UNDERSTANDING HUMAN RIGHTS

MANUAL ON HUMAN RIGHTS EDUCATION

Prohibition of Torture

Freedom from Poverty

Human Rights of Women

Freedom of Expression

Human Rights of the Child

Right to Democracy

Religious Freedoms

Human Rights in Armed Conflict

Fair Trial

Freedom of the Media

Human Security

Development

Right to Education

Human Dignity

Right to Health

Non-Discrimination

Right to Work

Rule of Law

Right to Privacy

Minority Rights

Right to Asylum

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MANUAL ON HUMAN RIGHTS EDUCATION

EDITED BY **WOLFGANG BENEDEK**

European Training and Research Centre
for Human Rights and Democracy (ETC)

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Austrian
Development Cooperation

intersentia

PREFACE TO THE THIRD EDITION

The promotion and protection of human rights has always been a core priority of Austria's foreign policy. Human rights education constitutes an essential part of our engagement. In order to live a life in security and dignity, people must be aware of their fundamental rights and freedoms and they must be confident that their governments acknowledge and ensure these rights. It is therefore one of Austria's major objectives, also as a member of the Executive Board of UNESCO, to promote and support initiatives that encourage individuals to increase their knowledge and understanding of all their rights and those of others.

Human rights education is about more than just the simple knowledge of a set of rules and principles. It is also about attitude and behaviour, and about change in attitude and behaviour. People must not only be provided with a general understanding of what human rights are, but they must also be shown how human rights are relevant to them and how they can apply and defend human rights in their daily life and work.

The Manual on Human Rights Education "Understanding Human Rights" was first presented to the public at the Ministerial Meeting of the Human Security Network in 2003. Elaborated by a dedicated team of renowned Austrian and international experts under the auspices of the European Training and Research Centre for Human Rights and Democracy (ETC) in Graz, Austria, the Manual is designed to train multipliers in human rights education in all regions of the world. It offers training modules, which can be adapted by their users according to different contexts, situations and regions. By today, it has been translated into 15 different languages and has been introduced and used in several countries and regions by multiplier-workshops facilitated by the ETC.

It is a special privilege for me that during Austria's membership in the Human Rights Council of the United Nations and in the Executive Board of UNESCO, we can present the third English edition of the Manual on Human Rights Education. This edition funded by the Federal Ministry for European and International Affairs and the Austrian Development Agency comes at a very significant time. Since the beginning of 2011, all eyes have been focused on the Arab World, where people from Tunisia to Egypt, from Syria to Yemen are calling for change. The events we were able to witness during this Arab Spring have in an impressive way visualised the aspirations of all people for freedom and for recognition of their fundamental and inalienable rights.

In this environment of upheaval and reorganisation, human rights education and training can enhance effective democratic participation in the political, economic, social and cultural spheres. It can be utilised as a means for promoting economic and social progress as well as people-centred sustainable development. It can thereby contribute to strengthening the rule of law and capacity building for democratic governance, recognised as an important strategy towards democratisation, accountability and governmental stability.

The challenges ahead of us are manifold and complex, but the people affected need all the support and encouragement possible in order to obtain freedom, justice and democracy, to foster development and to fight against oppression. I want to encourage all human rights educators, trainers and multipliers to face these challenges and, by making use of this manual as a practical instrument, to help

fulfill the respect for human rights and dignity in all regions of the world.

I would like to thank the European Training and Research Centre for Human Rights and Democracy for their commitment and their efforts dedicated to this important publication.

Dr. Michael Spindelegger
Vice-Chancellor and Federal Minister for
European and International Affairs
of the Republic of Austria
Vienna, January 2012

PREFACE TO THE SECOND EDITION

In May 2003, the Manual on Human Rights Education "Understanding Human Rights" was first presented to the public in its original English language version at the Ministerial Meeting of the Human Security Network in the Human Rights City of Graz, Austria. The Manual is the result of an initiative by my predecessor Benita Ferrero-Waldner as Chairperson of the "Network" in 2002/2003. It was elaborated by a dedicated team of renowned Austrian and international experts under the auspices of the European Training and Research Centre for Human Rights and Democracy (ETC) in Graz.

The Human Security Network is a group of states from all regions of the world determined to solve pressing problems of human security by action-oriented means. On several occasions, such as its Ministerial Meeting in Santiago de Chile in 2002, the Network has emphasised that "human rights provide a foundation upon which human development and human security can be pursued". Therefore, Human Rights Education has become one of its priorities. In this spirit, the Manual "Understanding Human Rights" addresses audiences all over the world and is intended to function as a genuine, practical "training tool". It consists of training modules which can be varied and adapted by their users according to different contexts and training situations.
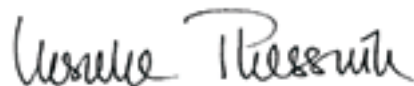
The Graz Declaration on Principles of Human Rights Education and Human Security, endorsed by the 5th Ministerial Meeting of the Human Security Network on 10 May 2003 in Graz, contains a commitment to translate the manual into other languages in order to introduce it into different regional and cultural settings.

Today, just three years after its launch, the manual is available in English, French, Spanish, Chinese, Arabic, Russian, German, Albanian, Croatian, Serbian and Thai. This has been achieved in collaboration and with the generous support of several members of the Human Security Network as well as intergovernmental and non-governmental partners.

The Manual, which has been introduced in several countries and regions by train-the-trainers workshops facilitated by the ETC, has received a very positive feedback from users all over the world. But the rapid developments in the field of human rights have necessitated an update of the Manual. Therefore, with funding from the Austrian Development Cooperation and the Federal Ministry for Education, Science and Culture of Austria, a second edition has been elaborated by the European Training and Research Centre for Human Rights and Democracy (ETC) in collaboration with a large team of Austrian and international experts.

The Manual intends to reach out to people from all world regions, cultures and social groups. The more diverse its users, the more the Manual will achieve its goal to promote human rights and human security. In 2006, with the inception of the Human Rights Council, the international human rights architecture has undergone considerable changes. I trust that this second edition of the Manual on Human Rights Education will be able to serve as a guide to the human rights challenges that lie ahead.

Dr. Ursula Plassnik
Federal Minister for Foreign Affairs
of the Republic of Austria
Vienna, May 2006
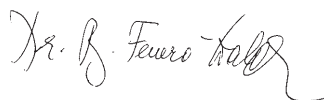
PREFACE TO THE FIRST EDITION

Human security is "people-centred" – it takes individuals and their communities as its principal point of reference. Establishing a global political culture based on human rights for everyone is an indispensable requirement for advancing human security.

Human security requires a genuine understanding of human rights. That is why in my capacity as Chair of the Human Security Network I designated Human Rights Education along with Children Affected by Armed Conflict as priority themes for the Human Security Network in 2002/2003.

Human Rights Education, through its knowledge transfer, skills-building and attitude-shaping dimensions raises awareness of our common basis for the protection of human dignity and of human security. To this end, I commissioned the European Training and Research Centre for Human Rights and Democracy in Graz to develop a Manual for Understanding Human Rights with the assistance of over thirty international experts including institutions of Human Security Network Partners, spanning over five continents. It is destined for global use through a culture-sensitive perspective based on the universality of human rights.

The Manual builds on the Declaration on Principles of Human Rights Education and Human Security endorsed by Ministers of the Network at their Meeting in May 2003 in Graz, the first Human Rights City of Europe. It is intended to be a lasting contribution of the Human Security Network under the Austrian presidency to benefit the human security of people today and in the future.

I trust that this Manual will assist Human Rights Education efforts of all Network Partners and worldwide, assist the United Nations High Commissioner for Human Rights in fulfilling his mandate and shall also contribute and inspire further action beyond the United Nations Decade for Human Rights Education.

Dr. Benita Ferrero-Waldner
Austrian Minister for Foreign Affairs
Graz, 5th Ministerial Meeting of the
Human Security Network, 9 May 2003

ACKNOWLEDGEMENTS

Rights (BIM) – Vienna, Monique Prindezis – CIFEDHOP – Geneva, the Anti-Defamation League – New York, the International Committee of the Red Cross – Geneva

Finally, we would like to thank the Human Rights Department of the Austrian Federal Ministry for Foreign Affairs, now called Federal Ministry for European and International Affairs and the Austrian Development Agency (ADA) for their cooperation and support.

HOW TO USE THIS MANUAL

The idea of a human rights education manual for everyone as a concrete contribution to the work of the Human Security Network under Austrian Chairmanship came from the ETC-Graz. A team of the ETC developed the conceptual framework of the book and was entrusted by the Ministry for Foreign Affairs with its elaboration.

The Manual "Understanding Human Rights" is envisioned as a tool for assisting learners and educators in HSN partner countries and beyond in their human rights education and learning efforts in various cultural settings as a strategy for enhancing human security. As designed, it could be a helpful starting point for understanding human rights and human wrongs, for training future trainers and for opening a discussion forum for inter-cultural exchange and awareness.

The Manual presents a selected collection of theory sensitized through practice, and additionally offers skills-building and attitude-shaping components. The variety of issues addressed have the main goal of stimulating the search for common ground and a shared human rights perspective as well as presenting controversial issues from a culture-sensitive viewpoint.

The manual consists of three main parts, i.e. a general introduction into the basics of human rights, a special part with selected "core issues" in the form of modules, which should help to understand the functioning of human rights in daily life, and a third, so-called "additional resources part", which contains methodological hints, useful information, and references to further reading and on-line resources.

To facilitate the navigation through the text, the following *minis* will assist you:

– need to know

– good practices

– discussion questions

– selected activities

– intercultural perspectives and controversial issues

– for more information see

This Manual can be used by different users in different ways. Through its flexible and user-friendly modular structure, we intend to encourage the critical reading and active understanding by both learners and educators.

If you are looking for a general introduction into the main concepts and principles of human rights, you may start with the first part of the manual which contains the introduction. Those of you looking for examples of particular human rights issues may start their exploration with the "good to know" part of the modules. If you are looking for a more systematic and in-depth analytical exploration of particular human rights, you may start with the "need to know" part of different modules. And those of you interested in exploring and teaching human rights issues through innovative educational methodologies to both adolescents and adults can go directly to the selected activities part of the modules and in addition consider the general remarks on human rights education methodology.

The manual is meant to be open-ended and it deliberately addresses only a selected number of core issues. We would like to encourage you to continuously complement the manual with examples and stories, questions and experiences from your own local context and welcome your feedback.

For this purpose, the ETC has opened a feedback section on its website, where the different language versions are available. We have also produced power point presentations on all modules, which can be downloaded from the website. Furthermore, additional resources can be found on all modules with useful teaching materials and updates at www.manual.etc-graz.at. We would welcome any feedback as this helps us to broaden the manual in accordance with its ambition to be useful for learners, educators and trainers from different cultural backgrounds and with different degrees of knowledge of human rights. Enjoy reading and feel free to contribute to this work-in-progress, to add your good and best practices, your community concerns, and to encourage more people to read and understand the vibrant actuality and the incessant fascination of human rights.

LIST OF ABBREVIATIONS

ACHPR – African Charter on Human and Peoples' Rights
ACP – African, Caribbean and Pacific States
ADL – Anti-Defamation League
AI – Amnesty International
AIDS/HIV – Acquired Immune Deficiency Syndrome / Human Immunodeficiency Virus
ALRC – Asian Legal Resource Centre
ANC – African National Congress
APT – Association for the Prevention of Torture
ASEF – Asia-Europe Foundation
AU – African Union
ASEM – Asia and Europe Meeting

BIM – Ludwig Boltzmann Institute of Human Rights, Vienna, Austria

CAT – Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment
CCW – Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons
CDDRL – Center on Democracy, Development, and the Rule of Law
CEDAW – Convention on the Elimination of All Forms of Discrimination against Women
CERD – Committee on the Elimination of All Forms of Racial Discrimination
CESCR – Committee on Economic, Social and Cultural Rights
CHR – Commission on Human Rights
C.I.A. – US Central Intelligence Agency
CIM – Inter-American Commission of Women
CJ – Citizens' Juries
CLADEM – Latin American and Caribbean Committee for the Defence of Women's Rights
CoE – Council of Europe
CONGO – Conference of NGOs in Consultative Relationship with the United Nations

CPED – International Convention for the Protection of All Persons from Enforced Disappearance
CPT – European Committee for the Prevention or Torture
CRA – Communication Regulation Agency
CRC – United Nations Convention on the Rights of the Child
CRIN – Child Rights Information Network
CRPD – Convention on the Rights of Persons with Disabilities
CSW – Commission on the Status of Women
CSCE – Conference for Security and Cooperation in Europe
CWC – The Concerned for Working Children

DGLI – Directorate General of Legal Affairs

EAPN – European Anti Poverty Network
ECHO – European Community Humanitarian Office
ECHR – European Convention for the Protection of Human Rights and Fundamental Freedoms
ECOSOC – Economic and Social Council
ECPAT – End Child Prostitution, Pornography and Trafficking of Children for Sexual Purposes
ECPT – European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECRI – European Commission against Racism and Intolerance
ECRML – European Charter for Regional or Minority Languages
ECtHR – European Court of Human Rights
EEAS – European External Action Service
EFA – Education for All
ENAR – European Network against Racism
ENOC – European Network of Ombudsmen for Children

EPZ – Export Processing Zone
ESC – European Social Charter
ETC – European Training and Research Centre for Human Rights and Democracy, Graz, Austria
EU – European Union
EUMC – European Monitoring Centre on Racism and Xenophobia
EURONET – European Children' s Network

FAO – Food and Agriculture Organization
FARE – Football against Racism in Europe Network
FCNM – Framework Convention for the Protection of National Minorities
FDC – Freedom from Debt Coalition
FGM – Female Genital Mutilation
FIFA – Fédération Internationale de Football Association
FLO – Fairtrade Labelling Organization
FWCW – Fourth World Conference on Women

GA – United Nations General Assembly
GATS – General Agreement on Trade in Services
GC – Global Compact
GDP – Gross Domestic Product
GPF – Global Policy Forum
GRC – Geneva Refugee Convention

HDI – Human Development Index
HDR – UNDP Human Development Report
HIPC – Heavily Indebted Poor Countries
HR – Human Rights
HRC – Human Rights Council
HRE – Human Rights Education
HREL – Human Rights Education and Learning
HSN – Human Security Network

ICC – International Criminal Court
ICCPR – International Covenant on Civil and Political Rights
ICERD – International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR – International Covenant on Economic, Social and Cultural Rights
ICPD – International Conference on Population and Development
ICRC – International Committee of the Red Cross
ICSW – International Council on Social Welfare
ICTR – International Criminal Tribunal for Rwanda
ICTY – International Criminal Tribunal for the Former Yugoslavia
ICVA - International Council of Voluntary Agencies
IDB – Inter-American Development Bank
IDEA - International Institute for Democracy and Electoral Assistance
IDPs – Internally Displaced Persons
IEC – International Executive Committee
IFEX – International Freedom of Expression Exchange
IHL – International Humanitarian Law
IIDH – Inter-American Institute for Human Rights
IJC – International Commission of Jurists
ILO – International Labour Organization
IMF – International Monetary Fund
IPA – International Publishers Association
IPEC – International Programme for the Elimination of Child Labour
IPI – International Press Institute

