmar, Japan, Papua New Guinea and the Philippines, as well as from our Movement partner the Australian Red Cross. I hope that you find each contribution informative, as well as a moment for reflection that, although it remains our shared responsibility to ensure this fact, war is not a lawless place.



Image credit to the International Committee of the Red Cross.

Fauve Kurnadi

*Legal Adviser in the International
Humanitarian Law (IHL) Division at
Australian Red Cross*

This year marks the 75th anniversary of the adoption of the Geneva Conventions of 1949, the foundation of modern international humanitarian law (IHL). With more than 120 ongoing armed conflicts around the world, these instruments remain as fundamental and relevant to armed conflict today as when they were opened for signature 75 years ago.

As the world has changed, corporations have also, spreading their influence, and moving into areas at risk of armed conflict and other situations of violence. Respecting and ensuring respect for IHL is a clearly defined legal obligation for States, primarily under the [Geneva Conventions of 1949 and their Additional Protocols of 1977](#). However, in recent years there has been growing recognition of the relevance of IHL not only to States but also to non-State actors, including private businesses.

National Red Cross and Red Crescent Societies, such as Australian Red Cross, also have a unique mandate in this domain, sharing a mutual obligation with their respective governments to disseminate and ensure respect for IHL in peacetime and armed conflict. Australian Red Cross has been trusted by successive governments to fulfil this role in Australia. Our dissemination efforts focus on key domestic stakeholders, including government, the military, legal circles and the humanitarian sector. In the private sector, we work with corporate actors to raise awareness of IHL in Australia and integrate its rules and principles into relevant policies and practices.

The intersection between IHL and business

Today, business activities, supply chains and financial investments increasingly intersect with situations of armed conflict, underscoring a growing need for businesses to know about IHL and manage their operations with conflict sensitivity.

Generally, businesses navigating these complex landscapes and humanitarian crises often consider the interplay between their activities and armed conflict through the lens of compliance

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with sanctions regimes. For instance, businesses operating or investing in Myanmar will be aware of the targeted sanctions that have been imposed to curb investment in potential or alleged human rights abuses and IHL violations in the country. This includes Australia, which [imposed targeted sanctions](#) on five separate entities earlier this year (further to financial sanctions and travel bans imposed in 2023).

Growing public interest has also shone a light on this relationship between conflict and business. Following the escalation of conflict between Russia and Ukraine in 2022, public accusations were made against a number of businesses and several US and European banks, who were [accused](#) of prolonging the war in Ukraine and committing war crimes. Recently, similar [allegations](#) have been directed at tech companies for their connection to the Israel-Gaza conflict.

Finally, there is a noticeable trend towards greater accountability for corporate involvement in alleged atrocity crimes. [Ongoing landmark trials](#) and [the establishment of specialised national prosecutors and war crimes units](#), in 26 countries so far, suggests that multinational corporations may be increasingly investigated and prosecuted in national courts for alleged involvement in violations of IHL. Although not yet tested in Australia, domestic law allows for the criminal prosecution of companies – both corporate entities and individuals – for war crimes under the Criminal Code Act 1995 (Cth).¹

How does IHL apply to the private sector?

Despite the growing acknowledgment of the connection between armed conflict and business, the practical application of IHL to business activities is not widely researched or debated. IHL creates obligations for States, militaries and organised armed groups, but its binding nature on businesses is not clearly defined.

It is generally accepted that IHL applies to any actor whose activities have a sufficient connection to an armed conflict. Consequently, the application of IHL to businesses can manifest in various ways, and there are key IHL rules with which businesses should familiarise themselves. For example:

- The prohibition of the unlawful appropriation of private or public property, for instance when carrying out operations to extract or develop natural resources.
- Rules relating to the use of force, particularly for businesses that rely on public or private security forces.
- The prohibition of certain acts in occupied territories or in support of an occupying power, including, for example, the forcible transfer or deportation of civilians from an occupied territory.
- Rules relating to the protection of civilians, including business personnel, and civilian property, such as buildings, sites and transports; and the loss of protection arising from direct participation in hostilities.

¹ Australian Red Cross and Nyman Gibson Miralis, *Corporate War Crimes and Other Liabilities* (Jan 2023) <<https://www.redcross.org.au/globalassets/cms/ihl/corporate-war-crimes-and-other-liabilities.pdf>>.

