
Postgraduate Certificate in Anthropology of Guerrilla Warfare

Human Rights and International Law in Conflict Settings.

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Introduction

In conflict settings, the protection of human rights and adherence to international law are crucial to ensure the well-being and safety of individuals affected by armed conflict. Understanding key terms and vocabulary related to human rights and international law in conflict settings is essential for anthropologists studying guerrilla warfare and its impact on communities. This guide will provide a comprehensive explanation of key terms and concepts in the field of human rights and international law, focusing on their application in conflict settings.

Human Rights

Human rights are fundamental rights and freedoms that every individual is entitled to by virtue of being human. These rights are universal, inalienable, and indivisible, meaning they apply to everyone without discrimination, cannot be taken away, and are interrelated and interdependent. Human rights are enshrined in international treaties and conventions, such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Examples of human rights include the right to life, liberty, and security of person; the right to freedom of expression, assembly, and association; the right to work, education, and healthcare; and the right to a fair trial and due process. In conflict settings, human rights are often violated as a result of armed conflict, leading to atrocities such as extrajudicial killings, torture, forced displacement, and sexual violence.

International Humanitarian Law (IHL)

International humanitarian law, also known as the law of armed conflict, is a set of rules that seek to limit the effects of armed conflict and protect civilians and combatants who are not taking part in hostilities. IHL applies during armed conflict, whether international or non-international, and aims to ensure that parties to the conflict respect the principles of humanity, distinction, proportionality, and necessity.

Key principles of international humanitarian law include the principle of distinction, which requires parties to distinguish between civilians and combatants, and between civilian objects and military objectives; the principle of proportionality, which prohibits attacks that may cause excessive harm compared to the military advantage gained; and the principle of necessity, which mandates that any military action must be necessary to achieve a legitimate military objective.

Examples of violations of international humanitarian law include targeting civilians, using prohibited weapons such as chemical weapons or landmines, and attacking humanitarian personnel or objects. The Geneva Conventions and their Additional Protocols are the primary treaties that govern international humanitarian law and provide protection for victims of armed conflict.

War Crimes

War crimes are serious violations of international humanitarian law committed during armed conflict. These crimes include acts such as willful killing, torture, inhuman treatment, unlawful deportation or transfer, and targeting civilians or civilian objects. War crimes are considered grave breaches of the Geneva Conventions and their Additional Protocols, as well as other international treaties, and individuals who commit war crimes can be held accountable and prosecuted under international law.

The International Criminal Court (ICC) is a permanent international tribunal established to prosecute individuals for the most serious crimes of international concern, including war crimes, crimes against humanity, genocide, and aggression. The ICC complements national judicial systems and ensures that perpetrators of war crimes are brought to justice when domestic courts are unable or unwilling to prosecute them.

Crimes Against Humanity

Crimes against humanity are widespread and systematic attacks directed against civilians, committed as part of a government or organizational policy. These crimes include acts such as murder, enslavement, torture, rape, and forced disappearance, when committed as part of a widespread or systematic attack against a civilian population. Crimes against humanity are prohibited under international law and can be prosecuted both at the national and international levels.

The Rome Statute of the International Criminal Court defines crimes against humanity as acts committed as part of a widespread or systematic attack against any civilian population, with knowledge of the attack. The ICC has jurisdiction over crimes against humanity and can prosecute individuals responsible for these crimes, regardless of their official capacity or nationality.

Genocide

Genocide is the intentional destruction, in whole or in part, of a national, ethnic, racial, or religious group, as such. This crime includes acts such as killing members of the group, causing serious bodily or mental harm, inflicting conditions of life calculated to bring about physical destruction, imposing measures to prevent births, and forcibly transferring children of the group to another group. Genocide is considered one of the most serious crimes under international law and is prohibited by the Genocide Convention.

The Genocide Convention defines genocide as acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such. The Convention establishes genocide as a crime under international law and obligates states to prevent and punish genocide. The International Court of Justice and the International Criminal Court have jurisdiction over genocide and can prosecute individuals

responsible for this crime.

Transitional Justice

Transitional justice is a set of judicial and non-judicial measures implemented in post-conflict societies to address human rights violations and promote accountability, truth, and reconciliation. Transitional justice mechanisms include criminal prosecutions, truth commissions, reparations programs, and institutional reforms aimed at addressing the legacy of past abuses and ensuring that the rights of victims are upheld.

Examples of transitional justice mechanisms include the Truth and Reconciliation Commission in South Africa, which investigated human rights violations committed during apartheid and promoted national reconciliation; the Special Tribunal for Lebanon, which was established to prosecute those responsible for the assassination of former Lebanese Prime Minister Rafik Hariri; and the Reparations for Victims Trust Fund in Colombia, which provides reparations to victims of the armed conflict.

Refugees and Internally Displaced Persons (IDPs)

Refugees are individuals who have fled their country due to a well-founded fear of persecution, conflict, or violence and are unable or unwilling to return to their home country. Refugees are protected under international law by the 1951 Refugee Convention and its 1967 Protocol, which guarantee the right to seek asylum and prohibit the refoulement of refugees to countries where their lives or freedom may be at risk.

Internally displaced persons (IDPs) are individuals who have been forced to flee their homes due to armed conflict, human rights abuses, or natural disasters but have not crossed an international border. IDPs are protected under international humanitarian law and human rights law, including the Guiding Principles on Internal Displacement, which set out the rights and protections that should be afforded to IDPs.

Challenges in protecting the rights of refugees and IDPs include ensuring access to asylum procedures, preventing refoulement, providing adequate shelter and assistance, and addressing the root causes of displacement. Anthropologists studying conflict settings play a crucial role in documenting the experiences of refugees and IDPs, advocating for their rights, and promoting durable solutions to displacement.

Gender-Based Violence (GBV)

Gender-based violence is violence directed at an individual based on their gender, and it disproportionately affects women and girls. GBV includes acts such as sexual violence, domestic violence, forced marriage, and female genital mutilation, and it is often used as a weapon of war to terrorize and control populations in conflict settings. GBV is a violation of human rights and a barrier to gender equality and women's empowerment.

International law recognizes gender-based violence as a form of discrimination and a violation of women's rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and United Nations Security Council Resolution 1325 on Women, Peace, and Security are key instruments that address gender-based violence and promote the participation of women in conflict prevention, resolution, and peacebuilding.

Anthropologists studying conflict settings analyze the root causes of gender-based violence, document the experiences of survivors, and advocate for the implementation of policies and programs to prevent and respond to GBV. By understanding the intersection of gender, violence, and conflict, anthropologists contribute to efforts to promote gender equality, protect human rights, and build sustainable peace.

Conclusion

In conclusion, the protection of human rights and adherence to international law in conflict settings are essential to ensure the safety, dignity, and well-being of individuals affected by armed conflict. By understanding key terms and concepts related to human rights and international law, anthropologists studying guerrilla warfare can contribute to efforts to promote accountability, justice, and peace in conflict-affected communities. The comprehensive explanation provided in this guide serves as a valuable resource for researchers, practitioners, and students seeking to deepen their knowledge of human rights and international law in conflict settings.