MDGs – Millennium Development Goals
MNCs – Multinational Corporations
MSF – Médicins sans Frontières
MPs – Members of Parliament

NGO – Non-Governmental Organisation
NPA – National Plan of Action

OAS – Organization of American States
OAU – Organization of African Unity
OCHA – United Nations Office for the Coordination for Humanitarian Affairs

ODIHR – Office for Democratic Institutions and Human Rights
OECD – Organization for Economic Cooperation and Development
OHCHR – Office of the (United Nations) High Commissioner for Human Rights
OIC – Organization of the Islamic Conference
OMCT – World Organisation against Torture
OP – Optional Protocol
OP-CAT – Optional Protocol to the Convention against Torture
OSCE – Organization for Security and Co-operation in Europe

PAHO – Pan American Health Organization
para. – paragraph
PDHRE – People's Movement for Human Rights Education
PRSPs – Poverty Reduction Strategy Papers

Res. – Resolution

SAPs – Structural Adjustment Programmes of the World Bank
SARS – Severe Acute Respiratory Syndrom
SEE – South-Eastern Europe
SEEMO – South East Europe Media Organisation
SIM – Netherlands Institute of Human Rights, Utrecht, the Netherlands
SPT – Sub-Committee on the Prevention of Torture

TASO – The AIDS Support Organisation
TM – Traditional Medicine
TNCs – Transnational Corporations
TRIPs – Trade-Related Aspects of Intellectual Property Rights

UDHR – Universal Declaration of Human Rights
UEFA – Union of European Football Associations
UN – United Nations
UNCAT – United Nations Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCED – United Nations Conference on Environment and Development
UNDP – United Nation Development Programme
UNESCO – United Nations Educational, Scientific and Cultural Organisation
UNEP – United Nations Environment Programme
UN GA – United Nations General Assembly
UN-HABITAT – United Nations Human Settlements Programme
UNICEF – United Nations Children's Fund
UNHCR – United Nations High Commissioner for Refugees
UNMIK – United Nations Mission in Kosovo
UNMISET – United Nations Mission of Support in East Timor
UNO – United Nations Organization
UN SC – United Nations Security Council
UNTAET – United Nation Transitional Administration in East Timor
UPR – Universal Periodic Review
US – United States of America

VOICE - Voluntary Organisations in Cooperation in Emergencies

WCAR – World Conference against Racism, Racial Discrimination, Xenophobia and related Intolerance
WCRP – World Conference on Religion and Peace
WFIRC – World Fellowship of Inter-Religious Councils
WFP – United Nations World Food Program
WHO – World Health Organization
WMA – World Medical Association
WSIS – World Summit on the Information Society
WSSD – World Summit on Sustainable Development
WTO – World Trade Organization

OUTLINE CONTENTS

DETAILED CONTENTS

LEARNING AND INTEGRATING HUMAN RIGHTS AS A WAY OF LIFE – A JOURNEY WE MUST ALL TAKE

In this second decade of the 21st century, where 50 % of the world population – four billion people – are under 25 years old, many communities around the globe, women and men alike, are energized to re-imagine, redraft and rebuild their lives guided by their yearning, hopes and expectations for a life which is free from fear and free from want. As this promising process gains national and international authenticity we must all join in a commitment to social responsibility guided by the holistic vision and practical mission of human rights as a way of life, which all democracies must commit to – for which we have no other option.

The excellent learning and integrating document, now in your hands, aspires to evoke dialogue and discussions that lead to critical thinking about, and systemic analysis of, the future for humanity which we all hope to generate. On the pages of this book you can discover a unique, powerful framework that charts the way for women and men to achieve economic and social justice.

The indivisibility, interconnectedness and interrelatedness of human rights, attested to in these pages, are critical to a new understanding of human rights and towards achieving meaningful, lasting change in what many call the "spring of human rights" – the movement from charity to dignity.

Many are sharing their experiences and knowledge in these pages. They are challenging you to learn about the moral and political implications of human rights and know that they are firmly protected by law, accepted by most nations – and yet very few of us know of the relevance of human rights to our daily lives. As we integrate the thinking and experiences shared in his book we hope that a vital sense of responsibility will emerge for each one of us to become a mentor and monitor of human rights as a way of life. This outreach must take place in our homes, in our neighborhoods, with community organizations and as part of our economic, religious and cultural existence.

As we examine the articulations of human rights through norms and standards, all relevant to promoting and sustaining human dignity, you will join those who are learning to live in dignity with the other in respect and trust to become a creative, positive agent of change.

It was said about Voltaire that when asked "What can we do about human rights?" he would answer: "Let the people know them". And Rosa Parks whose silent protest ignited the civil rights movement in the USA said that her actions put power in the hands of people to insist in participating in the decisions that determine their lives. To this we add: to be guided by human rights as a way of life.

Human rights learning and integration is about knowing, owning, planning and taking action. The learner assumes a unique responsibility to join in the noble effort to have all people of the world, women, men, youth and children know human rights as inalienable, belonging to all; to know that human rights are an excellent organizing tool, a unique strategy for

economic, human and societal development. Drop by drop, step by step, through you and your organizations, we must engage in a labor of love to change the world by integrating meaningful human rights learning at all levels of society that leads to planning and positive actions.

Indeed every one of us inherently knows human rights. We each know when injustice is present and that justice is the ultimate expression of human rights. Spontaneously, we all move away from humiliation, but often in fear of humiliation, we humiliate others. This vicious cycle can be broken if people learn to trust and respect the other, internalizing and socializing human rights as a way of life. Learning that human rights call for mutual respect and that all conflicts must be solved, guided by human rights towards their full realization.

The comprehensive human rights framework, if known and claimed, is the ultimate guideline to chart the future we all yearn for. It is a critical support system and a powerful tool for action against current social disintegration, poverty and intolerance prevalent around the world. It is so simple: Human rights are all about equality without discrimination. With the knowledge of human rights we can join in changing a world where the patriarchal system is prevalent, where justice is injustice, and where women as well as men exchange their equality for survival. We have no other option!

In your hands is the story of the miracle of human rights created by the United Nations. It is a gift given to humanity by many nations who have also made a commitment to implement them. Sadly, as millions of people will be born and die, they will not know that they are owners of human rights, and are unable to call on their governments to fulfill their obligations and commitments (www.pdhre.org/justice.html). We say, rightly, that imposed ignorance is a human rights violation and is a stumbling block undermining their realization.

It is this "human right violation" and many others, the ignorance about human rights that this book steps forward to eliminate. Drop by drop, step by step – so that people know, internalize and socialize the development of human rights and assure the realization of human rights for all.

As you embark on this journey, try to imagine human rights as the banks of the river in which life can flow freely. When the floods come, the people who have learned and integrated human rights, will raise and fortify the banks to protect their communities and have freedom flow without obstructions. We have no other option.

(Shulamith Koenig, the founding President of PDHRE – People's Movement for Human Rights Learning (www.pdhre.org), is the recipient of the 2003 United Nations Human Rights Award, and the 2011 Gold Medal for her "contribution to Humanity" from the Pio Munzo Center.)

I. INTRODUCTION TO THE SYSTEM OF HUMAN RIGHTS

HUMAN DIGNITY

HUMAN RIGHTS

HUMAN RIGHTS EDUCATION

HUMAN SECURITY

»The campaign reminds us that in a world still reeling from the horrors of the Second World War, the Declaration was the first global statement of what we now take for granted – the inherent dignity and equality of all human beings.«

Sérgio Vieira De Mello, UN High Commissioner for Human Rights. 2003.

A. UNDERSTANDING HUMAN RIGHTS

The aspiration to protect the human dignity of all human beings is at the core of the human rights concept. It puts the human person in the center of concern. It is based on a common universal value system devoted to the sanctity of life and provides a framework for building a human rights system protected by internationally accepted norms and standards. During the 20th century, human rights have evolved as a moral, political and legal framework and as a guideline for developing a world free from fear and free from want. In the 21st century, it is more imperative than ever to make human rights known and understood and to make them count.

Art. 1 of the Universal Declaration on Human Rights (UDHR), adopted by the United Nations in 1948 refers to the main pillars of the human rights system, i.e. **freedom, equality and solidarity**. Freedoms such as the freedom of thought, conscience and religion as well as of opinion and expression are protected by human rights. Similarly human rights guarantee equality, such as the equal protection against all forms of discrimination in the enjoyment of all human rights, including full equality of women

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"All human beings are born free and equal in dignity and rights They […] should act towards one another in a spirit of brotherhood."

Article 1 of the Universal Declaration of Human Rights. 1948.

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and men. Solidarity stands for economic and social rights, like the right to social security, just remuneration, and an adequate standard of living, health and accessible education, which are an integral part of the human rights framework. These are detailed under five headings as political, civil, economic, social and cultural human rights, legally defined in two parallel Covenants that together with the UDHR combine to define the Bill of Human Rights.

"All human rights for all"

was the slogan of the *Vienna World Conference on Human Rights* in 1993. Human rights empower individuals as well as communities to seek the transformation of society towards the full realisation of all human rights. Conflicts need to be resolved by peaceful means on the basis of the rule of law and within the human rights framework.

However, human rights may interfere with each other; they are limited by the rights and freedoms of others or by the requirements of morality, public order and the general welfare in a democratic society (Article 29 of the UDHR). Human rights of others must be respected, not just tolerated. Human rights must not be used to violate other human rights (Article 30 of the UDHR); thus all conflicts must be solved while respecting human rights even though at times of public emergency, and in extreme cases some restrictions may be imposed.

Therefore, everybody, women, men, youth and children, need to know and understand their human rights as relevant to their concerns

"No single phrase in recent human history has been more privileged to bear the mission and burden of human destiny than [the phrase]"human rights"[…] - the greatest gift of classical and contemporary human thought is the notion of human rights. Indeed, more than any other moral language available to us at this time in history, [is] the language of human rights […]".

Upendra Baxi. 1994. *Inhuman Wrongs and Human Rights.*

and aspirations. This can be achieved through human rights education and learning, which can be formal, informal or non-formal. The understanding of human rights principles and procedures enables people to participate in the decisions that determine their lives, works towards conflict resolution and peace-keeping guided by human rights and is a viable strategy for a people-centered human, social and economic development.

Human rights education (HRE) and learning needs to be undertaken by all actors or stake-

"Human rights education, learning and dialogue must evoke critical thinking and systemic analysis with a gender perspective about political, civil, economic, social and cultural concerns within a human rights framework."

Shulamith Koenig, PDHRE

holders, by civil society as well as governments and transnational companies. Through human rights learning a true *"culture of human rights"* can be developed, based on respect, protection, fulfillment, enforcement and practice of human rights.

The right to human rights education can be derived from Article 26 UDHR, according to which *"Everyone has the right to education. […] Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms […]".*
☺☞ *Right to Education*

United Nations General Assembly Resolution 49/184 of 23 December 1994 proclaimed the UN Decade for Human Rights Education to be implemented in the framework of the Action Plan of the UN Decade for Human Rights Education 1995-2004. It is where one can find a detailed definition of the content and methods of Human Rights Education.

On 18 December 2007 the UN General Assembly declared 2009 to be "The International Year of Human Rights Learning" (UN GA Res. 62/171). The opening took place on 10 December 2008, on the UDHR's 60th anniversary. As a follow-up, UN GA Res. 66/173 was adopted in December 2011.

The main motor behind this initiative was Shulamith Koenig, the founder of the People's Decade for Human Rights Education (PDHRE), who is motivated by the long-term vision of making human rights accessible to everybody on our planet, *"for people to know them and claim them"*. Accordingly, the objective of human rights education is *"human rights literacy for all"*. Or, in the words of Nelson Mandela, to "develop a new political culture based on human rights".

☺☞ *General Remarks on Human Rights Education Methodology.*

General Assembly Resolution 49/184 *of 23 December 1994,* announcing the United Nations Decade for Human Rights Education states: *"[…] human rights education should involve more than the provision of information and should constitute a comprehensive life-long process by which people at all levels in development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies."*

The **Action Plan of the United Nations Decade for HRE** emphasised that: *"[…] human rights education shall be defined as training, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the molding of attitudes and directed to:*

(a) The strengthening of respect for human rights and fundamental freedoms;
(b) The full development of the human personality and the sense of its dignity;

(c) The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups […]."

On 10 December 2004, the UN General Assembly proclaimed a new World Programme for Human Rights Education (UN GA Res. 59/113A), which was to be implemented by action plans adopted for three years each. The plan of action for the first phase (2005-2007, extended until 2009) of the World Programme for Human Rights Education focuses on primary and secondary school systems. The second phase (2010-2015) focuses on higher education and human rights training programmes for teachers and educators, civil servants, law enforcement officials and military personnel. On 2 December 2011 the UN GA adopted the UN Declaration on Human Rights Education and Training, which had been prepared by a Working Group and adopted first by the UN Human Rights Council in Geneva. It creates a new basis for all aspects of human rights education and provides a **definition of human rights education**:

(a) Education about human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;
(b) Education through human rights, which includes learning and teaching in a way that respects the rights of both educators and learners;
(c) Education for human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others.

"Human rights education is all learning that develops the knowledge and skills, and values of human rights, promotes fairness, tolerance and dignity, and the respect of the rights and dignity of others."

Nancy Flowers, Human Rights Center of the University of Minnesota.

The declaration identifies five major objectives of HRE, i.e. raising awareness, developing a universal culture of human rights, pursuing the effective realisation of human rights, ensuring equal opportunities for all and contributing to the prevention of human rights violations. States and governments have the primary responsibility to promote and ensure human rights education and training, for which purpose they should elaborate action plans and programmes to implement it, inter alia, "through its integration into school and training curricula". In line with the World Programme on Human Rights Education all relevant stakeholders should be involved, while civil society is expected to play an important role.

The Plans of Action for the First and Second Phase of the World Programme for Human Rights Education provide for an **implementation strategy**, which sets out four stages:
Stage 1: Analyses of current situation of HRE
Stage 2: Setting priorities and developing a national implementation strategy
Stage 3: Implementing and monitoring
Stage 4: Evaluation

B. HUMAN RIGHTS AND HUMAN SECURITY

The UDHR was drafted as a result of the most serious violations of human dignity, as in particular the experience of the Holocaust during the Second World War.
The focus is on the human person. The Declaration's preamble refers to the *"freedom from fear and from want"*. The same approach is inherent in the concept of human security.

At the *International Workshop on Human Security and Human Rights Education* in Graz in July 2000, it was stated that human security aims at protecting human rights, i.e. by the prevention of conflicts and by addressing the

root causes of insecurity and vulnerability. A human security strategy aims at establishing a global political culture based on human rights. In this context, human rights education is a strategy towards human security, as it empowers people to seek solutions to their problems on the basis of a common global value system and of a rule-oriented, rights-based approach instead of a power-oriented one. Human security is promoted across society, in a decentralised way, starting from the basic needs of people, women and men alike, i.e. problems of personal security, poverty, discrimination, social justice and democracy. Freedom from exploitation or corruption starts when people no longer accept the violation of their rights. Civil society institutions (like *Transparency International*) support this process of emancipation based on the knowledge of human rights.