Clearly, there are implications for doing business in regions affected by armed conflict, giving rise to myriad legal, operational and reputational risks for businesses. When a connection to armed conflict can be established, company directors, managers and other personnel should not only be aware of IHL but able to embed its rules into corporate policies and practices, including security training, conflict impact assessments, and risk management and due diligence frameworks.

Global governance and compliance standards

The prominence of IHL in the private sector is partly attributable to global developments in business and human rights. [The UN Guiding Principles on Business and Human Rights \(UNGPs\)](#) – considered the preeminent business and human rights framework – acknowledges that ‘the risk of gross human rights abuses is heightened in conflict-affected areas’ and calls on businesses to heighten their human rights due diligence accordingly.² The UNGPs, and other frameworks like the OECD Guidelines for Multinational Enterprises, also explicitly reference IHL, recognising that ‘in situations of armed conflict enterprises should respect the standards of international humanitarian law’.³

Reporting and disclosure requirements also compel businesses to consider their impacts, including social impacts, with greater transparency. The Global Reporting Initiative (GRI) Standards – [the most widely used corporate sustainability reporting framework](#) in the world – recently launched a [standard for responsible mining](#), which includes an expectation that organisations ‘describe the approach to ensuring adherence to international humanitarian law when operating in conflict-affected and high-risk areas’.⁴ The new standard will come into effect on 1 January 2026, but companies are encouraged to start considering these issues or, in the case of best practice, undertake early adoption.

Positive action in ensuring respect for IHL

Despite inherent challenges and risks associated with operating in conflict-affected areas, businesses have tremendous capacity



to enact positive change. One example of this is proactively training personnel in IHL. In Australia, mining company Fortescue Ltd delivers ‘Security, Armed Conflict and IHL’ training, developed by Australian Red Cross, to local and international teams, as a means of [aligning with broader human rights commitments and the VPSHR](#). This training has been translated into multiple languages to enable global accessibility.

Businesses can also influence global disarmament initiatives. The [Treaty on the Prohibition of Nuclear Weapons](#) marked a historic turning point when it entered into force in January 2021, but

the threat of nuclear weapons use has nevertheless increased in recent years. Financial institutions, including entities in banking, superannuation, and insurance, have the power to effect significant change by reassessing their investments and advocating for meaningful policy shifts.

Conclusion


The intersection of IHL and the private sector is a critical and evolving field, that has been given renewed urgency by the increasing complexity of armed conflict and the involvement of private businesses in these environments. IHL may not be binding on businesses in the same way it is on States and armed groups, but there are complex legal, operational and reputational risks that businesses operating in conflict-affected regions face, which demand further engagement with IHL. By proactively integrating IHL into due diligence processes and responsible business practices, businesses can play a pivotal role in fostering global compliance with IHL and mitigating the adverse impacts of armed conflicts.



² Guiding Principle 7.

³ [Commentary to Guiding Principle 12](#); and [Commentary on Chapter IV: Human Rights](#).

⁴ GRI 14: Mining Sector 2024, p71.



Myanmar: Language as a tool for accessibility and respect of IHL

Image credit to the International Committee of the Red Cross.

Thaw Tar Swe Zin

Communications Officer,
International Committee of the Red
Cross Delegation in Myanmar

A country hosting over 100 ethnic groups, Myanmar, is diverse in its cultural, historical, linguistic, and social dimensions. At the same time, it is also a country grappling with prolonged armed conflicts between various armed actors, significantly affecting the communities across both mountainous and flat terrains.

To respond to the humanitarian consequences of the decades-long armed conflicts and other violence, the International Committee of the Red Cross (ICRC) has established its presence in the country since 1986, with multifaceted humanitarian work. The ICRC engages with the parties to the conflicts, reminding them of their obligations under international humanitarian law (IHL). Through various initiatives which aim to reduce the suffering of the people, the ICRC works closely with local communities, listening to their concerns and addressing their needs accordingly.

To facilitate this work in a country where English is neither the official nor primary language, there comes the necessity to make various resources available in the local language. Furthermore, translating international IHL-related treaties into the official language supports the obligation to disseminate IHL norms as widely as possible and to include them in military training programmes. To apply and respect IHL, it is important for the parties to the conflict to know and understand these norms. To this end, translations into the local language make the law more accessible. Today, there are around 60 official translations of the Geneva Conventions into national languages.

