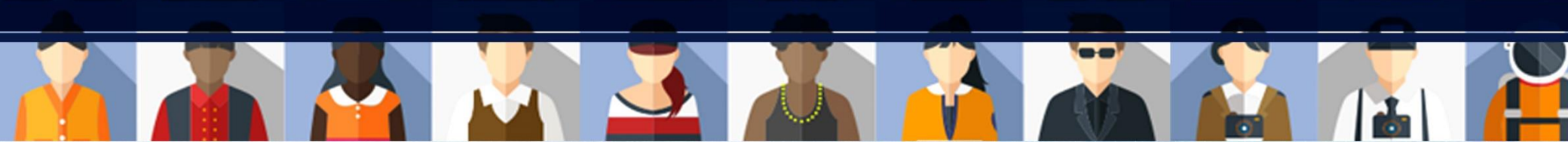




Understanding Human Rights



03. Human Rights Violations

Overview

- Defining human rights violations
- Types of Violations
 - 1) Clear-cut, definite violations
 - 2) Complex violations

Defining human rights violations

- Being an action which abuses, ignores, or denies basic human rights

Types of Violations

- 1) Clear-cut, definite violations
- 2) Complex violations

1) Clear-cut, definite violations

- **Genocide**

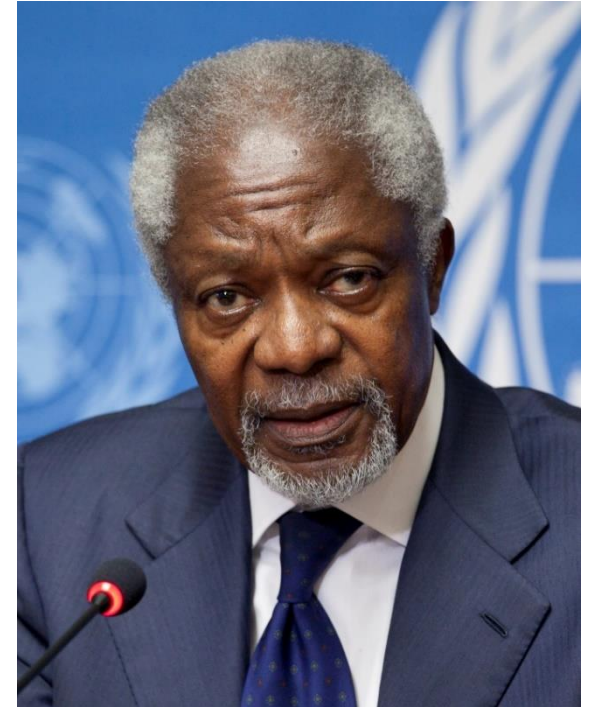
- the attempt/action of destroying or erasing a particular group of people



Nazi's destruction of the Jews in the Holocaust

1) Clear-cut, definite violations

- Kofi Annan
 - "the main aim...[of conflicts]... is the destruction not of armies but of civilians and entire ethnic groups."



Kofi Annan

1) Clear-cut, definite violations

- **Ethnic cleansing**

- *Removal* of a certain group, not its *annihilation*.

- **Forced disappearances**

- The right to security and dignity of person
- The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
- The right to humane conditions of detention
- The right to a fair trial
- The right to a family life
- The right to life

1) Clear-cut, definite violations

- **Wartime sexual violence**

- Torture, political oppression, arbitrary imprisonment, or forms of discrimination



Apartheid

2) Complex violations

- Usually a violation of economic, social and cultural rights
- Quite hard to verify and document



Vladimir Putin

Overview

- Repressive policies
- Motivation
- Scale of abuse
- Context or setting of abuse
- Concealment or Legitimizing Measures

Repressive policies

- Deliberately designed as part of a repressive policy
 - Denial of certain people's right to vote
 - Arbitrary arrest of political competitors
 - Communication rights
 - Movement rights

Motivation



Myanmar



Displaced Rohingya people in Rakhine State

Scale of abuse

- The severity of the human rights
 - The number of victims
 - How wide-spread the crimes are
- The target of the human rights
 - A handful of specific people
 - Individuals
- Not just large numbers, but whole communities or groups of people