There are several **links between human rights and human security**. *"Security"* in the form of personal security (e.g. protection from arbitrary detention), social security (e.g. provision of basic needs like food security) and international security (the right to live in a secure international order) corresponds to existing human rights. *"Security policies must be integrated much more closely with strategies to promote human rights, democracy and development. Human rights, humanitarian law and refugee law provide the normative framework on which the human security approach is based."* (Source: Department of Foreign Affairs and International Trade, Canada. 1999. *Human Security: Safety for People in a Changing World*)

The Canadian government commissioned a report by an **Independent International Commission on Intervention and State Sovereignty** on the basis of which it developed a **Responsibility to Protect** doctrine as part of its human security concept. This doctrine

> *"Most threats to human security reveal a direct or indirect human rights dimension"*
>
> **IInd Ministerial Meeting of the Human Security Network.** Lucerne. May 2000.

entered the final document of the UN General Assembly Summit in 2005.
(Source: Independent International Commission on Intervention and State Sovereignty. 2001. *The Responsibility to Protect and GA-Res. 60/1 (2005)*)

Human rights violations reveal threats to human security and therefore are used as indicators in early-warning mechanisms for **conflict prevention**. However, human rights, too, have a role in conflict management, conflict-transformation and post-conflict peace-building. Human rights education, through knowledge transfer, skills-building and shaping attitudes constitutes the basis of a genuine culture of conflict prevention.

Besides human rights being an essential instrument of conflict prevention, they also are a key concept for governance-building and for democracy. They provide a basis for addressing societal and global problems through active participation, increased transparency and accountability. **Governance-building** consists of two complementary forms of capacity-building: *"state-building"* and *"societal devel-*

> *"The world can never be at peace unless people have security in their daily lives."*
>
> **UNDP. 1994.** *Human Development Report 1994*.

"[Human security] is, in essence, an effort to construct a global society where the safety of the individual is at the centre of the international priorities […], where international human rights standards and the rule of law are advanced and woven into a coherent web protecting the individual […]"

Lloyd Axworthy, former Minister of Foreign Affairs of Canada.

opment". State-building provides *"democratic security"*, which can be seen best in the efforts of rehabilitation and reconstruction after conflicts. *"Societal development includes broadbased human rights education to empower people to claim their rights and to show respect for the right of others."* (Walther Lichem, PD-HRE).

The Graz Declaration on Principles of Human Rights Education and Human Security, endorsed by the 5th Ministerial Meeting of the Human Security Network in Graz on 10 May 2003, aims at reinforcing human security through Human Rights Education, starting from the right to know one's human rights to identifying a responsibility of all relevant actors for Human Rights Education, and welcoming the Manual "Understanding Human Rights", which should be translated, distributed and used widely.

"We need a new culture of international relations – with the precept of human security at its core."

Srgjan Kerim, President of UN General Assembly. 2009.

The Graz Declaration also states that human rights and human security are inextricably linked as the promotion and implementation of human rights is a goal and integral part of human security (Article 1).

The **Commission on Human Security**, set up in 2001 under the co-chairs Sadako Ogata (former UN High Commissioner for Refugees) and Amartya Sen (Nobel Prize Winner for Economics), together with the Inter-American Institute of Human Rights and the University for Peace, held a workshop on the relationship between Human Rights and Human Security in San Jose, Costa Rica, in December 2001, which elaborated a *"Declaration on Human Rights as an Essential Component of Human Security"* (www.humansecurity-chs.org/doc/sanjosedec.html). Its report on "Human Security Now", addresses several human rights concerns. According to Bertrand G. Ramcharan, former Acting UN High Commissioner for Human Rights, international and human rights norms define the meaning of human security.

Article 3 of the UDHR and Article 9 of the International Covenant on Civil and Political Rights protect the right to liberty and security of the person, which refers, in particular, to the freedom from fear. In addition, Article 22 of the UDHR and Article 9 of the International Covenant on Economic, Social and Cultural

"Deference to national security interests, narrowly conceived of, and a stubborn adherence to myopic visions of state sovereignty have trumped concerns for the human security interests of victims even though, in a twisted irony, it is the security of its people – not just collectively but also, crucially, individually – that allows for the security of the state."

Louise Arbour, UN High Commissioner for Human Rights. 2005.
Responsibility to Protect in the Modern World.

Rights recognise the right to social security, which together with other economic and social rights corresponds to the freedom from want. The relationship between globalisation and human security is dealt with in the Millennium Report by UN Secretary-General Kofi Annan of 2000, which, too, distinguishes between **freedom from fear** and **freedom from want**, a distinction going back to the four freedoms proclaimed by US President Roosevelt in 1940 during the Second World War as a vision for the post-war order. The UN Secreaty-General's report "In larger freedom" of 2005 focused on how "to perfect the triangle of development, freedom and peace" (para. 12).

The UN General Assembly, in the "Outcome Document" of its 2005 Summit, requested the elaboration of a definition of Human Security.

After a report of Secretary-General the General Assembly held consultations in 2008.

The struggle against poverty and for economic, social and cultural rights is as relevant for security as is the struggle for political freedom and fundamental liberties. One cannot be separated from the other, they are interdependent, interrelated and indivisible.
☺☞ *Freedom from Poverty*
    Right to Health
    Right to Work

According to the UNDP Human Development Report 2000, human rights and human development share a common vision and purpose. The *Human Development Index* used by the UNDP Human Development Reports contains several indicators, such as access to education,

"Accordingly, we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights […]"

Kofi Annan, UN Secretary-General. 2005.
In Larger Freedom: Towards Development, Security and Human Rights for All.

> *"Too many international actors today are pursuing*
> *policies based on fear, thinking they will increase security.*
> *But true security cannot be built on such a basis.*
> *True security must be based on the proven principles of human rights."*
>
> **Sérgio Vieira de Mello,** UN High Commissioner for Human Rights. 2003.

food security, health services, gender equality and political participation, which correspond directly to human rights. In conclusion, the concepts of human security, human rights and human development are overlapping, mutually reinforcing and contingent upon each other.

UNESCO, too, had a focus on Human Security, which drew inspiration also from regional approaches towards Human Security. A **"Human Security Report"** is published under the direction of Andrew Mack since 2005 focusing on violent threats to human security. It shows the relationship between conflicts and democratic governance, demonstrating that an increase of democratic governments across the world leads to a decrease in violent conflicts (Human Security Report 2009/2010).

In the decade after the terrorist destruction of the World Trade Centre on 11 September 2001 there has been more emphasis on national sovereignty and security interests also as a result of the "War on Terror" proclaimed by the United States, which, however, was to the detriment of human rights. In Europe, the balancing of security with freedom and human rights has become the main concern.

C. HISTORY AND PHILOSOPHY OF HUMAN RIGHTS

The idea of **human dignity** is as old as the history of humankind and exists in various forms in all cultures and religions. For example, the high value accorded to the human being can be seen in the African philosophy of *"ubuntu"* or the protection of foreigners in Islam. The *"golden rule"* that one should treat others as one would like to be treated oneself, exists in all major religions. The same is true for the society's responsibility to take care of its poor and for the fundamental notions of social justice. However, the idea of *"human rights"* is the result of the philosophical thinking of modern times, based on the philosophy of rationalism and enlightenment, on liberalism and democracy, but also on socialism. Even though the modern concept of human rights mainly emanated from Europe, it must be stated that the

notions of freedom and social justice, which are fundamental to human rights, are part of all cultures. The United Nations under the leadership of Eleanor Roosevelt, René Cassin and Joseph Malik developed the UDHR on which 80 experts from the North and South worked to shape its ideas and language. Human rights have become a universal, worldwide concept, with strong influences from the East and the South, i.e. the concept of economic, social and cultural rights, the right to self-determination and to development, the freedom from racist discrimination and Apartheid.

Whereas, historically, **citizens** became the first beneficiaries of constitutionally protected human rights as a result of their struggle for fundamental freedoms and economic and social rights, **foreigners** could be right-holders only in exceptional cases or on the basis of bilateral agreements. They were in need of protection by their own state, which represented its nationals abroad, while the concept of human rights obliges any state to protect all human beings on its territory.

For the development of rules of protection of non-nationals, the **humanitarian law** was of much importance. It aimed at establishing basic rules for the treatment of enemy soldiers, but also civilians in armed conflict.
☺☞ *Human Rights in Armed Conflict*

Early predecessors of actual international human rights can be found in the agreements on **freedom of religion** as contained in the Treaty of Westphalia of 1648 and the **prohibition of slavery**, such as the Declaration on the Slave Trade of the Vienna Congress in 1815, the founding of the American Anti-Slavery Society of 1833 and the International Convention against Slavery of 1926.
☺☞ *Religious Freedoms*
Non-Discrimination

The protection of **minority rights** also has a long history and was a major issue in the Peace Treaty of Versailles of 1919 and of the League of Nations founded in the same year. It came to the fore front again with the dissolution of the Soviet Union and Yugoslavia.
☺☞ *The Ongoing Global Struggle for Human Rights, Additional Resources Minority Rights*

The French Revolution, which was inspired by the American Declaration of Independence and the proclamation of the Virginia Bill of Rights of 1776, in 1789 declared the Rights of Men and of the Citizen. They were grouped under the categories of freedom, equality and solidarity, which were taken up again in the Charter of Fundamental Rights of the European Union of 2000. With her *"Declaration of the Rights of Women and of the (Female) Citizen"*

"We hold these truths to be self-evident – that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed."

American Declaration of Independence. 1776.

"The first is freedom of speech and expression – everywhere in the world. The second is freedom of every person to worship God in his own way – everywhere in the world. The third is freedom from want – which translated into world terms means economic understanding which will secure to every nation a healthy peace-time life for its inhabitants – everywhere in the world. The fourth is freedom from fear […]"

Franklin D. Roosevelt, 32nd President of the United States. 1941.

of 1791 Olympe de Gouge has been one of the first to request equal rights for women.
☺☞ *Human Rights of Women*

The concept of **universal human rights** for all human beings was acceptable to states only after the horrors of World War II, when agreement was reached on the Universal Declaration of Human Rights by then 48 states, with 8 socialist countries and South Africa abstaining, as an indispensable component of the United Nations system, interpreting the pertinent provisions of the UN Charter (Preamble and Articles 1 (3) and 55 c). Since then, UN membership has reached 193, but no state has ever really challenged this declaration, which today can in large parts be considered customary international law.

The International Law of Human Rights is based on shared values as agreed upon in the framework of the United Nations, which constitute elements of a global ethics. Philosophers like Jean-Jacques Rousseau, Voltaire and John Stuart Mill have argued for the existence of human rights. The prevailing "contract theories" granted rights in exchange of loyalty to the ruling power, whereas Immanuel Kant, in his cosmopolitan approach, claimed certain rights for the "*world citizen*". The international project "*world ethics*" under the direction of Klaus Küng found that all major religions share common core values, which largely correspond to basic human rights.
☺☞ *Religious Freedoms*

Human Dignity in the African concept:

"I am a human being because of your eyes seeing me as one […]"

African Proverb, Mali.

An "*ethics of responsibility*" (Hans Jonas) and a "*global ethics in support of human rights*" (George Ulrich) have been proposed in order to meet the challenges of globalisation.

The debate on **priorities for certain rights**

and **universality versus cultural relativism** has been addressed by the two world conferences on human rights in Tehran and Vienna, respectively. The Conference in Tehran in 1968 clarified that all human rights are indivisible and interdependent, and the Conference in Vienna in 1993 agreed by consensus that *"While the significance of national and* *regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms".* (Source: Vienna Declaration and Programme of Action. 1993. Para. 5)

D. CONCEPT AND NATURE OF HUMAN RIGHTS

Today, the concept of human rights is recognised as a **universal** one, as can be seen from the Declaration adopted by the Vienna World Conference on Human Rights in 1993 and the United Nations resolutions passed on the occasion of the 50th anniversary of the Universal Declaration of Human Rights in 1998. Some skeptics who question the universality of human rights should be reminded that states as geographically diverse as China, Lebanon or Chile were among those who helped to draft the concept in the 2nd half of the 1940s. Anyway, since then many more states have expressed their support for the Universal Declaration of Human Rights and ratified the International Covenant on Civil and Political Rights (ICCPR) as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR) which are based on the Universal Declaration. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) has been ratified by 187 countries by January 2012, albeit with many reservations, whereas the UN Convention on the Rights of the Child has been ratified by 193 states.

The starting point of the concept of human rights is the concept of the *inherent dignity of all members of the human family* as enshrined in the UN Charter, the Universal Declaration and the International Covenants of 1966, which also recognised the ideal of free human beings enjoying freedom from fear and want and being endowed with equal and inalienable rights. Accordingly, human rights are universal and inalienable, which means that they apply everywhere and can not be taken away from the human person even with his or her agreement. As stated at the Vienna World Conference on Human Rights in 1993 by UN Secretary-General Boutros Boutros-Ghali *"human rights are birth rights"*.

Human rights are also indivisible and interdependent. Different **dimensions or categories of human rights** can be distinguished: **civil and political rights**, like freedom of expression, and **economic, social and cultural rights,** like the human right to social security, which have to be "progressively realised" due to the fact that they place financial obligations on the state (cf. Article 2 (1) of the ICESCR).

In the past, certain states or groups of states,

"Human rights are the foundation of freedom, peace, development and justice – and the heart of the work of the United Nations around the world."

Ban Ki Moon, UN Secretary-General. 2010.

such as the socialist states in particular have expressed a preference for economic, social and cultural rights as opposed to civil and political rights, whereas the United States and the member states of the Council of Europe showed a certain preference for civil and political rights. However, at the World Conference on Human Rights in Tehran in 1968 as well as at the World Conference on Human Rights in Vienna in 1993, this unproductive debate was resolved by the recognition of both categories or dimensions of human rights as being of equal importance. In Tehran in 1968 they were declared as indivisible and interdependent, because the full enjoyment of economic, social and cultural rights is hardly possible without civil and political rights and vice versa.

In the 1980s, an additional category of human rights obtained recognition, i.e. the right to peace and security, the right to development, and the right to a healthy environment. These rights provide a framework necessary for the full enjoyment of all other rights. However, there is no conditionality in the sense that one category of human rights is a precondition for the other. The third category is best described as **solidarity rights**, because they require international cooperation and aim at community-building. Human rights need to be distinguished from "animal rights" and "earth rights" propagated by certain interest groups.

Whereas **human rights** are the rights of **all individuals**, whether they have the citizenship of a particular country or not, **rights of citizens** are fundamental rights which are exclusively guaranteed to nationals of a particular country such as, for example, the right to vote and to be elected or to have access to the public services of a given country.