Prioritizing public comprehension in legal advocacy

In its effort to ensure that the audience gains a comprehensive understanding of the law, the ICRC takes great consideration of the importance of the language used.

In Myanmar, the ICRC promotes IHL among academics, government ministries, civil society organizations, armed forces, armed groups, religious leaders, and affected communities. For this purpose, several publications have been translated into Myanmar language and distributed to the target audience,

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helping to support correct interpretation and promote relevant humanitarian laws and norms.

The ICRC also undertakes various projects on specific topics and areas of focus; for instance, one highlighted project aims to establish a connection between IHL and Buddhism. IHL is based on humanitarian principles which are deeply rooted in many of the world's cultures and religious traditions. IHL both complements and reinforces these legal traditions, civilizations, and cultures, and is therefore a common heritage of all humanity.

IHL and Buddhism

While a wealth of material exists on conflict and prevention resolution in Buddhism, remarkably little attention has been paid to Buddhism's perspective on the actual conduct of war. Similarly, IHL is also not sufficiently known in the Buddhist world. To fill the gap, the ICRC undertook an initiative to explore correspondences between Buddhism and IHL principles and identify religious resources to improve compliance with IHL and equivalent humanitarian norms.

In Myanmar, where the majority of the population practices Buddhism, the principles and values of Buddhism greatly influence individual and social norms. Buddhist monks, as esteemed religious leaders, are significantly respected within the community and play a crucial role in promoting humanitarian values amidst the country's protracted conflict.

Since the inception of the project, the latest development, a hardback publication titled 'Buddhism and International Humanitarian Law', now consolidates the study into a pioneering resource.

The ICRC Myanmar delegation is currently supporting translation of the book into Myanmar language. It is indeed a challenging endeavour, given the academic formulation of the prose together

with the exploratory nature of the study, and one amplified by a dearth of pre-existing IHL resource materials in the local language.

The complex and nuanced terminology in Buddhist teachings, combined with the legal implications of IHL, creates a need for the availability of resources in the local language to ensure that the material remains relevant and useful for the intended audience.

As initial reactions from influential Buddhist leaders in Myanmar towards the concept of the study have been positive, it is an essential task to make content of the publication accessible to a wider Myanmar audience and generate debate amongst Buddhist communities impacted by armed conflict and violence across the country.

Efforts ongoing amid challenges head-on

The ICRC is expanding its dissemination efforts for IHL to effectively reach relevant stakeholders and thereby, to enhance respect for the law. Connecting with the people in their native tongue facilitates the trust and respect that is crucial to enhancing acceptance and respect for the law.

Significant challenges persist as over 100 languages are spoken in the country. Yet, the ICRC is committed to producing information and messages in various ethnic languages to ensure comprehensive reach and accessibility. Currently, the legal department, in collaboration with other relevant departments, is endeavouring to enhance the accessibility of legal resources in the local language, thereby promoting knowledge and adherence to the law.

The ICRC Library holds a collection¹ of translations of the Geneva Conventions in 45 languages, with some directly accessible online.



Image credit to the International Committee of the Red Cross.

¹ <https://library.icrc.org/library/search/shortview?searchField=marcrecord&searchType=Simple&searchTerm=71939&backLinkType=notice&backLink=noticeNr%3D25048>



Republic Act 11188: A progressive law providing special protection to children affected by armed conflict in the Philippines

Image credit to the International Committee of the Red Cross.

Allelu de Jesus

Legal Adviser, International Committee of the Red Cross Delegation in Philippines

Rachel Malaguit

Public Relations Officer, International Committee of the Red Cross Delegation in Philippines

In 2019, a few weeks after New Year's Day, a cathedral was bombed in Jolo, the capital of Sulu province in Mindanao, southern Philippines. The impact of the bombings was immense: 20 people were killed and at least a hundred were injured. The suspects, a couple, died during the incident.

