



Week 11

Considering Human Rights, Legal Structures & Ethical Questions

*Week 11 envisages **human rights (1)**, **legal structures (2)** & **ethical questions (3)** in relation with both humanitarianism & development. 'Human rights' refer to the basic rights to fair and moral treatment which it is considered all people should have, such as justice and the freedom to express themselves. 'Legal structures' rest upon the contribution of international humanitarian law, which is a set of rules seeking to limit the effects of armed violence for humanitarian reasons. 'Ethical questions' encompass sets of beliefs about what is morally right and wrong. The aim of this presentation is to enlighten students on these three closely intertwined realms and how they interact when it comes to matters of humanitarianism & development.*

1. HUMANITARIANISM & DEVELOPMENT: HUMAN RIGHTS

- Human rights, humanitarianism, and development have known fluctuating relations over time.



- To summarise such complexity, one can argue that human rights, humanitarianism, and development have seemed to be 'distant cousins' throughout their history.
- Humanitarianism and development are mostly focused on situations in remote places, which are faced with large-scale loss of life demanding urgent assistance and aid.
- Human rights, for their part, spread individual liberty and equality.
- It is indisputable that the 20th century saw human rights, humanitarianism, & development come much more directly

into contact, especially after the end of the Cold War.

- Indeed, human rights, humanitarianism, and development began to be joint concerns in war zones and post-conflict environments.
- However, human rights, humanitarianism and development continue to be marked by shifting meanings, either converging or diverging.
- Philosophical endeavours analyse whether and how differences between these three fields have been shaped in relation with ethics, obligations, and duties,
- Endeavours of historical nature seek to situate differences within and between various periods.
- Practical endeavours investigate how differences have been created and recreated in



response to human rights-related, humanitarian, as well as developmental issues.

► ***For more information, please consult the ProQuest eBook and additional readings.***

2. HUMANITARIANISM & DEVELOPMENT: LEGAL SYSTEMS



- ‘Legal structures’ in humanitarianism as well as development rest upon international humanitarian law, which forms one part of international law.
- It is the body of rules governing relations between states, contained in agreements (mostly treaties or conventions) and customary rules and principles.
- International humanitarian law applies to armed conflicts but does not regulate whether a state can use armed force.

It protects populations which are not or no longer participating in the hostilities, and further restricts the means and methods of warfare.

- International humanitarian law is also commonly known as the ‘law of war’ or ‘law of armed conflict’.
- International humanitarian law traces its origins back to ancient civilisations in which warfare had always been principled.
- Yet, its universal codification started in the 19th century, with states agreeing on series of practical rules in order to avoid renewed and bitter experiences of destructive wars.
- International humanitarian law applies uniquely to armed conflict and does not cover endogenous tensions or disorders such as isolated acts of violence.
- Besides, it applies only once a conflict has begun, and then to all sides of that conflict regardless of who initiated the hostilities in the first place.
- Moreover, international humanitarian law differentiates between ‘international’ and ‘non-international’ conflicts.
- ‘International’ conflicts are those in which at least two states are involved and subject to numerous rules that are set out in the four Geneva Conventions and Protocol I.
- ‘Non-international’ conflicts are those limited to the territory of a state, involving regular forces that fight dissidents or groups fighting each other.
- One must separate *international humanitarian law* from *human rights law*, both corresponding to different legal corpuses.
- Indeed, human rights law, unlike international humanitarian law, applies in peacetime, and most of its provisions are adjourned during conflict.



► ***For more information, please consult the ProQuest eBook and additional readings.***

3. HUMANITARIANISM & DEVELOPMENT: ETHICAL ISSUES

- ‘Ethics’ is concerned with the evaluation of attitudes and behaviours based on ideas of values and reality.
- There are different types of ethics: meta-ethics, normative ethics, applied ethics, and descriptive ethics.
- ‘Meta-ethics’ considers the foundations of ethics and their implications at the level of the whole humanity.
- ‘Normative’ ethics assesses ethical concepts and humanity as a principle of action.

- ‘Applied’ ethics evaluates attitudes and behaviours in empirical contexts, notably the operationalisation of humanity.
- ‘Descriptive’ ethics envisages ethical notions among people, whether these are true or false, right or wrong.
- Humanitarianism and development generally resort to applied ethics, through many ‘principles’ that guide their action.
- These guiding principles are: *humanity*, *neutrality*, *impartiality*, and *independence* on which all policies and practices must be aligned.
- Additional ethical questions pertain to the effects of humanitarianism & development.
- Indeed, relief and aid can also have adverse effects and should be avoided if the benefits are outweighed by potential negative impacts.



► **For more information, please consult the ProQuest eBook and additional readings.**

HUMANITY

Human suffering must be addressed wherever it is found. The purpose of humanitarian action is to protect life and health and ensure respect for human beings.

NEUTRALITY

Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature.

IMPARTIALITY

Humanitarian action must be carried out on the basis of need alone, making no distinctions on the basis of nationality, race, gender, religious belief, class or political opinions.

INDEPENDENCE

Humanitarian action must be autonomous from the political, economic, military or other objectives that any actor may hold in relation to areas where humanitarian action is being implemented.

BIBLIOGRAPHY

The below-reading materials can be found on ProQuest through your VLE platform (Online Library).

ProQuest eBook

- Kevin M. Cahill, *History and Hope: The International Humanitarian Reader* (Fordham University Press, 2013), pp. 26-39 / 112-139.

Additional readings

- Michael Barnett, *Human Rights, Humanitarianism, & the Practices of Humanity* (International Theory, 2018).
- Nikos Astroulakis, *The Development Ethics Approach to International Development* (International Journal of Development Issues, 2011).