Human rights also need to be distinguished from **minority rights**, which are the rights of members of a group with particular ethnic, religious or linguistic characteristics. On their own or in community with other members of the group, they have the human right to enjoy their own culture, to profess or practice their own religion or to use their own language (Article 27 of the ICCPR). More particular rules are contained in the UN Declaration on Minority Rights of 1993 and in European regional human rights instruments.

☺☞ *Minority Rights*

With regard to the human rights of **indigenous populations**, a UN Working Group on Indigenous Populations since 1982 discussed ways to promote and protect their human rights, in particular regarding their relationship to land. In 2007, the *UN Declaration on Human Rights of Indigenous Peoples* was adopted by the General Assembly (A/RES/61/295). When the document was introduced, 143 countries voted to approve it, with the only four negative votes of United States, Canada, New Zealand and Australia, which, in the meantime, have all reversed their positions and now endorse the Declaration.

The International Labour Organisation (ILO), revising an earlier declaration, in 1989 adopted

Convention Nr. 169 concerning *"Indigenous and Tribal Peoples in Independent Countries"*. In 2001, a *UN Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous People* was appointed. Following a recommendation of the Vienna World Conference on Human Rights in 1993 a *"Permanent Forum on Indigenous Issues"* was created in 2000 as a subsidiary authority of ECOSOC, which met in 2002 for the first time. The African Commission on Human and Peoples' Rights has also established a Working Group on indigenous peoples.

In the framework of UNESCO, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005 and the Convention for Safeguarding of the Intangible Cultural Heritage of 2003 complement human and minority rights in preserving cultural identity.

Human rights can also be a **means which people can use as a tool for social transformation,** on the national, regional or universal level. Therefore, the concept of human rights is closely linked to the concept of democracy.
☺☞ *Right to Democracy*

The requirements of the European Union and the Council of Europe for admission of new members point in the same direction. However, it will depend on the knowledge and understanding of human rights by the people themselves and their readiness to use them as a tool for change that human rights can have this transformative effect.

The traditional concept of human rights has been criticised by feminists for not properly reflecting the equality of women and men and for its lack of gender sensitivity. The World Conferences on Women and the elaboration of the UN Convention on the Elimination of All Forms of Discrimination against Women of 1979 have, *inter alia,* contributed to a gender-sensitive approach to the **human rights of women**, which is also reflected in the 1993 UN Declaration on Violence against Women, the Inter-American Convention of Belém do Pará of 1995, and the Additional Protocol on the Rights of Women to the African Charter on Human and Peoples' Rights of 2003. It is important to note that human rights instruments present a new social and political concept by legally recognising women as full and equal human beings.
☺☞ *Human Rights of Women*

Some states also point to their **historical, religious and cultural particularities** in arguing that certain human rights cannot apply to them in the same way as to others. The Declaration and Programme of Action of the Vienna World Conference recognised the existence of different approaches to the implementation of human rights based on factors of history, religion

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"Violence will end only when we confront prejudice.
Stigma and discrimination will end only when we agree to speak out.
That requires all of us to do our part;
to speak out at home, at work, in our schools and communities."

Ban Ki Moon, UN Secretary-General. 2010.

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and culture, but at the same time reiterated the obligation of all states to implement all human rights (see also C.). Therefore the existence of cultural or religious differences must not be used as an excuse for not fully implementing international human rights obligations. However, the cultural context should be taken into account. The **dialogue of civilisations** taking place in the United Nations has this very purpose of recognising the positive value of different civilisations without providing an excuse for not meeting the human rights obligations. One of the most difficult issues is the position of women within certain cultures which may lead to major human rights violations that need to be part of any agenda of dialogue.

E. HUMAN RIGHTS STANDARDS AT THE UNIVERSAL LEVEL

The recent history of standard-setting on the global level started with the **Universal Declaration of Human Rights (UDHR)**, adopted by the UN General Assembly on 10 December 1948 in the aftermath of World War II, which had seen the largest human rights violations ever. Prevention and punishment of **genocide** as was committed against the Jews in the holocaust is the subject of the *"Convention on the Prevention and Punishment of the Crime of Genocide"*, adopted a day before the UDHR.

In order to translate the commitments contained in the UDHR into legally binding obligations, the UN Human Rights Commission elaborated two **Covenants**, one on civil and political (**ICCPR**) and one on economic, social and cultural rights (**ICESCR**). Because of the *Cold War*, they were only adopted in 1966 and came into force in 1976. In January 2012 the ICCPR had 167 and the ICESCR 160 members respectively. The ICESCR was adopted first, as an indication of the preference of the then new majority of the developing and socialist countries in the UN for economic, social and cultural rights.

The UDHR and the two Covenants are commonly referred to as the international *"Bill of Rights"*, which is also supplemented by a number of other conventions.

In the 1960s the struggle against **racist discrimination** and **Apartheid** came to the foreground, which resulted in two conventions - against racist discrimination and on the suppression of the crime of Apartheid. Further conventions were adopted on the elimination of all forms of **discrimination against women**, against **torture** and other cruel, inhuman and degrading treatment or punishment, on the rights of the **child**, on the rights and dignity of **people with disabilities** and on the protection of all persons from **enforced disappearance**. Those conventions further clarify and specify the provisions of the Covenants or give particular attention to the needs of specific target groups. In the case of the women's convention of 1979 the *"problem of reservations"*, which is a general problem of human rights treaties gained particular prominence as a number of countries tried to restrict certain human rights of women in this way.

Overview of the most important UN human rights conventions

- Convention against Genocide (1948, 142 parties as of January 2012)
- International Covenant on Economic, Social and Cultural Rights (1966, 160

parties)
- International Covenant on Civil and Political Rights (1966, 165 parties)
- Convention on the Prevention and Punishment of the Crime of Genocide (1948, 48 parties)
- Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (1984, 146 parties)
- International Convention on the Elimination of All Forms of Racial Discrimination (1965, 173 parties)
- Convention on the Elimination of All Forms of Discrimination against Women (1979, 186 parties)
- Convention for the Protection of Migrants (1990, 45 parties)
- Convention on the Rights of the Child (1989, 193 parties)
- Convention on the Rights of Persons with Disabilities (2006, 106 parties)
- Convention on the Protection of all Persons from Enforced Disappearance (2006, 30 parties)

According to the **principle of non-discrimination**, states have to respect and ensure to all individuals within their territory all human rights without any discrimination with regard to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2 of the ICCPR and the ICESCR).
☺☞ *Non-Discrimination*

There is, however, also the possibility of **exceptions** and the use of **claw back clauses**. In the case of a **public emergency** threatening the life of a nation, a state may derogate from its obligations, if the state of emergency has been officially proclaimed and the measures remain within the limits strictly required by the situation. The measures must be taken on a non-discriminatory basis (Article 4 (1) of the ICCPR). Other state parties need to be informed through the Secretary-General of the United Nations.

However, no restrictions are allowed from certain Articles such as the right to life, the prohibition of torture and slavery, the non-retroactivity of criminal offences or the right to freedom of thought, conscience and religion (Article 4 (2) of the ICCPR). These rights are therefore called **non-derogable rights**. Emergency provisions have gained larger relevance in the fight against **terrorism**. Similar provisions exist in the European Convention on Human Rights (Article 15). The UN Committee on Civil and Political Rights has clarified state obligations in a General Comment (No. 29, 2001) on *"states of emergency"* (Article 4) and the Inter-American Commission on Human Rights and the Committee of Ministers of the Council of Europe have adopted a report and guidelines respectively on *"Terrorism and Human Rights"*.

Certain rights may contain so called *"claw back clauses"* which permit restrictions of certain rights if this is necessary for national security, public order, public health or morals, or the rights and freedoms of others. Such possibility exists in particular with regard to the freedom of movement, the freedom to leave any country, including one's own, freedom of thought, conscience and religion including the manifestation of a religion or belief, freedom of expression and information, freedom of assembly and of association. These restrictions have to be contained in a law, which normally means that they have to pass through parliament. The institutions, such as courts, interpreting the respective legal instruments have the obligation to control any misuse of these provisions. Consequently, there have been several cases before the European Court of Human Rights or the Inter-American Commission and the Court regarding the application of emergency powers or the "claw back clauses".

F. IMPLEMENTATION OF UNIVERSAL HUMAN RIGHTS INSTRUMENTS

States have **a duty to respect, protect and to fulfill** human rights. In many cases, implementation means that the state and its authorities have to respect the rights accepted, i.e. to respect the right to privacy or to expression. This is particularly true for civil and political rights, whereas for economic, social and cultural rights implementation means a positive activity of fulfillment by the state, i.e. to grant or to provide certain services like education and health and to ensure certain minimum standards. In this context, the capacity of a given state is taken into account. For example Article 13 of the ICESCR recognises the right of everyone to education. However, it specifies that only primary education has to be made available free of charge. Secondary education and higher education have to be made generally available and accessible to all, but free education is only expected to be introduced progressively. The concept of gradual accomplishment according to capacity is applied to several economic, social and cultural rights.

The **duty to protect** requires the state to prevent violence and other human rights violations among the people on its territory. Accordingly, human rights also have a *"horizontal dimension",* which is gaining importance in the era of globalisation by raising the issue of social responsibility of transnational corporations.

Another development is the increasing emphasis on **prevention of human rights violations** by structural measures, i.e. national human rights institutions or by including a human rights dimension in **peace-keeping** operations. The objective of prevention is also a priority of the human security approach to human rights (see also B.).

Human rights first need to be implemented at the **national level**. However, there may be **obstacles** like deficiencies in *"good governance",* such as a corrupt and inefficient administration or judiciary. In order to ensure that the state is meeting its obligations, **international monitoring** of the performance of the state has been institutionalised for most of the international conventions of human rights. This monitoring can take different forms.

Reporting systems exist under many international conventions. Accordingly, states have to report at regular intervals on their performance in human rights protection. Usually, a committee of experts reviews the reports and makes recommendations on how to strengthen implementation. The committee can also make *"general comments"* on the proper interpretation of the convention. In a few instances, such as in the case of the International Covenant on Civil and Political Rights (ICCPR), there is an Optional Protocol which authorises the Committee on Civil and Political Rights to receive **individual complaints** from persons on alleged violations of their human rights. However, this is only possible for people living in the 114 states which have ratified the Optional Protocol. Similar protocols intro-

ducing complaint and sometimes also inquiry mechanisms exist for other conventions, such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights of 2008 (6 parties) or the Optional Protocol to the Convention on the Rights of Persons with Disabilities of 2006 (65 parties). Some conventions also have provisions for **inter-state complaints**, but this possibility is rarely used. A **judicial procedure** exists in the case of the European and the Inter-American Conventions on Human Rights, with the European or the Inter-American Court of Human Rights being able to make decisions which are binding on states. After its Statute (Protocol to the African Charter on Human and Peoples' Rights) had successfully entered into force in January 2004, an African Court on Human and Peoples' Rights was also established. On 1 July 2008 the court merged with the African Court of Justice, and is now known as the African Court of Justice and Human Rights.

Complementary to the procedures contained in human rights instruments like human rights conventions, there are also the so-called *"charter-based procedures"*, which were developed on the basis of the Charter of the United Nations to address human rights violations worldwide. One of them was the confidential 1503-procedure, based on ECOSOC resolution 1503 of 1970, and 2000/3 of 2000, allowing for petitions to be sent to the office of the UN High Commissioner for Human Rights in Geneva, which are then reviewed by an expert group of the UN Commission for the Promotion and Protection of Human Rights. Since 2006, this procedure, which is mainly meant for gross violations of human rights, is under the responsibility of the Human Rights Council. Complaints under the 1503-procedure are now to be treated by two committees (for communications and for situations), before they reach the Human Rights Council.

During the 1947-2006 period of work of the Human Rights Commission and its Sub-Commission, **special procedures**, i.e. the activities of special rapporteurs and representatives of the Human Rights Commission or of the UN Secretary-General for human rights matters have increasingly gained importance. There are *"country rapporteurs"* as well as *"thematic rapporteurs"* such as the special rapporteurs and accordingly independent experts on human rights situations in Sudan, in Haiti and Myanmar, as well as in the Democratic Republic of Congo, and special rapporteurs on torture or on violence against women. Their mandate is usually three years, subject to prolongation.

Altogether, there are about 40 such special procedures, which collect information according to their country- or thematic field of activity, and submit annual reports. They reflect the increased activism of the United Nations and also provide a sort of follow-up mechanism in cases where no enforcement procedures have been foreseen or are lacking efficiency in sustainability and monitoring. Such examples can be found in the 1998 Human Rights Defenders Declaration or in the case of several economic and social rights, such as the human rights to education, to food, to adequate housing, to health, and structural adjustment policies. Furthermore, there are *"independent experts"*, e.g. on the right to development, and *"working groups"*, for instance on enforced and involuntary disappearances.

As part of the United Nations reforms in 2006, the **Human Rights Council** has assumed all mandates, functions and responsibilities of the Commission on Human Rights, and from then on it reports directly to the UN General Assembly. The Human Rights Council (HRC) is supposed to raise the UN human rights system's efficiency on a higher level. To this end,

the number of sessions was increased to three per year, and the Human Rights Council was given a task to regularly review the human rights situation in all UN member states on the grounds of the UDHR and other ratified human rights treaties (Universal Periodic Review (UPR)). Until 2011 all UN member states have undergone the UPR, which concludes with a number of recommendations and constitutes a major innovation.

Through its special sessions the Human Rights Council can rapidly respond to serious human rights problems. The Sub-Commission for the Protection of Human Rights was replaced by an 'Advisory Committee for Human Rights', which is composed of experts and does substantive work, to be adopted by the HRC. The special procedures continued to be tested. First experiences with the HRC were mixed. The intensity of the sessions increased, but the voting patterns in the Council that gave developing countries, especially from the Islamic world, a majority, led to a reprioritisation. These countries wanted to focus the Council's attention on the occupied Palestinian territories rather than, for instance, genocide in Sudan. Also, the mandates for the country-specific rapporteurs for Cuba and Belarus were not prolonged. A review of the new mechanisms took place in 2010/11.

In addition, the United Nations High Commissioner for Human Rights increasingly resorts to the setting up of **missions of the Office of the High Commissioner** in countries with a problematic human rights situation. Such missions have been established in countries such as Afghanistan, Bosnia-Herzegovina, Cambodia, Colombia, Guatemala, Haiti, Kosovo, Montenegro, Sierra Leone etc. They collect information and promote human rights standards, for example by providing advice for the legislative reform process or participating in the work of the international community.

The activities of these special institutions have both a protective and a promotional purpose. They promote a better awareness of human rights and their inclusion in all activities in order to base solutions adopted firmly on the grounds of human rights. Indeed, **promotion of human rights** means a much larger task, which cannot be accomplished by international institutions and bodies alone. Promotion of human rights means first of all to make people aware of their rights, to inform them about their rights and to teach them how to make best use of their human rights. For this purpose, different actors can be involved. They include universities, the educational sector in general, but also non-governmental organisations (NGOs). On the **national level** the United Nations in GA-Res. 48/134 (1993) recommended the establishment of *"national human rights institutions"* to promote and protect human rights, like ombudspersons or national commissions on human rights. For this purpose, the so-called "Paris principles" have been adopted by the UN General Assembly in 1993, which set standards for the competence and responsibilities, guarantees of independence and pluralism and methods of operation. The national institutions can play a very important role, in particular in countries, where no effective regional system of human rights protection exists like in Asia or in the Arab countries. They cooperate regionally and within the Human Rights Council, where they have consultative status.