Four years later, the Philippine military reported an interesting development. They have found the couple's child, who was then a teenager. The media reported on this development. However, at least six local news media published the full name of the teenager. Unknown to them, this was a violation of [Republic Act \(R.A.\) 11188](#) or the Law on **Special Protection of Children in Situations of Armed Conflict (CSAC)**. Signed in 2019, the law aims to protect children caught amidst armed conflicts from all forms of cruelty, abuse, and any other conditions prejudicial to their development. The media - by naming the teenager - inadvertently exposed him to the possibility of stigma and discrimination, of bearing the brunt of the public's outrage.

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Image credit to the International Committee of the Red Cross.

In our conversations with media practitioners, we have learned that many of them are unaware of this law. There is a need for greater awareness of R.A. 11188, also called the CSAC law, which improves the implementation of international humanitarian law (IHL). In this article, we discuss R.A. 11188, its convergences with IHL, and gaps in its implementation.

Protecting children during conflicts

The International Committee of the Red Cross (ICRC), often referred to as the custodian of IHL, has several activities related to children, especially in conflict-affected areas where IHL violations may leave severe impact on their well-being. The [Geneva Conventions of 1949](#) guide our and others' work in this regard, as they provide specific protection for children in times of armed conflict including their special need for education and religious practice (art 24 GCIV)¹. Children finding themselves in an armed conflict also benefit from preferential treatment as any child in the country (art 38(5) GCIV) such as additional food "in proportion to their physiological needs" (art 76 GCIV).

IHL customary international law, as identified by the ICRC, indicates that children must be accorded special respect and protection in armed conflict. In particular, they are to be:

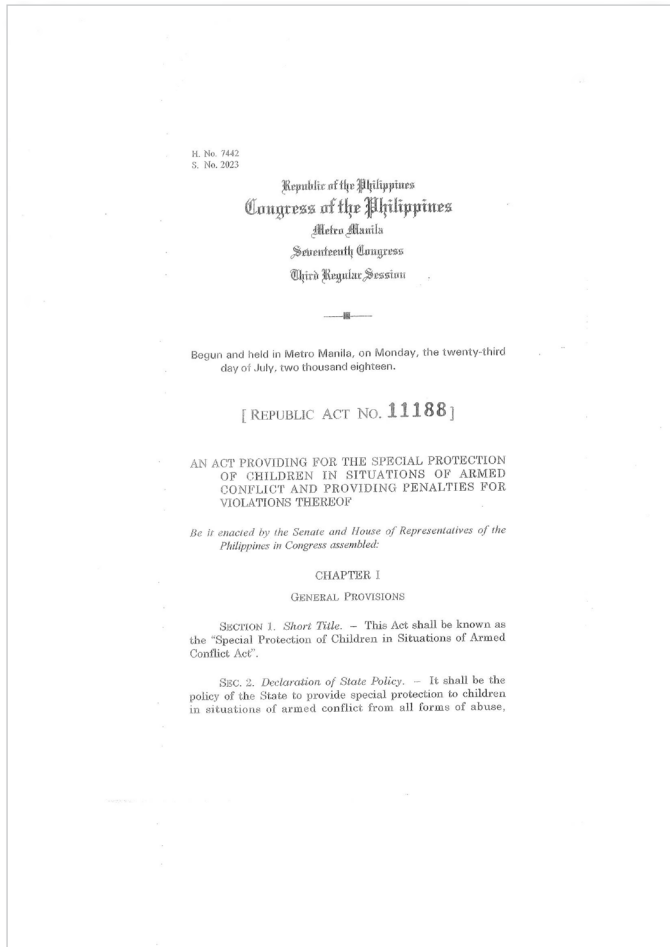
- protected against all forms of sexual violence (see also [Rule 93](#));

- separated from adults while deprived of liberty, unless they are members of the same family (see also [Rule 120](#));
- given access to education, food and health care (see also [Rules 55, 118 and 131](#));
- evacuated from areas of combat for safety reasons (see also [Rule 129](#)); and
- for unaccompanied children, reunified with their families (see also [Rules 105 and 131](#)).

While the ICRC is not a child protection organization, children make up 40% of our protection and assistance beneficiaries. The UN Convention on the Rights of the Child, which has been ratified by almost all countries in the world (similarly, the Geneva Conventions have been ratified by all countries) recognizes a child to be anyone under the age of 18.

