

HUMAN RIGHTS IN TIMES OF CONFLICT AND TERRORISM

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OXFORD

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PREFACE

This book is intended to serve as a guide to international human rights law that applies to situations of violence, armed conflict, or any other specific security need. The development of international human rights law since 1945 has been extensive and human rights treaty bodies have routinely made judgments and decisions on violations of human rights in the context of armed conflict, military occupation, and counter-terrorism. A major advantage of human rights law is that, unlike international humanitarian law, it does not need to evaluate whether or not an armed conflict exists. The same is true for counter-terrorism measures. However the government categorizes the violence it faces or fears, the applicable human rights law is the same. There remains a substantial lack of awareness of how human rights have been so applied. On the one hand, there is the false dichotomy that is often raised between human rights and security, whereas human rights law provides for measures that may be taken to cope with dangerous situations. At the other end of the scale, there exists the notion, still held by those not specialized in this area of law, that derogations can eliminate a number of human rights leaving only humanitarian law or counter-terrorism law applicable; this is also totally erroneous as the material in this book will show. How a government categorizes a situation is irrelevant for human rights law, which only takes into account the factual situation.

This book is intended to be the basis of a post-graduate course, either dedicated to human rights law as applied to these situations, or for a general human rights course where the course director would like to include jurisprudence relevant to security issues. Alternatively, individual chapters or sections can be selected for a shorter course.

The book is also intended to be a practitioner's guide. It may be used as a reference work for inter-governmental and non-governmental organizations, relevant government ministries, as well as for lawyers wishing to defend the rights of people caught up in counter-terrorist and armed conflict situations.

Although this text specializes in how human rights applies in situations of violence, it covers the range of most human rights, as all human rights apply at all times. Therefore a reader of this text will acquire a good knowledge of general human rights law. Each chapter will cover the basic understanding of the subject matter in a way that is not limited to armed conflict and violence, but will then concentrate on case-law and other materials that relate to issues of security, terrorism, and armed conflict.

An existing knowledge of international humanitarian law or international counter-terrorism law is not necessary for an understanding of this text, although these are referred to where useful for a proper application of human rights law. There are also specific chapters dedicated to the relationship between these bodies of law and human rights law.

Given the enormous harm that has been done to human rights in the name of security over the last decade, it is my hope that this book will help to contribute to the ongoing efforts around the world to redress the situation.

Louise Doswald-Beck
Geneva
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