G. HUMAN RIGHTS AND CIVIL SOCIETY

For the development of the system of human rights the impact of civil society, represented mainly by **NGOs,** has been crucial. NGOs are based on the freedom of association, protected by Article 22 of the ICCPR. In the United Nations, they have developed into a kind of *"conscience of the world"*. They often pursue certain specific protection interests like freedom of expression and freedom of the media (Article 19) or prevention of torture and inhuman or degrading treatment (**Association for the Prevention of Torture, APT**). NGOs such as **Amnesty International** use special procedures like *"urgent action appeals"* to put pressure on governments. The strategy of *"mobilisation of shame",* mainly achieved with the help of independent media can be very effective. NGOs such as the **International Crisis Group (ICG), Human Rights Watch** or the **International Helsinki Federation (IHF)** influence governments and the international community through **high quality reports**, based on fact-finding and monitoring. Another effective NGO approach is to elaborate *"shadow reports"* presented in parallel to official state reports to international monitoring bodies. Some NGOs like *"Avaaz"* (Voice) or *"Change"* have specialised on campaigns for human rights, the environment or development etc. for which purpose they very effectively use the Internet.

According to a resolution of the General Assembly in 1998, the **Human Rights Defender's Declaration**, people and NGOs working for human rights have to be given the necessary freedom to do so and be protected against persecution of any kind. In some states, organisations like Amnesty International or the Helsinki Committees have been subjected to criticism and, in some cases, even persecution for their work. There have even been numerous cases worldwide where human rights activists have been imprisoned for their legitimate activities. The state does not only have the obligation to protect those activists against its own representatives like the police but also against violent groups like death squadrons who

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"Human rights defender is a title each and every one of us can earn. It is not a role that requires a professional qualification. What it depends on is regard for our fellow human beings, an understanding that we are all entitled to the full range of human rights and a commitment to seeing that ideal become a reality."

Navi Pillay, UN High Commissioner for Human Rights.

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take the law into their own hands. The UN Secretary-General has appointed a *Special Representative* on Human Rights Defenders to support the implementation of the respective UN declaration and also the Human Rights Commissioner of the Council of Europe and the EU have a focus on supporting them.

NGOs also play a major role in *Human Rights Education and Learning*, by developing curricula, organising training programs and producing training materials, often in cooperation with the United Nations, UNESCO, the Council of Europe or other inter-governmental institutions. On the global level, the *People's Decade for Human Rights Education* (PDHRE), which initiated the UN Decade on Human Rights Education has also reached out to the South, where it aims at the creation of regional Human Rights Learning Institutions. In the field of training against racism and discriminatory behaviour the *Anti-Defamation League (ADL)* is active worldwide. The NGO *Human Rights Education Associates* is organising training courses through the Internet and also provides electronic resources (www.hrea.org). The Austrian NGO *European Training and Research Centre for Human Rights and Democracy (ETC)* organises train-the-trainers courses in South-East Europe, Asia and Africa based on the manual on human rights education.

Networks of NGOs have gained particular importance in the struggle for the equality of women and their protection. UNIFEM, CLADEM or WIDE all have Human Rights Education and Learning high on their agenda, in order to empower women to overcome obstacles to full equality and non-discrimination. In Africa, NGOs meet regularly before the session of the African Commission on Human and Peoples' Rights, attend its session and organise joint training activities.

Civil society organisations help to amplify the voice of the economically and politically disempowered. On issue-specific campaigns related to fair trade, violence against women, human rights and environmental violations, to name a few, international civil society has brought to the world's attention threats to human security.

NGOs can empower and mobilise a range of civil society organisations within their countries through rights-based education to strengthen citizen participation in economic and political processes and to ensure that institutional arrangements are responsive to people's needs.
(Source: Commission on Human Security. 2003. *Human Security Now.)*

H. REGIONAL SYSTEMS OF PROTECTION AND PROMOTION OF HUMAN RIGHTS

In addition to the universal instruments of human rights protection several regional systems of human rights have developed, which usually provide a higher standard of rights and their implementation.

The advantage of regional systems is their capacity to address complaints more efficiently. In the case of courts, binding decisions with compensation can be given and also the recommendations of the Commissions on Human Rights are generally taken seriously by states. They may result not only in *"lead cases"* to interpret and clarify provisions of human rights instruments, but also in changes of national law in order to bring it into conformity with international human rights obligations. In addition, regional systems tend to be more sensitive to cultural and religious concerns, if there are valid reasons for them.

I. EUROPE

The European human rights system has three layers, namely the system of the Council of Europe (2012: 47 members), of the Organization for Security and Cooperation in Europe (2012: 56 members) and of the European Union (2012: 27 members, 28 after the planned accession of Croatia in 2013).

The European system of human rights is the most elaborate regional system. It has de-

veloped as a reaction to the massive human rights violations during World War II. Human rights, the rule of law and pluralistic democracy are the cornerstones of the European legal order. The main instruments of the Council of Europe and the European Union are binding on all member states.

European Human Rights Instruments
- Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and 14 Additional Protocols
- European Social Charter (1961), as revised in 1991 and 1996 and Additional Protocols 1988 and 1995
- European Convention for the Prevention of Torture and other Inhuman and Degrading Treatment or Punishment (1987)
- Final Act of Helsinki (1975) and follow-up process of CSCE/OSCE with Charter of Paris for a new Europe (1990)
- European Charter for Regional or Minority Languages (1992)
- Framework Convention for the Protection of National Minorities (1994)
- Charter of Fundamental Rights of the European Union (2000)

1. The Human Rights System of the Council of Europe

a. An overview

The main instrument of the European system of human rights is the **European Convention on Human Rights (ECHR)** of 1950 and its 14 Additional Protocols. Of particular importance are Protocols No. 6 and No. 13 on the abolition of the death penalty, which distinguish the European human rights approach from that of the United States, and Protocol No. 11 and No. 14, which replaced the European Commission on Human Rights and the European Court of Human Rights by one permanent European Court of Human Rights, and improved its procedures. The European Convention on Human Rights encompasses mainly civil and political rights, but embraces the right to education as well.

The **European Social Charter** of 1961 set out to add economic and social rights, but never gained the same importance as the ECHR. From the beginning it suffered from a weak and inefficient system of implementation. However, parallel to the growing attention to economic and social rights on the universal level since the late 1980s, new attention has been given also to the European Social Charter which was amended twice in 1988 and 1995 and now also offers the possibility of collective complaints based on an Additional Protocol.

A major innovation has been introduced by the **European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** of 1987, which established a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Committee sends delegations to all member states of the Convention to undertake regular or special ('Ad hoc-') visits to prisons, psychiatric hospitals and all other places of detention. Accordingly, the logic of the system is its preventive effect as opposed to *ex post facto* protection, which is still taken care of by the ECHR and its court. In December 2002, the UN General Assembly adopted an Additional Protocol to the UN Convention against Torture (OPCAT), which foresees a similar mechanism to operate worldwide. It provides for "National Prevention Mechanisms" to be established in all state parties and preventive visits by the Sub-Committee on the Prevention of Torture (SPT).

☺☞ *Prohibition of Torture*

The **European Framework Convention for the Protection of National Minorities** (1995) was elaborated after the summit meeting of the Council of Europe in Vienna 1993 as a reaction to the increasing problems with minority rights in Europe. These problems are the result of the dissolution of the Soviet Union and the Socialist Republic of Yugoslavia and more generally of the process of self-determination in Europe in the 1990s. According to the Convention, states have to protect the individual rights of members of national minorities, but also to provide conditions which allow minorities to maintain and develop their culture and identity. The enforcement mechanism is limited to a reporting system and an Advisory Committee of Experts in charge of reviewing the reports, which, however, also undertakes country visits.

The European Commission against Racism and Intolerance (ECRI) was established at the 2003 Europe Summit in Vienna, to combat racism, xenophobia, anti-semitism and intolerance. To this end, the Commission together with the Council of Europe member states prepares periodic reports on the situation in this area. It also gives general policy recom-

mendations and has a focus on the involvement of civil society in fighting against racism and intolerance.

The Council of Europe in 1999 also established a **"Commissioner on Human Rights"** who focuses on gaps in European human rights protection like the situation of migrants and also undertakes country visits. The Parliamentary Assembly of the Council of Europe is also actively involved in human rights issues, while the Committee of Ministers is the main operational body overseeing the whole system.

**European Human Rights
Institutions and Bodies**
Council of Europe (CoE):
- European Court of Human Rights (single court 1998)
- European Committee on Social Rights (as revised 1999)
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT, 1989)
- Advisory Committee of the Framework Convention on National Minorities (1998)
- European Commission on Racism and Intolerance (ECRI, 1993)
- European Commissioner for Human Rights (1999)
- Committee of Ministers of the Council of Europe
- Parliamentary Assembly of the Council of Europe

Organization for Security and Cooperation in Europe (OSCE):
- Office for Democratic Institutions and Human Rights (ODIHR, 1990)

- High Commissioner on National Minorities (1992)
- Representative for the Freedom of the Media (1997)

European Union (EU):
- Court of Justice of the European Union (CJEU)
- European Commissioner on Justice and Fundamental Rights
- European Union Agency for Fundamental Rights (2007), built upon the European Monitoring Centre on Racism and Xenophobia (EUMC, 1998)

b. The European Court of Human Rights

The main instrument of protection of human rights in Europe is the European Court of Human Rights (ECtHR) in Strasbourg, the obligatory jurisdiction of which today is recognised by all member states of the Council of Europe. In each case a so-called *"national judge"* is involved in order to facilitate the understanding of the national legislation. However, judges once appointed serve only in their personal capacity, and their service is limited to 9 years.

In order for a **complaint** to be **admissible**, four major pre-conditions have to be fulfilled:
a. violation of a right protected by the ECHR or its additional protocols
b. complainant(s) being a victim of the violation
c. exhaustion of all effective domestic remedies
d. complaint to be made less than 6 months after exhaustion of domestic remedies

If considered admissible, a chamber of 7 judges decides about the merits of the case. Their judgment is final if the case is not considered

as being of particular importance or representing a new line of jurisdiction, in which case a grand chamber of 17 judges serves in an appeal function. The judgments are binding and may also provide compensation for damages. The supervision of the execution of the judgments is the task of the Committee of Ministers.

The main problem of this system is the large number of complaints received which has increased from about 1.000 in 1998 to 56.000 in 2011, resulting in an overloading of the system. The Protocol No. 14 to the ECHR has been adopted to address this problem, but additional measures are necessary. The planned accession of the European Union to the ECHR will further tighten the human rights protection framework in Europe, but will also lead to a heavier caseload.

2. The Human Rights System of the Organization of Security and Cooperation in Europe (OSCE)

The OSCE, which replaced the Conference on Security and Cooperation in Europe in 1994, is a very particular organisation. It neither has a legal charter nor international legal personality and its declarations and recommendations are only of a political nature and not legally binding on states. Nonetheless, the often very detailed catalogues of obligations adopted in various follow-up conferences or expert meetings and monitored by the Council of representatives of member states and the regular follow-up conferences is a rather successful monitoring mechanism. The *"Helsinki Process"* played a major role in building cooperation between East and West during the Cold War and providing a basis for cooperation in the wider Europe of 56 countries, including USA and Canada.

Under the title of *"human dimension"*, the OSCE undertakes a number of activities in the field of human rights and minority rights in particular. These also play a major role in the various field missions as in the case of Bosnia and Herzegovina or Kosovo. For this purpose OSCE missions have a human rights department and human rights officers are deployed throughout the country to monitor and report on the human rights situation, but also to promote human rights and to assist in certain cases of protection. The OSCE also supports national institutions of human rights in the countries where it maintains a mission like the ombudspersons in Bosnia and Herzegovina or in Kosovo.

Special mechanisms have been developed in the form of the **High Commissioner for Minorities** and the **Representative for the Freedom of the Media** ☺☞ (*Minority Rights, Freedom of Expression and Freedom of the Media*), which have their offices in The Hague and Vienna, respectively. The High Commissioner on National Minorities is an instrument of conflict prevention with the mandate to deal with ethnic tensions at the earliest possible stage. The OSCE also had a major role in monitoring democratic elections in a number of countries in Europe transforming into pluralist democracies. The democratisation process and the promotion of human rights are supported by the **Office of Democratic Institutions and Human Rights (ODIHR)** located in Warsaw. The OSCE plays a major role in conflict resolution and post-conflict reconstruction in Europe. It is also engaged in the promotion of human rights education, which is conducted through its projects and linking-up with other regional or international organisations, as well as NGOs, under the general term *"Education for mutual respect and understanding"*.

3. The Human Rights Policy of the European Union

Whereas the European Economic Community created in 1957 originally did not concern itself with political issues like human rights, the political integration of Europe towards a European Union since the 1980s has enabled human rights and democracy to become key-concepts of the common European legal order. A major role was played by the **European Court of Justice** which developed a human rights jurisdiction derived from *"common constitutional traditions of member states"* and international treaties to which those member states were parties, notably the European Convention on Human Rights. Several human rights were constructed as general principles of community law, like the right to property, freedom of association and religion or the principle of equality, which is of particular importance in European Union law.

Since the 1980s the European Community also developed a human rights policy in its relations with third countries, which was also reflected in the so-called **Copenhagen Criteria** for the recognition of new states in South-Eastern Europe. Article 6 and 7 of the 1995 Treaty on European Union explicitly refer to the European Convention on Human Rights of 1950, and according to the EU Reform Treaty (Treaty of Lisbon) which entered into force in 2009 the European Union started negotiations to accede to that Convention as a member.

In 2000 a Convention was convened to draft the **Charter of Fundamental Rights of the European Union**, adopted by the Nice summit in 2000. Presently this Charter is the most modern human rights document in Europe and includes in a single text civil and political as well as economic, social and cultural rights similar to the UDHR. The Charter is legally binding since the Treaty of Lisbon's coming into force in 2009.

Since 1995 the EU includes **human rights clauses** in its bilateral agreements, such as the Cotonou Agreement, the Euromed Agreement or the *"Stability and Association Agreements"* with countries in South East Europe.

The European Union has developed a human rights policy both for its internal relations as well as its external relations, forming part of its Common Foreign and Security Policy. The **Annual Report on Human Rights** published by the European External Action Service (EEAS) reflects the importance of this human rights policy for the European Union in general. The EEAS makes public statements, but is also active behind the scenes in a case-oriented *"human rights diplomacy"* and together with the European Commission pursues *"human rights dialogues"* with numerous countries like China and Iran. The European Parliament has taken a lead in keeping human rights high on the EU agenda and since the early 1990s also issues annual reports on the human rights situations in the world and in the EU.