Parallel to the UN and other agencies, we work to prevent the recruitment of children into armed forces or armed groups and protect minors who have been detained in relation to conflict. We provide support for the reintegration of children who were formerly associated with armed groups while reuniting them with their families. All these alongside our protection and assistance activities in response to the needs of populations affected by armed conflict, which almost invariably include children. As such, the ICRC has a deep interest in R.A. 11188, and has endeavoured to provide its technical support in the

¹ Jean-Marie Henckaerts & Louise Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, International Committee of the Red Cross (ICRC), 2005: <https://ihl-databases.icrc.org/en/customary-ihl/rule/93> etc



“R.A. 11188’s application ensures that children who have been involved in armed conflicts in the Philippines are protected from prosecution. They should not be detained, and any case filed against them should be dismissed by the courts. The law also has a retroactive effect.”

these places were formally established or registered with the government. It also bears noting that the law’s definition of ‘attacks’ is not just limited to shooting, bombing, or shelling structures. Any act that interferes with the school or hospital’s activities is considered an attack, including the harassment of their personnel.

Under R.A. 11188, all children who are caught amid armed conflicts are considered victims, regardless of their participation. As such, a child civilian who lives in a conflict area (‘children affected by armed conflict’ or CAAC) and a child who participates in the conflict (‘children involved in armed conflict’ or CIAC) are both considered victims. CIACs are not just fighters - the law includes those who worked as spies, medics, messengers, armorers, and any possible role that a child might have fulfilled for an armed group during a conflict. The law also provides for the reunification of the child with his or her family, or where that is not specifically possible, reintegration into the community including rehabilitation of a CIAC. CIACs who have been rescued or who have surrendered to the authorities should be reported to the Local Social Welfare and Development Officer, Local Council for the Protection of Children and the Council for the Welfare of Children within 24 hours, which makes the necessary arrangements for the protection and welfare of the child.

R.A. 11188’s application ensures that children who have been involved in armed conflicts in the Philippines are protected from prosecution. They should not be detained, and any case filed against them should be dismissed by the courts. The law also has a retroactive effect.

It is particularly interesting that R.A. 11188 explicitly prohibits unnecessary media exposure of rescued CIACs. Rule 27 (b) states: ‘Rescued CIAC shall not be used for any political propaganda nor be unnecessarily exposed to media in violation of the child’s right to privacy, security and confidentiality in their

implementation of the law, including in the drafting of its Implementing Rules and Regulations and handling protocols that have been and are being drafted. The CSAC law seeks to protect all children who are affected by and involved in armed conflicts, not just fighters.

R.A. 11188 has been hailed as a progressive and protective law

It provides stricter prohibitions than internationally accepted standards under IHL. For example, under the 1949 Geneva Conventions and their Additional Protocols of 1977, the age threshold for recruitment is 15 years old. However, under R.A. 11188, armed groups and state forces in the Philippines are not allowed to recruit anyone under the age of 18, whether on a mandatory or voluntary basis, which accords with the more recent Optional Protocol to the Convention on the Rights of the Child.

To fully protect children and their right to education, R.A. 11188 prohibits any form of attacks on schools and hospitals. The law even adopts a broad definition of ‘schools’ as any place of learning, while ‘hospitals’ are any places where medical treatment is provided. The law includes facilities recognized as schools and hospitals by the community, regardless of whether

“While the ICRC is not a child protection organization, children make up 40% of our protection and assistance beneficiaries. The UN Convention on the Rights of the Child, which has been ratified by almost all countries in the world (similarly, the Geneva Conventions have been ratified by all countries) recognizes a child to be anyone under the age of 18.”

cases'. It adds that any press conference or media coverage of the CIACs, including on social media, should be done per the Guidelines for Media Practitioners on the Reporting and Coverage of Cases Involving Children issued by the Department of Justice. The guide explicitly prohibits disclosure of any CIAC's identity by media practitioners.

Implementation of the law

Since the implementation of the law, children who have been rescued have had access to interventions prior to their reintegration to their communities. Depending on their cases, they received basic psychosocial services, temporary shelters, livelihood assistance, and temporary learning spaces. Nonetheless, the Council for the Welfare of Children (CWC), a government agency monitoring the violations of children's rights, has found that more needs to be done to implement RA 11188 consistently in practice. In its report titled “Children are Zones of Peace,” the CWC assessed the law since it was passed in 2019. According to the report, information about the law needs to be disseminated more, as evidenced by the lack of knowledge

among stakeholders such as the media and duty bearers from the government. There was also a need for facilities where children could stay in case, they could not be reunited with their families immediately after their rescue.