Context or setting of abuse

- Can take place in the context of a democracy
- Far more often happen in authoritarian or dictatorial regimes

Concealment or Legitimizing Measures

- Governments often try to make their human rights violations appear as though they are legal and legitimate

Overview

- Human rights obligations
- Types of Responsibility
- Types of Responsibility: Legal responsibility vs. Extra-legal responsibility
- Types of Responsibility: State responsibility vs. Individual responsibility

Human rights obligations

- To respect
- To guarantee

- Respect human rights
 - Refrain
 - Negative rights

Human rights obligations

- Guarantee
- Positive human right
 - Investigating cases of human rights violations and ensuring justice is served
 - Investing funds in the necessary state systems and administrations that work to uphold human rights and deal with human rights abuses
 - Training state agents such as the police or members of the judicial system
 - Adopting legal and administrative measures to promote human rights

Human rights obligations

- Not results-driven or results-orientated.
- What that means is a State may be deemed to be *successfully* upholding its guarantee of human rights obligation, *even if there is no tangible result*

Types of Responsibility

- Legal responsibility
- Extra-legal responsibility
- State responsibility
- Individual responsibility

Types of Responsibility: Legal responsibility vs. Extra-legal responsibility

- Extra-legal responsibility means moral, political or historical responsibility
 - Moral responsibility
 - Political responsibility
 - Historical responsibility
- Moral, political or historical responsibilities are considered extra-legal responsibilities as they do not carry legal consequences

Types of Responsibility: State responsibility vs. Individual responsibility

- Government ministers, local government members, civil servants, the police, the armed forces
 - Respect
 - Guarantee
- Only actions by State officials may make the State responsible
- Domestic or international responsibility
- Respect
- Guarantee

Overview

- Armed groups
- International corporations
- Individuals holding positions of power
- Private individuals

Armed groups



9/11



Boko Haram

International corporations

- The OECD Guidelines for Multinational Enterprises 1976
- The UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights of 2003
- The 2011 UN Guiding Principles on Business and Human Rights.



Individuals holding positions of power

- Responsibilities to respect human rights

Private individuals

- Anyone is capable of committing discrimination, abuse, violence etc.

Overview

- State/government mechanisms
 1. Judicial systems
 2. Criminal prosecution organs
 3. National Human Rights Institutions (NHRIs)
- Non-State/government mechanisms

Amnesty International

- “Reached a nadir” for human rights
- International protective systems for human rights were “unravelling”



Salil Shetty
The Secretary General of Amnesty International

“As we enter the year in which the Universal Declaration of Human Rights turns 70, it is abundantly clear that none of us can take our human rights for granted. We certainly cannot take for granted that we will be free to gather together in protest or to criticize our governments. Neither can we take for granted that social security will be available when we are old or incapacitated; that our babies can grow up in cities with clean, breathable air; or that as young people we will leave school to find jobs that enable us to buy a home.”

Amnesty International



Emergency food, drinking water and shelter
to help people displaced
in Rakhine State western Burma



Villagers scour rubble for belongings
scattered during the bombing of
Hajar Aukaish – Yemen in April 2015

Amnesty International



Turkish journalists protesting imprisonment of their colleagues in 2016

Amnesty International



Azaz Syria during the Syrian civil war displacement with tractor



UN Women Political cartoon

1. State/government mechanisms

- 1) Judicial systems
- 2) Criminal prosecution organs
- 3) National human rights institutions

1. State/government mechanisms

1) Judicial systems

- 1985 Basic Principles on the Independence of the Judiciary
 1. The judiciary should be independent, and all governmental institutions have to respect and observe the independence of the judiciary and not interfere with the judicial process
 2. The judiciary must be impartial and must have proper training
 3. Everyone shall have the right to be tried in an ordinary court or tribunal using established legal procedures
 4. A nation has a duty to provide adequate resources to make sure the judiciary can properly function and perform its functions