On its initiative, financial support for projects of NGOs in the field of human rights and democracy is available from the **European Initiative for Democracy and Human Rights**, operated by EuropeAid on behalf of the European Commission, which defines the political strategy. Special emphasis is given to the struggle against torture and the death penalty, or the campaign for the International Criminal Court.

A **European Union Agency for Fundamental Rights (FRA)** was established in Vienna in 2007. It is based on the work of the European Monitoring Centre on Racism and Xenophobia (EUMC) that was previously set up in 1998 in Vienna as an answer to the growing racism and xenophobia within the EU. Since

then EUMC, supported by NGOs, was monitoring the situation in Europe and supporting activities to combat racism and xenophobia. Its successor agency, the FRA, also has a task of monitoring all the rights contained in the EU Charter of Fundamental Rights in the EU. This is being done with a focus on selected thematic areas rather than on regular and broad reporting. To this end, on the basis of multi-annual programmes, thematic reports and studies are elaborated with the help of a research network of national focal points from all EU member states, called FRANET. Advice is provided by a scientific committee and a civil society platform.

The Treaty on the Functioning of the European Union in Article 19 empowers the Union to combat discrimination on the grounds of racial or ethnic origin, religion or belief, age, disability or sexual orientation. In 2000, the Council adopted Directive 2000/43/EC on the implementation of the principle of **equal treatment** between persons irrespective of racial or ethnic origin, in particular, in the fields of employment, education, social protection, and access to and supply of goods and services which are available to the public, including housing. The directive applies both to the public and private sector within the EU and has been complemented by other directives since.

Similarly, the European Union has a particular focus on **equality**. According to Article 157 of the Treaty on the Functioning of the EU member states have to apply the principle of *"equal payment for men and women"* and to adopt measures providing equality of opportunity. Additionally, this principle has been further developed in regulations and directives like the updated equal treatment directive 2002/73/EC.

☺☞ *Non-Discrimination*
Human Rights of Women

II. THE AMERICAS

The Inter-American system of human rights started with the **American Declaration of the Rights and Duties of Man**, which was adopted in 1948, together with the Charter of the Organization of American States (OAS). The **Inter-American Commission on Human Rights**, created by the OAS in 1959 and consisting of 7 members, is the main body of the system.

In 1978, the **American Convention on Human Rights**, adopted in 1969, came into force, and since has been complemented by two Additional Protocols, one on economic, social and cultural rights and one on the abolition of the death penalty. The United States is not a member of the Convention, although the seat of the Commission is in Washington. The Convention also provided for the **Inter-American Court on Human Rights**, which was established in 1979 with its seat in Costa Rica, where the *"Inter-American Institute of Human Rights"* is also located.

There are several legal instruments granting rights to women, but the **Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará)**, which came into force in 1995, deserves special mentioning. It has already been ratified by 32 of the 35 member states of OAS. According to this Convention regular national reports are to be submitted to the **Inter-American Commission of Women**, established already in 1928. There is also a **Special Rapporteur on the Rights of Women** (since 1994).

☺☞ *Human Rights of Women*

**Inter-American System
of Human Rights**
- American Declaration on the Rights and Duties of Man (1948)
- Inter-American Commission on Human Rights (1959)
- American Convention on Human Rights (1969, in force 1978, 24 parties)
- Additional Protocol on Economic, Social and Cultural Rights (1988, 16 parties)
- Additional Protocol on the Abolition of the Death Penalty (1990, 12 parties)
- Inter-American Court of Human Rights (1979, in force 1984)
- Inter-American Commission on Women (1928)
- American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994, 32 parties)
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (1999, 19 parties)

Individuals, groups or NGOs can make **complaints**, called *"petitions"* to the Inter-American Commission on Human Rights, which may also request information on human rights measures taken. The Inter-American Court cannot be addressed directly, but only through the Commission, which can decide which cases to transfer to the Court. In this way, in the past, the Court did not get many cases, which since has changed. The Court can also give **advisory opinions**, i.e. on the interpretation of the Convention. Like the Commission it has seven members and works on a non-permanent basis.

The Commission can also undertake **on-site investigations** and issues **special reports** on particular issues of concern. There are several NGOs, which assist victims of human rights violations to take cases to the Inter-American Commission on Human Rights and the Court. There are also special procedures like the **Special Rapporteurs** on freedom of expression, on the rights of migrant workers, on the rights of women and on the rights of the child.

III. AFRICA

The African system of human rights was created in 1981 with the adoption by the then Organisation of African Unity (OAU) of the **African Charter on Human and Peoples' Rights**, which came into force in 1986. It provides for the **African Commission on Human and Peoples' Rights**, consisting of 11 members, which has its seat in Banjul, Gambia. Today, all 54 member states of the African Union (AU), which succeeded the OAU in 2001, have ratified the African Charter, which follows the approach of the Universal Declaration of Human Rights uniting all categories of human rights in one document. Its preamble refers to the *"values of African civilization"*, which is intended to inspire the African concept of human and peoples' rights. Besides individual rights it also enunciates peoples' rights. Furthermore, it spells out duties of individuals, for example towards the family and society, which, however, have little relevance in practice.

African System of Human Rights
- African Charter on Human and Peoples' Rights (1981, in force 1986, 53 parties)
- African Commission on Human and Peoples' Rights (1987)

- Protocol on the Establishment of an African Court on Human and People's Rights (1997, in force 2003, 24 parties)
- Protocol on the Rights of Women (2003, in force 2005, 28 parties)
- African Charter on the Rights and Welfare of the Child (1990, in force 1999, 45 parties)
- African Court on Justice and Human Rights (2008)

The **African Commission on Human and People's Rights** has a large mandate in the field of promotion of human rights, but can also receive **complaints** from states (which has never happened so far) and individuals or groups. Admissibility criteria are wide and also allow for communications from NGOs or individuals on behalf of victims of violations. However, the Commission cannot issue legally binding decisions, which is one reason why a Protocol to the Charter on the Establishment of the African Court on Human and Peoples' Rights has been adopted, which came into force in 2003. However, based on a decision of the Assembly of Heads of State and Government of 2004 the Court merged in 2008 with the Court of Justice of the African Union to become the **African Court on Justice and Human Rights**. The Court is located in Arusha, Tanzania, and had its first meeting in 2006. In 2009, the Court delivered its first judgment. It can receive complaints through the Commission as in the Inter-American System. The Court can be directly addressed by individuals only if states make a special declaration in that respect, which is the exception so far.

A regular monitoring of the national situation of human rights is to take place on the basis of the examination of **state reports** by the Commission, which, however, are often irregular and unsatisfactory. Following the UN practice, the Commission has appointed S**pecial Rapporteurs** on extra-judicial, summary and arbitrary executions, on prisons and conditions of detention, on freedom of expression, on human rights defenders, on refugees, asylum seekers, migrants and internally displaced persons and on the rights of women. At its summit in Maputo, Mozambique the African Union (AU) has adopted an Additional Protocol to the Charter on the Rights of Women in Africa in 2003. The Maputo Protocol entered into force in 2005, and as of July 2010 28 countries have ratified it.

The Commission also sends **fact-finding missions and promotional missions. It** organises **extra-ordinary sessions** in particular cases, such as after the execution of nine members of the Movement for the Survival of the Ogoni People in 1995 and their unfair trial in Nigeria. An important part of the momentum of the Commission comes from **NGOs** from Africa and beyond, which are allowed to participate in all public meetings of the Commission. They often bring cases of violations and support the work of the Commission and its special rapporteurs. It is also important that governments make the Charter directly applicable in their **national legal systems**. This has happened, for example, in the case of Nigeria with the result that Nigerian NGOs as, for example, *"Constitutional Rights Project"* successfully brought cases of violations of the Charter before Nigerian Courts.

Following the adoption of the UN Convention on the Rights of the Child in 1989 an **African Charter on the Rights and Welfare of the Child** was adopted in 1990. However, it only came into force in 1999 and by 2011 has been ratified by 45 AU member states. The African

Committee of Experts on the Rights and Welfare of the Child meets at least once a year.

IV. OTHER REGIONS

For the Islamic countries, the *"Cairo Declaration on Human Rights in Islam"* of 1990 needs to be mentioned, which was drawn up by the Foreign Ministers of the *Organization of the Islamic Conference* (OIC) but never adopted officially. All rights stipulated in this Declaration are subject to the Islamic Sharia, what is questionable under international law.

Furthermore, an **Arab Charter on Human Rights** has been elaborated by Arab human rights experts and adopted by the Council of the *League of Arab States* in 1994 but has never entered into force due to lack of ratifications. A new version was adopted in 2004 which entered into force after 7 ratifications in 2008. It established also an **Arab Human Rights Committee**, which, however, cannot receive any complaints, but only state reports.

In spite of several attempts, such as the Convention on Regional Arrangements for the Promotion of Child Welfare that was launched in 2002 by the South Asian Association for Regional Cooperation (SAARC), it has not yet been possible to adopt a regional Human Rights instrument in **Asia,** or to establish an Asian Human Rights Commission, mainly because of the diversity within the region.

However, there are efforts within regional integration areas like ASEAN, that led to one new Charter of the Association of Southeast Asian Nations in 2007. In addition, Article 14 of the Charter provides for an ASEAN human rights body, i.e. the **ASEAN Intergovernmental Commission on Human Rights**, which consists of representatives of member states and has a mainly promotional and consultative mandate. One of its tasks is the development of an ASEAN Human Rights Declaration.

On the level of civil society, more than 200 Asian NGOs under the leadership of the **Asian Legal Resources Centre** in Hong Kong, on the occasion of the 50th Anniversary of the UDHR in 1998, elaborated an *"Asian Human Rights Charter"* as a *"Peoples' charter"*. There is also an annual **Asia-Europe Meeting (ASEM)** on human rights between the European Union and currently 19 Asian states, including China. A similar **dialogue** exists between the European Union and China

As an inter-regional agreement, the **Cotonou Partnership Agreement** between 79 African, Caribbean and Pacific (ACP) states and the 27 member states of the European Union of 2000, in Article 9 (2) recalls that *"respect for human rights, democratic principles and the rule of law […] constitute the essential elements of this agreement"*. In case of serious human rights violations, parts of the agreement can be suspended after unsuccessful consultations.

I. UNIVERSAL JURISDICTION 😑‼️⁉️
AND THE PROBLEM OF IMPUNITY

The struggle against impunity and for accountability has become a broad global concern. One major consideration is the prevention of further crimes, which usually take the form of serious violations of human rights and humanitarian law. Granting **impunity** to major human rights violators has been a practice worldwide to persuade undemocratic rulers, often generals, to hand over power to democratically elected governments. It must not be confused with "amnesties" given for minor offences after wars or regime changes. Impunity goes against the principle of accountability, which increasingly is realised on the national and international levels, for example in the establishment of special and general international criminal tribunals and courts.

In order to prevent human rights violations, certain international conventions, like the UN Convention against Torture of 1984, provide for an obligation of **universal prosecution** of perpetrators of crimes. In the case of General Augusto Pinochet, the former Chilean dictator, a Spanish judge in 1998 requested his extradition from the UK, which, by a remarkable decision of the House of Lords was finally granted, but not implemented because of his poor health condition. The principle of universal jurisdiction is applied by the **International Criminal Court (ICC)** and on the national level. That means that a person, accused of torture is due to be brought before a court or must be delivered for trial elsewhere. Charles Taylor, the former head of state of Sierra Leone, was first allowed to leave for Nigeria, but, in March 2006, was returned to be brought to justice. He is tried by the Special Court for Sierra Leone, sitting in extraordinary sessions in The Hague. In the case of the "*Arab spring*" in 2011 accountability was requested for the violent repression of the protests. In Egypt, former president Mubarak was put on trial.

Other forms of **establishing accountability** without necessarily leading to the punishment of the perpetrators are **"Truth and Reconciliation Commissions"**, which have been established in South Africa and other countries as a form of non-retributive justice. They give the victims a chance at least to know the truth and society to learn the lessons of the past. In this regard, the UN Human Rights Council has conceptualised a '*right to truth*'.

> In the case of Argentina the Inter-American Commission on Human Rights has found that the amnesty laws granting impunity violated the rights to judicial protection and fair trial. There has been an international campaign against impunity, in which local NGOs played a major role. Finally, in 1998, the amnesty laws were lifted.

J. INTERNATIONAL CRIMINAL JURISDICTIONS

According to the statute of the **International Criminal Court (ICC)**, adopted in Rome in 1998, which came into force in 2002, the ICC has been established in The Hague as a permanent tribunal. Its jurisdiction covers the crime of genocide, crimes against humanity *"committed as part of a wide-spread systematic attack directed against any civilian population"*, which includes cases of rape, sexual slavery, forced pregnancy or any other form of grave sexual violence ☺☞ (*Human Rights of Women*), the enforced disappearance of people or similar inhumane acts causing great suffering, such as serious injury to mental or physical health, war crimes and, the crime of aggression, on the definition of which agreement was finally reached in a conference in Nairobi in 2010.

The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established by the UN Security Council in 1993 in The Hague as an *ad hoc tribunal* to deal with massive violations of human rights and humanitarian law in the territory of the former Yugoslavia. Accordingly, its competences include grave breaches of the Geneva Convention of 1949 on the protection of victims of armed conflict, crimes against humanity, like murder, torture, rape or other inhumane acts committed in armed conflict, and genocide. After the trials of Karadzic and Mladic, it will be phased out. As a consequence to the Rwandan genocide of 1994, the **International Criminal Tribunal for Rwanda (ICTR) was** established in Arusha, Tanzania, also on a temporary basis.

In the case of Cambodia, the implementation of an agreement between the United Nations and the Cambodian government for the **Cambodian War Crimes Tribunal** of 2003 was delayed. Only in 2008 did the Tribunal hold its first hearing and there are still problems to its functioning.

Like the ICTY and the ICTR, the ICC jurisdiction is **complementary to the national jurisdictions**. Only if a state is not willing or able to prosecute the perpetrators of crimes can the ICC take up the case. However, also the UN Security Council can bring cases as it did in the case of Gaddafi in 2011. All tribunals are based on the principle of individual responsibility, regardless of the official function of the accused.

The semi-international **Special Court for Sierra Leone** operating since 2002 investigates murder, rape, sexual slavery, extermination, acts of terror, enslavement, looting and burning. It intends only to prosecute those individuals, who bear the greatest responsibility for the suffering of the people in Sierra Leone. It cooperated with the Truth and Reconciliation Commission, which in the meantime terminated its work.

K. HUMAN RIGHTS INITIATIVES OF THE CITIES

Programs to strengthen human rights at the municipal level are a new approach to use the human rights framework as a guideline for social and economic development. On the initiative of the PDHRE, **People's Movement for Human Rights Learning** – using human rights education as a strategy for societal development –, several cities, such as Rosario (Argentina), Bongo (Ghana), Korogocho (Kenia), Kati (Mali), Dinapur (Bangladesh), Bucuy (Philippines), Porto Alegre (Brazil), Graz (Austria), Edmonton (Canada) and Gwangju (South Korea) have declared themselves *"human rights cities" or "human rights communities"*. At the World Human Rights Cities Forum in 2011 the *"Gwangju Declaration on Human Rights City"* was adopted.