Citing the ‘need for sustained and consistent’ efforts in communicating about the rights of children in situations of armed conflict (CSAC), the CWC launched a communication campaign to inform the public about R.A. 11188 on social media. The campaign also included an orientation participated by the Philippine National Police, the Department of Social Welfare and Development, and the Armed Forces of the Philippines. The Armed Forces of the Philippines has Handling Protocols for the CSAC law, and it is conducting training across the country for all its battalions.

The CWC is also in the process of developing an e-course about the rights of CSACs, which will include inputs from stakeholders from other organizations. The e-course will be available on the website of the Commission on Human Rights, where they can be read by everyone interested in the topic.

While there are challenges in R.A. 11188, the fact remains that it has protected children since it was signed into law. As CWC's Executive Director Undersecretary Angelo Tapales said in the report ‘Children are Zones of Peace’ (2022), ‘Armed conflict is not a black-and-white issue but a nuanced and complex one. Nevertheless, we must always bear in mind that children are zones of peace, and they should never be involved in or affected by armed conflict. The CWC is confident that by strengthening the implementation of R.A. 11188, more children and communities vulnerable to conflict situations will be reached by timely interventions’.

As armed conflicts unfortunately continue to affect children in the Philippines, the ICRC stands ready to work with all concerned parties to ensure that R.A. 11188 receives rightful support from all those who come across children. Only by working together on true and lasting implementation of this very helpful law in accordance with IHL can we protect children from the harmful consequences of conflicts and provide them a brighter future, which is fundamentally what the Geneva Conventions and IHL are all about.





The rules of war reflecting the earnest wish to see peace prevail among people

Image credit to the International Committee of the Red Cross.

Hitomi Makabe

Head of Communication, ICRC Japan

Katherine Stewart

ICRC Delegate for Armed and Security Forces Programmes for Japan and the Pacific

Throughout history, war has driven nations and their people into a state of dismay and dehumanisation. This is the story of how people in two nations, Japan and Australia, overcome a deep grudge and a man-made tragedy against humanity after the Second World War, and what an important role the rules of war can play.

During the Second World War, there were camps detaining captured soldiers from each other's country: one in Cowra, Australia, and another in Joetsu city, Japan. These two cities have overcome their tragic pasts and developed new relationships: the city of Cowra built a cemetery for the Japanese prisoners of war (PoWs), for which the local people still care. In the site of the Naoetsu camp, the city dedicated a park to peace to pass on the history and lesson to future generations, and to commemorate those who suffered in recognition of the importance of peace, friendship, and coexistence.

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Tragedies in two countries caused by war

At the time of the war, Japan had not ratified the [1929 Geneva Convention on Prisoners of War](#), so Japanese PoWs and guards were not aware or educated on the treatment of PoWs.

300 Australian PoWs in Naoetsu suffered from hard labor, hunger, and cold. By March 1944, 60 soldiers had died due to malnutrition, acute pneumonia, and beriberi, with some dying from pubic bone crushing, chronic enteritis, and cerebral haemorrhage. The high fatality rate shocked the camp headquarters in Tokyo. The Japanese authority dispatched a medical inspection team in April 1944 and ordered improvements in facilities, working conditions, and food out of concern that the International Committee of the Red Cross (ICRC), who monitor humane treatment in places of detention, would raise questions. After the war, many guards from Naoetsu PoW Camp were tried for carrying out the orders of their superiors, resulting in more executions than at any other PoW camp in Japan.

In Cowra, the Australian government adhered to the 1929 Geneva Conventions, and there were less complaints from the Japanese PoWs about their treatment, which included three meals a day. Hardliners among the PoWs, however, refused to do all the work asked of them and insisted that their loyalty to their country required them to always oppose their detention. It was not the treatment they received in the camps, but their education in the Japanese army that made relations between the Japanese PoWs and the guards poor. The Japanese teaching was: "Do not live to suffer the shame of captivity, and do not

die with the stigma of sin and misfortune on you". The sense of hopelessness that the Japanese PoWs could not return home alive due to their shame and guilt drove a thousand Japanese soldiers to attempt to escape, although the Japanese military called it a sortie as a military action. 234 people were killed and many more wounded, with four Australian soldiers killed and four wounded.