1. State/government mechanisms

2) Criminal prosecution organs

- An agency that can prosecute criminal activity
 - Professional organization or organization
 - Part of the legal system/independent group or committee

1. State/government mechanisms

3) National Human Rights Institutions (NHRIs)

- Independent institutions that are given the responsibility to advocate, monitor and protect human rights
- UN's Paris Principles on National Human Rights Institutions of 1993
- Human rights commissions
- Ombudsmen
- National Human Rights Commission of Korea



2. Non-State/government mechanisms

- The role of nongovernmental organizations, or NGOs
 - When the human rights violations have been carried out by the State/government itself

Overview

- The UN System
 - 1) High Commissioner for Human Rights (OHCHR)
 - 2) Human Rights Council
 - 3) The UN General Assembly
 - 4) The UN Security Council
 - 5) Treaty bodies
 - 6) The International Criminal Court (ICC)

Overview

- The UN Charter (1945)
- The Universal Declaration of Human Rights (1948)
 - nine core human rights treaties
 1. International Convention on the Elimination of All Forms of Racial Discrimination (1965)
 2. International Covenant on Civil and Political Rights (1966) (*which we covered in week 2*)
 3. International Covenant on Economic, Social and Cultural Rights (1966) (*which we covered in week 2*)
 4. Convention on the Elimination of All Forms of Discrimination against Women (1979)
 5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
 6. Convention on the Rights of the Child (1989)
 7. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
 8. International Convention for the Protection of All Persons from Enforced Disappearance (2006)
 9. Convention on the Rights of Persons with Disabilities (2006)

The UN System

1) High Commissioner for Human Rights (OHCHR)

- The Office of the UN High Commissioner for Human Rights (OHCHR) has the lead responsibility within the UN system when it comes to the promotion and protection of human rights.
- “various the human rights components of peacekeeping missions in several countries.”

The UN System

2) Human Rights Council

- Human Rights Council as “the key independent UN intergovernmental body responsible for human rights.”
- investigate violations of human rights and report them directly to the General Assembly
- independent experts (rapporteurs)

The UN System

3) The UN General Assembly

- “The General Assembly is the main deliberative, policymaking and representative organ of the UN. All 193 Member States of the UN are represented in the General Assembly, making it the only UN body with universal representation.”
- initiate studies and make recommendations on human rights issues

The UN System

4) The UN Security Council

- United Nations Security Council is responsible maintaining international peace and security and is the only body of the UN that can authorise the use of force.
- The Security Council is the chief authority in determining the level of threat to peace or evaluating the nature of an act of aggression.
- humanitarian intervention
- humanitarian intervention refers to a situation when a State/collation of States enter uninvited into a country to forcibly end human rights abuses
- 'Responsibility to protect' (R2P);
- Bangladesh War of 1971
- Vietnam's intervention in Cambodia in 1978 to overthrow the Khmer Rouge
- Tanzania's intervention in Uganda in 1979 to remove the dictator Idi Amin
- Iraq, Somalia, Bosnia & Kosovo, and East Timor
- Rwandan genocide of 1994

The UN System

4) The UN Security Council

- Bangladesh War of 1971
- Vietnam's intervention in Cambodia in 1978 to overthrow the Khmer Rouge
- Tanzania's intervention in Uganda in 1979 to remove the dictator Idi Amin
- Iraq, Somalia, Bosnia & Kosovo, and East Timor
- Rwandan genocide of 1994



Vietnam-Cambodian war



Rwandan genocide

The UN System

5) Treaty bodies

- The human rights treaty bodies are committees of independent experts that monitor the implementation of the 9 core international human rights treaties
- 12 to 18 members
- they don't represent their State; they perform their roles in an independent capacity
- the reporting process of human rights abuses, and the process of dealing with individual human rights violations complaints process.

The UN System

6) The International Criminal Court (ICC)

- The International Criminal Court (ICC) Justice is the main judicial organ of the United Nations
- The ICC deals with cases that are submitted to it by States
- the UN Security Council may refer a case to the ICC
- the ICC has the authority to prosecute criminals

Conclusion

- the UN usually favours pressure, persuasion, and naming & shaming