Another initiative has been undertaken by the city of Barcelona, where, in cooperation with the city of Saint Denis, a *"European Charter for the Safeguarding of Human Rights in the City"* was elaborated in 1998, which by 2011 has been signed by more than 350 cities, mainly in Mediterranean Europe. The Charter contains political obligations based on international human rights, for example regarding the rights of migrants, and recommends the establishment of local institutions and procedures for human rights protection, like ombudsmen, human rights councils or a human rights balance sheet. In regular meetings, like in Venice (2002) or Lyon (2006) experiences of good practices are exchanged by the signatory cities and communities. The city of Tuzla hosted the 7th Conference of the European Charter for the Safeguarding of Human Rights in the City in October 2010.

The **International Coalition of Cities against Racism**, initiated by UNESCO, addresses problems of racism and xenophobia in cities in order to assist them to take the increasing cultural diversity of their inhabitants better into account. The Coalition mainly works on the regional level, for example through the "European Coalition of Cities against Racism" which started in 2004 or the Asian Coalition. Several cities also have Human Rights Commissions and ombudspersons or other institutions which work to prevent and redress human rights violations.

The strategy of promoting human rights across communities, starting at the local level has the advantage of being able to address human rights problems in daily life. The **method** suggested by PDHRE and successfully applied in practice is to start with jointly developing an inventory and identifying the human rights realisation and violations in the city, leading to the elaboration of a strategy translated into a program of action. In this process inhabitants examine laws and policies on the use of resources in the city. They develop plans to strengthen the realisation of human rights and to overcome human rights problems in their city. Together with the authorities they pledge that all decisions, policies or strategies should be guided by human rights.

For this purpose, a holistic approach to human rights is pursued, which means that all human rights, civil and political, economic, social and cultural including a gender perspective are addressed as a whole. In order to make people aware of their human rights, learning

and training activities are of utmost importance, including *"train the trainers"* programs for teachers, administrators, the police, health and social workers, leaders of neighborhood associations and NGOs. A monitoring system, led by a Steering Committee, which includes all sectors of society, oversees the long-term process (see: www.pdhre.org).

A Global Human Rights Cities Campaign has been started by PDHRE with the support of UNDP, which has also engaged in local projects. The experiences of the Human Rights Cities were presented at a UN-HABITAT conference in China in 2008 through a PDHRE publication and an Austrian film portraying four human rights cities from different regions (see: www.menschenrechtsstadt.at).

Example of Human Rights City of Rosario, Argentina

1997: 35 institutions signed a commitment in the town hall in presence of the city mayor and Shulamit Koenig (PDHRE)

Since: Building of a executive committee of NGOs and government institutions; coordination through the Gender, Law and Development Institute (INSGENAR); Human Rights Learning and Training Programmes for police, security forces, teachers, student teachers, etc.; Awareness raising through seminars, film productions, e.g. concerning the situation of women in Rosario, competitive environment, publications, etc.; Integration of the aborigines (Quom)

2005: Support of the development of the human rights city Porto Alegre, Brasil.

Example of Human Rights City of Graz, Austria

2001: Unanimous decision of the City Council of Graz and formal inauguration ceremony at Graz University in presence of Ms. Shulamith Koenig

2002: Presentation of inventory and draft program of action elaborated with the help of more than 100 individuals and organisations in the city hall of Graz

2006: Joining the European Coalition on Cities against Racism

2007: Establishment of a Human Rights Advisory Board of the City Graz

2007/2008: Human rights monitoring of the City Council elections by the Human Rights Advisory Board

2007: First awarding of the Human Rights Prize of the City Graz

2008: Presentation of the first Annual Report on the situation of human rights in Graz

2012: Establishment of Office against Discrimination

The process is coordinated by the *European Training and Research Centre for Human Rights and Democracy (ETC) in Graz,* which also offers various human rights education and training programs.

L. GLOBAL CHALLENGES AND OPPORTUNITIES FOR HUMAN RIGHTS

After several decades of successful standard-setting the main challenge for human rights became the **implementation** of the commitments undertaken. Several new methods are being developed to strengthen the implementation of human rights, both on the local and national as well as on the international level. Among them is a more active attitude of the United Nations, which includes mainstreaming of human rights in all activities and a stronger field presence of the UN High Commissioner for Human Rights with human rights officers in international (peace) missions and thus institutionalising the consideration of human rights concerns, which is expected to have an important preventive and promotional effect. In the longer term proposals for an International Court of Human Rights might also be successful.

Respect for human rights is also strengthened at the local and national levels through the human rights **capacity-building** of local institutions, i.e. human rights cities and the establishment of national institutions for the promotion and monitoring of human rights, in which non-governmental organisations as representatives of civil society play a major role. The need for **standard-setting** in several fields of concern has resulted in 2006 in the adoption of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol. Additionally, progress can be seen in ongoing work within the thematic areas such as cultural diversity, human rights issues related to biotechnology and genetic engineering, or trade in human organs. The human rights of (irregular) migrants have to be given more attention. Also the human rights implications of environmental degradation like climate change pose new challenges, as do the challenges of information and communication technologies and the Internet.

At the same time, existing human rights can be made more visible by focusing on *"core rights"* as contained in the 6 major UN human rights treaties or the 8 core labour conventions of ILO. New challenges come from certain states in the South questioning the very concepts of universality of human rights and democracy. New challenges can also be seen in the need to give closer attention to the inter-linkages between human rights and humanitarian law, like the *"fundamental standards of humanity"*. The same applies for the relationship between **human rights and refugee law**, which exists both at the level of prevention of refugee problems and at the level of refugee return. In both cases the human rights situation in the country of origin is decisive. This raises the wider issue of **human rights and prevention of conflicts** as well as the issue of **post-conflict rehabilitation** and reconstruction, which needs to be undertaken on the basis of human rights and the rule of law.

☺☞ *Human Rights in Armed Conflict*
Right to Asylum
Rule of Law and Fair Trial
Right to Democracy

As a result of globalisation **accountability** for human rights violations and respect of human

rights has become a global concern, which is required not only of individuals, but also of non-state actors like transnational corporations (TNCs), and of inter-governmental organisations, like the World Bank, the IMF or the WTO. Accordingly, the issue of reparation after gross and systematic human rights violations has become topical. Therefore, in 2003 the UN Sub-Commission for the Protection and Promotion of Human Rights has prepared "Norms on the responsibility of transnational corporations and other business enterprises with regard to human rights", which, however, were not adopted by the Commission on Human Rights. The UN Secretary-General, in 2005, appointed John Ruggie as his Special Representative on the issue of **human rights and transnational corporations and other business enterprises**, to consider the relationship between business and human rights, who in 2011 produced his final report which contains a "Protect, Respect and Remedy Framework" and a set of "Guiding Principles for business and human rights". Since 2011 a Working Group of five experts has been looking into the implementation of these results.

On the proposal of the Secretary-General of the United Nations, Kofi Annan, the **Global Compact** was launched in July 2000 as a new, innovative approach in the process of globalisation. Participating companies accept ten basic principles in the fields of human rights, labour standards, environment and anti-corruption and engage in a result-oriented dialogue related to global problems, i.e. the role of business in zones of conflict.
☺☞ *Right to Work*

A major challenge has been the maintenance of human rights standards, while fighting threats from **terrorism**. No human being must be left outside the law or stripped off his inalienable human rights, while, at the same time, the protection of the rights of victims of criminal or terrorist acts needs to be improved. The Council of Europe has adopted "Guidelines on Human Rights and the Fight against Terrorism" as well as on the "Protection of Victims of Terrorist Acts" to address those challenges. The UN Secretary-General and the UN High Commissioner for Human Rights have made it clear that the protection of human rights has to be a part of the struggle against terrorism. The Court of Justice of the EU in the *Kadi cases* (2008 and 2010) found that the UN Security Council's anti-terrorist measures also had to respect fundamental human rights guarantees like the right to fair trial, including the right to see the evidence and a remedy. The first judgment led to the introduction of new procedures, i.e. of an ombudsperson by the Security Council, which was not found satisfactory in the 2010 decision, which however was appealed by EU member states for fear to get into conflict with the Security Council.
☺☞ *Rule of Law and Fair Trial*

"I believe that there is no trade-off to be made between human rights and terrorism. Upholding human rights is not at odds with battling terrorism: on the contrary, the moral vision of human rights – the deep respect for the dignity of each person – is among our most powerful weapons against it.
To compromise on the protection of human rights would hand terrorists a victory they cannot achieve on their own. The promotion and protection of human rights, as well as the strict observance of international humanitarian law, should, therefore, be at the center of anti-terrorism strategies."
(UN Secretary-General Kofi Annan. 2003. See www.un.org/News/Press/docs/2003/sgsm8885.doc.htm)

> *"I urge my sisters, and my brothers, not to be afraid. Be not afraid to denounce injustice, though you may be outnumbered. Be not afraid to seek peace, even if your voice may be small. Be not afraid to demand peace."*
>
> **Ellen Johnson-Sirleaf,** Nobel Prize for Peace. 2011.

The increasing relevance of the **Internet** and of social networks like Facebook has raised concerns about the protection of human rights, like the freedom of expression or the right to privacy and data protection on the Internet. Given the importance of the Internet for the full enjoyment of human rights a *"human right to access"* to the Internet has been proposed. This claim, however, has raised some controversies.

☺☞ *Freedom of Expression*
Right to Privacy

All in all there is still a long way to achieve a universal **culture of human rights** with human dignity as its core, as it was requested on the occasion of the 60th anniversary of the Universal Declaration of Human Rights by a panel of eminent persons, which produced an *"Agenda for human rights"* for the future. However, looking back we can also see that important progress has been made. This progress has to be made resilient to rollbacks and further developed.

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II. MODULES ON SELECTED HUMAN RIGHTS ISSUES

UNIVERSALITY

EQUALITY

INDIVISIBILITY AND INTERDEPENDENCE

» *The international community has just emerged from an era of commitment. It must now enter an era of implementation, in which it mobilizes the will and resources needed to fulfil the promises made.*«

Kofi Annan, UN Secretary-General. 2001.

PROHIBITION OF TORTURE

HUMAN DIGNITY AND PERSONAL INTEGRITY

INHUMAN AND DEGRADING TREATMENT

TORTURE

»*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*«

Article 5, Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORIES

"I was stopped in the street on 25 November 1991 at about 9 a.m. There were no problems at that stage. […] I was then taken to Bobigny police station. I was taken up to the first floor, where about eight people started hitting me. I had to kneel down. One police officer pulled me up by my hair. Another policeman hit me repeatedly on the head with an instrument resembling a baseball bat. Another one kept kicking and punching me in the back. The interrogation continued non-stop for about an hour. …

On 26 November 1991 I was questioned again by several police officers – three or four – at some point in the day. […] On that occasion they pulled my hair, punched me and hit me with a stick. …

They all carried on assaulting me until 1 a.m. I think that this session of ill-treatment had begun at about 7 p.m. At one point they made me go out into a long office corridor where the officer I presumed was in charge grabbed me by the hair and made me run along the corridor while the others positioned themselves on either side, tripping me up …

After that, I was taken to an office and threatened with burns if I did not talk. When I refused, they lit two blowlamps which were connected to two small blue gas-bottles. They made me sit down and placed the blowlamps about one metre away from my feet, on which I no longer had shoes. At the same time they were hitting me. Following that ill-treatment, they brandished a syringe, threatening to inject me with it. When I saw that, I ripped open my shirt-sleeve, saying "Go on, you won't dare"; as I had predicted, they did not carry out their threat …

The police officers left me in peace for about fifteen minutes, then one of them said "You Ar-

abs enjoy being screwed". They took hold of me, made me undress and one of them inserted a small black truncheon into my anus."

Mr. Selmouni begins to cry as he relates this scene. *"I am aware that what I have just told you is serious, but it is the whole truth, I really did suffer that ill-treatment…"*

After examining the facts and evidence of the case Selmouni v. France, the European Court of Human Rights unanimously decided on 28 July 1999 that there had been a violation of Article 3 of the European Convention on Human Rights and Fundamental Freedoms.
(Source**:** European Court of Human Rights. 1999. *Case of Selmouni v. France.* Judgment of 28 July 1999.)

"The Americans interrogated us on our first night which we coined as 'the black night'. They cut our clothes with scissors, left us naked and took photos of us before they gave us Afghan clothes to wear. They then handcuffed our hands behind our backs, blindfolded us and started interrogating us. The interrogator was an Egyptian. He asked me about the names of all members of my family, relatives and friends. They threatened me with death, accusing me of belonging to al-Qaida." …
"They put us in an underground cell measuring approximately two metres by three metres. There were ten of us in the cell. We spent three months in the cell. There was no room for us to sleep so we had to alternate. The window of the cell was very small. It was too hot in the cell, despite the fact that outside the temperature was freezing (there was snow), because the cell was overcrowded. They used to open the cell from time to time to allow air in." …
"During the three-month period in the cell we

were not allowed outside into the open air. We were allowed access to toilets twice a day; the toilets were located by the cell."

Walid al-Qadasi went on to further document how prisoners were fed once a day and how loud music was used as a torture mechanism. He claimed that one of his fellow detainees went insane from the treatment he received. Walid al-Qadasi was eventually transferred to Bagram, where he faced a further month of interrogation.

Testimony of a former detainee in a prison in Kabul provided to Amnesty International in April 2004, Yemen.
(Source: Amnesty International UK. *Testimonies.* Available at: www.amnesty.org.uk/content.asp?CategoryID = 2039)

Discussion questions

1. How would you characterise what happened to Mr. Selmouni and Mr. al-Qadasi? What thoughts did these stories evoke in you?

2. What do you think can be done to prevent similar situations from occurring? Are you aware of already existing preventive or control mechanisms on a local, regional or international level?

3. How do you think society can support and assist victims like Mr. Selmouni and Mr. al-Qadasi?

4. Would you have taken a different position if you had known that Mr. Selmouni was **a)** a suspected drug dealer, **b)** a suspected murderer, **c)** a suspected terrorist? Why?

NEED TO KNOW

1. A WORLD FREE FROM TORTURE

At the beginning of the 21st century, a world free from torture and inhuman and degrading treatment is still an unfulfilled aspiration. Human rights organisations and media increasingly report about cases of torture and ill-treatment and try to raise awareness both about commonly agreed standards and the differing compliance of states.

Serious forms of ill-treatment are often related and ascribed to societies and states where human rights violations are a daily occurrence. Contrary to the widely shared view that torture only exists in poor and "underdeveloped" societies, Amnesty International USA reports that cases of torture or ill-treatment have been recorded in more than 150 counties. This includes a number of highly industrialised and developed states. In fact, individual cases of torture and other cruel, inhuman and degrading treatment are to be found in every state of the world, although the extent to which they are practiced and the methods used differ from place to place.