Put humanity first in war time

When Australian PoWs died in the Naoetsu camp they were cremated. Since there was no one in Japan willing to accept the soldiers' remains at the time, a Japanese chief priest of Kakushin-ji temple living in the neighbourhood named Enri, laid them to rest in the main hall of his temple. Enri was well known among the PoWs. When they brought the remains

of their fellow prisoners to his temple, he shared his rationed cigarettes and made rice balls for them. This is a glimpse into the rich humanity of the chief priest, who followed the teachings of Shinran, a renowned Japanese Buddhist monk living by the idea of human equality. In the precincts of Kakushin-ji temple, today we find a monument with his words and belief. It reads, 'There is no friend or foe among the dead'.

These religious values and doctrines have also long aligned with humanitarian action. The principles of international humanitarian law, of which the Geneva Conventions and their Additional Protocols form the core, are based on humanitarian principles that are ultimately rooted in values shared by the world's religious traditions. That is why the [ICRC today works together with religious circles](#) around the world to explore commonalities between religious principles and the principles enshrined in international humanitarian law. We realize the crucial role of philosophical traditions as well as religious leaders and institutions in promoting common humanitarian principles in many societies and cultures and recognize their ability to contribute to reducing suffering during armed conflict.

Overcoming grief and resentment

Recognizing that the opportunity for reconciliation and friendship was passing with the aging of former PoWs and their bereaved families, the construction of the park in Joetsu city was completed in 1995 after half a century of conciliation between the two nations. The opening ceremony was grandly held, and a number of the former Australian PoWs and their family and



relatives attended. Some Australian PoWs refused to visit the country because of deep emotional scars associated with their time in the camp. In a letter sent¹ to the Joetsu's organizing committee, an ex-PoW wrote: 'I will never attend the ceremony. Even after all these years, I still can't express the hurt I felt after that horrible experience'.

There was, on the other hand, a former PoW who attended the ceremony and spoke to the Japanese media about why he decided to come. 'It is really unfortunate that the eight guards and others were executed. It is not the individuals who are to blame, but the former Japanese military. Some former PoWs and their bereaved families say they cannot forgive the Japanese. But as long as we hate each other, there will never be peace or friendship.' Learning from the past, the law has developed to better protect those exposed to conflict. Today, the Geneva Conventions are universally ratified, and their rules well known. It is understood that soldiers have a duty to disobey a manifestly unlawful order. In the same speech, the former PoW ended his remarks stating, "Look at the two fluttering flags. The Japanese flag has the sun, and the Australian flag has the stars. By looking at these flags, we shall remember that our wish lasts day and night, forever and ever. When our hearts are filled with peace, there is no room for thoughts of war."

How can we avoid such tragedies?

ICRC President, Mirjana Spoljarić, [recently delivered](#) a speech at an international event about the importance of international humanitarian law and said, 'It is important to recall that international humanitarian law is just one small part of a vast international legal architecture which has peace at its centre. There is no contradiction between applying humanitarian restraint in warfare and working in earnest for peace'. She continued, 'as in all relationships, less cruelty in conflict means less hatred as an obstacle to resolving it'.

2024 marks the 80th anniversary of this tragic breakout, and Cowra Council will organize memorial events on the 4th and 5th August in the city to commemorate the event for Australia and Japan.

In the park of Joetsu, two statues of flying gods are dancing and blowing a flute: one wearing a cherry blossom diadem and the other a eucalyptus crown. Beyond the horrors of the Second World War, the sound we hear from the flute may be the Geneva Conventions, which lead us to lasting peace, fraternity, and friendship.

¹ From a Japanese publication "太平洋にかかる橋～捕虜収容所の悲劇を越えて" published in 1996 by 上越日豪協会、直江津捕虜収容所の平和友好記念像を建てる会. The English translation is: "Bridge over the Pacific - Beyond the tragedy of the PoW camps." published in 1996 by The Joetsu Japan-Australia Society and The Committee for Erection of Peace and Friendship Memorial Statues at Naoetsu PoW camp.



Advancing together

RULE OF LAW UPDATES AND PERSPECTIVES

2024