The **prohibition of torture is absolute** and has been reaffirmed as such in many international and regional human rights treaties. It belongs to those human rights considered non-derogable, i.e. valid under all circumstances and not allowing any restriction, exception or state

"Man torturing man is a fiend beyond description."

Henry Miller.

derogation on any ground and under which circumstances whatsoever. Torture and other cruel, inhuman and degrading treatment or punishment are also regarded as prohibited under customary international law. Despite this prohibition, torture and ill-treatment are still practiced. Torture and inhuman and degrading treatment happen frequently and repeatedly: to people deprived of their liberty, to people belonging to different ethnic, social and cultural groups, to the young and old, to women and men. No one is immune to torture. Everyone can become a victim.

Until recently, torture and inhuman and degrading treatment were perceived to be a product of warfare and slavery only, while their occurrence in times of peace was disregarded. Yet, a closer examination of recent cases of torture and inhuman and degrading treatment shows that serious forms of ill-treatment do not belong to the past. As mankind has progressed, brutal ancient and medieval methods have been replaced by more "sophisticated" techniques, which are, however, equally cruel and equally effective. Torture and other serious forms of ill-treatment cause appalling harm to human dignity, severely violate fundamental human rights, and constitute a threat to human security. They infringe on the physical and psychological integrity of the human being and thus require a concerted effort to address the issue at its roots.

Contemporary developments, especially in the field of international law, as well as the various means of spreading information, have greatly increased global awareness of the problem of torture and other serious forms of ill-treatment. Both governmental and non-governmental organisations have begun to identify and address not only the consequences of many forms of ill-treatment, but also its inherent causes. Unequivocal international standards for protection and prevention have been established and widely agreed upon. In addition, a range of investigatory, monitoring and supervisory bodies have emerged on both national and international levels, to safeguard these prevention standards and the non-derogative norm of the prohibition of torture and other forms of cruel, inhuman and degrading treatment and punishment.

Prohibition of Torture and Human Security

Torture and ill-treatment are grave human rights violations and direct threats to the security of any person. The protection of human life and the preservation of the physical and psychological integrity of every human being are central to the human security approach. Consequently, the absolute prohibition of torture and other forms of cruel, inhuman and degrading treatment or punishment is central to any quest for human security. It is evident that raising human rights awareness through human rights education, together with an improved legal framework for protection against and prevention of torture and ill-treatment, are the cornerstones for enhanced human security and well-being. Additionally, the improved implementation of all human rights standards constitutes an important element of the overall strategy for enhancing human security. The Statute of the International Criminal Court, the establishment of which has

been fervently advanced by the Human Security Network, explicitly recognises torture as a crime against humanity and a war crime and thus places an additional special emphasis on preserving human life and human security.

☺☞ *Introduction*

2. DEFINITION AND DESCRIPTION OF THE ISSUE

What is Torture?

There has been a long debate on how to define torture and ill-treatment in a broadly acceptable way, even though their condemnation and prohibition has been generally accepted as a peremptory norm of customary international law. In addition, any legal definition seems to have little effect on the application of the prohibition of torture at ground level. The internationally agreed provisions for the absolute prohibition of torture, encased in a number of international legal texts, do not operate as a sufficient theoretical guarantee against the occurrence of torture. There continues to exist a certain definitional leeway, which leaves a

margin of interpretation for state authorities to ensure their acceptance of the international rules in principle but allow for deviations from these obligations in practice.

A legal definition of torture has been included and endorsed by all signatory states of the **United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)** which was adopted by General Assembly Resolution 39/46 of 10 December 1984 and entered into force on 26 June 1987. For the purpose of the Convention, the term "torture" is defined in Article 1 as:

"[…] any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is in-

"Torture is an atrocious violation of human dignity. It dehumanizes both the victim and the perpetrator. The pain and terror deliberately inflicted by one human being upon another leave permanent scars: spines twisted by beatings, skulls dented by rifle butts, recurring nightmares that keep the victims in constant fear. Freedom from torture is a fundamental human right that must be protected under all circumstances."

Kofi Annan, UN Secretary-General. 2001.

flicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

Distinguishing elements of torture under the UNCAT therefore are:
- an **act that causes severe physical or mental suffering**,
- which is **intentionally inflicted on a person for a purpose or for any reason based on discrimination of any kind**
- by a **state official or a person acting in an official capacity**.

Although this legal definition takes into account both the psychological and physical dimensions of torture and ill-treatment, it is not all-inclusive and does not elaborate on these different levels in detail. The definition also excludes lawful sanctions, i.e. sanctions prescribed by national law. This raises the question as to whether such sanctions may contradict the overall spirit and aims of the Convention. The definition does, however, add to the general understanding of the prohibition of torture, as stated by the former **UN Commission on Human Rights**, that *"[…] all forms of torture and other cruel, inhuman or degrading treatment or punishment […]* ***can never be justified under any circumstances whatsoever*** *."* Mr. Theo van Boven, former Special Rapporteur on Torture further noted that *"[…] the legal and moral basis for the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute and imperative and must under no circumstances yield or be subordinated to other interests, policies and practices."*

On the occasion of the **UN International Day in Support of Victims of Torture (26 June)**, the International Rehabilitation Council for Torture Victims asserted that "*torture is one of the most horrible things one person can do to another*". The aim of torture is to cause as much pain as possible without letting the victim die. The deliberate infliction of pain and suffering, either physical or psychological, is characteristic of both torture and inhuman and degrading treatment. In legal terms, the distinction, though subtle, between acts of inhuman and degrading treatment and torture is the **nature** of the act committed, the **purpose** behind it, the **degree of its severity** as well as the **cruel means** used.

Methods of Torture – How is Torture Committed?

The tools and methods of torture have continued to evolve over time, particularly due to private enterprises becoming involved in the manufacture and trade of torture-related equipment. A recent study, conducted by the former Special Rapporteur on Torture looked into this phenomenon of the production and trade of equipment specially designed to inflict torture or other inhuman and degrading treatment, and called for a much greater increase in state policing and control of the market.

In contrast to the traditional conception of torture equipment, such as those used in medieval times, many of the tools in practice today are not easily identifiable as potential torture instruments. A number of widely practiced torture techniques do not leave visible physical marks on the body but nevertheless have a detrimental effect upon both the internal organs as well as the psychological integrity of the victim. For example, electric shocks inflicted by electric discharge weapons or electrodes being attached to (sensitive parts of) a

person's body may not leave visible marks on the victim's body, yet are known to cause debilitating physical pain.

In general, torture methods can be classified into two major groups: physical and psychological.

Physical torture causes extreme pain and excessive suffering of the victim. In its most cruel form, it can also lead to mutilation, disfigurement and lasting injuries. The torture methods most often employed are beating with whips, metal objects, stones, cables and batons, or kicking and hitting the victim against a wall. The so-called "falaka" or "phalange" method (the fierce beating of the victim on the soles of her/his feet or palms) is known to be widely used, along with the electric shock method, suffocation, binding and burning with cigarettes, waterboarding or the exposure of the victim to extremely low or high temperatures.

Psychological torture includes deprivation and exhaustion techniques, including the deprivation of food, water, sleep, and sanitary facilities, communication deprivation techniques such as solitary confinement and cutting off contact to either other detainees or the outside world, coercion and intimidation techniques, such as forced presence during the torture of other people, threat of execution or a simulated execution, continuous humiliation and terrorisation, etc. Additionally, sexual violence is often used as a method of both physical and psychological incapacitation of the victims.

The use of any of these torture methods constitutes a grave assault on the dignity of the human being and a violation of human rights. A world free from torture means a world free from deliberate infliction of pain and from the use of such cruel methods by one person on another.

Motives for Torture – Why is Torture Practised?

Although the motives for torture may vary widely, at their core will frequently be an underlying purpose to either demonstrate power over others, or to shroud weaknesses and insecurity.

Throughout different epochs in world history, torture has been used as a means to retain control and exercise power over opponents or progressive intellectuals, who either explicitly or implicitly threaten authority and governing systems. As a result, torture has frequently been employed as a tool for **political repression** and **oppression**, for **punishment**, and for **revenge**. Traditionally, torture and other forms of ill-treatment have primarily been used to **obtain information** or to retrieve a **confession**, even though confessions under duress and physical coercion are inherently unreliable. As a result, such statements or confessions can never be considered as evidence, and the prohibition of their use in proceedings has been provided for in legislation in most national and international legal systems.

Torture and ill-treatment may also be used to threaten, scare and dehumanise people, or further to illicit feelings of humiliation and inferiority with the ultimate aim of destroying the individual's mental capacities. Such treatment has a significant and long-lasting impact on both the mental and physical capacity of the torture victim. The physical rehabilitation often takes years, and may be without the hope of full recovery. Furthermore, psychological scars mark the victims for the rest of their lives and often prevent them from having a fulfilling existence.

Victims and Perpetrators of Torture and Inhuman or Degrading Treatment

There is no prerequisite to becoming a victim of torture and ill-treatment. Children, men and women, young and old, can all become

victims of torture. This is particularly so in societies where there is no tradition of the rule of law, or rather where the state laws, and the obligations they entail, are rarely respected. Ill-treatment most often occurs in prisons, police stations and other detention centres, but cases of its occurrence in private homes or in specialised medical facilities for disabled or mentally ill people are not a rare exception. Remand prisoners and sentenced criminals are especially vulnerable as they depend on the authorities for their most basic needs. These places of detention are by definition closed. Consequently, those detained find themselves out of sight of the rest of society and are generally considered to be a group for which the general public has very little empathy or sympathy. Other vulnerable groups, such as social, religious, or ethnic minorities, as well as refugees and asylum seekers, are often subject to degrading treatment and run the risk of re-traumatisation. Those people living in special medical establishments and hospitals, such as the elderly and persons with intellectual disabilities are often disregarded and overlooked by society, and may also fall victim to practices resembling those of torture and ill-treatment. This is commonly the result of insufficient staffing and finances, leading to an inability to assure a basic standard of living, appropriate medical care and the ability to age with dignity.

However, it is not merely the victims who must deal with the after effects of torture and ill-treatment. Those who engage in the perpetration of such treatment are not by rule will-

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"They always asked to be killed. Torture is worse than death."

Jose Barrera, Honduran torturer.

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ing participants, and may be severely affected by their involvement in the incident. There are numerous cases in which police or military officers in their official capacity act upon orders or as part of specialised groups within which the practice of torture and ill-treatment is a daily occurrence. Medical and security personnel working in special needs facilities may also become perpetrators of ill-treatment due to negligence, lack of control and supervision or lack of resources or training.

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

Differing cultural practices and perceptions undoubtedly affect the understanding of international legal norms and standards and often shape their interpretation. For example, corporal punishment (e.g. the infliction of pain with a cane or a whip as a corrective measure) is a widespread form of ill-treatment. Within the Islamic Sharia law tradition, however, corporal punishment and amputation are both socially accepted and legalised methods of punishment, and are commonly imposed by religious courts which regulate marriages and inheritance as well as other areas of the physical and spiritual life of Muslims. In 2010, courts in several Nigerian states, for example, followed Sharia penal codes to deliver caning sentences for minor offences such as petty theft or public consumption of alcohol. Likewise, there have been recent cases in Saudi Arabia, Iran, Malaysia and Singapore, where religious courts based on the Sharia law have delivered corporal punishment sentences in 2010.

There has long been a heated debate as to whether acts of terrorism differ from other crimes and thus necessitate the endorsement of special standards to prevent and police them.

Terrorist acts such as those of 11 September 2001 have been used to justify the introduction of "anti-terror laws" in many countries. These laws introduced new prosecution procedures which have severe effects on human rights. Since the United States declared its global "War on Terror", there have been reports of numerous incidents of torture and ill-treatment on the part of U.S. soldiers and officials. Suspected terrorists detained in Guantánamo Bay Detention Camp in Cuba were subjected to "enhanced interrogation techniques" including being shackled to the floor for over 18 hours, resulting in detainees urinating and defecating on themselves; exposure to deafening noise or subjection to extreme temperatures which in many cases lead to unconsciousness and detainees frantically pulling out their hair. Today there are still around 170 detainees held in Guantánamo Bay. In 2004, reports surfaced of U.S. military personnel working at the Abu Ghraib prison in Iraq committing grave human rights violations, including physical and psychological torture. These reports were later corroborated with the release of photographs and videos showing U.S. soldiers torturing and humiliating prisoners. A further example of U.S. military involvement in torture and ill-treatment is the "extraordinary rendition" program conducted by the C.I.A. through which large numbers of foreign detainees and suspected terrorists were brought to countries around the world for interrogation and detention in secret prisons, known as "black sites", with government approval.

Similarly, the debate on whether it is acceptable to torture suspected terrorists (or other criminals) in order to save other people's lives has been re-enlivened. In 2004, the German Federal Constitutional Court, in the case of Wolfgang Daschner, a German police chief who threatened the kidnapper of an 11-year-old boy with the use of force in the hope to save the boy's life, firmly upheld the **principle of absolute prohibition of torture and the impermissibility of exceptions or derogations under any circumstances**. Closely related to this issue is the right of every person to be presumed innocent until proven guilty according to the law.

These examples demonstrate that although the prohibition of torture is almost universally accepted, its interpretation and implementation may differ between states. It is, however, an open-ended question as to whether those differences reinforce the universal and absolute prohibition of torture in a culturally-sensitive context or overtly contradict the aims and the spirit of both customary and codified international law. With regard to the absolute prohibition of torture, international lawyers consistently advocate the position that a duality of standards is unacceptable and that international legal standards should not be selectively applied and must be strictly respected.

Only in this way, can the spirit and function of international law as a guardian of world peace, human rights and human security, and understanding among states, be preserved.

4. IMPLEMENTATION AND MONITORING

Since 1948, international law provisions for the prohibition of torture and other forms of cruel, inhuman and degrading treatment have been substantially developed and improved. An increasing number of states have signed and ratified these international legal commitments by translating them into domestic legislation and practice. Strong regional systems for the prevention of and protection from torture have evolved (in Europe for example), and national and independent inspection mechanisms (inspection visits) have also emerged. On an international level, the **United Nations**

Committee against Torture and the **United Nations Special Rapporteur on Torture**, together with a large number of NGOs, monitor the implementation of state obligations to prohibit torture and torture-like practices.

The **United Nations Committee against Torture (CAT)**, the UN monitoring body established in accordance with Article 17 of the UN Convention against Torture, commenced its work on 1 January 1988. CAT requests and examines reports made by the state parties regarding their adherence to the Convention on a four-yearly basis. The Committee has the power to make inquiries and request further clarification from states regarding their reports, as well as the ability to request additional information relating to the legal and factual situation as presented in the reports. Additionally, states can make a declaration recognising the Committee's competence to receive and examine **individual or inter-state complaints**, and to send to the complainant, and the state concerned, its final opinions and recommendations for action. A full record of the work of the Committee is annually published.

Optional Protocol to UNCAT

The 57th United Nations General Assembly Session in New York in 2002 adopted the **Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** which entered into force in 2006. The Protocol, which has been ratified by 61 states parties as of January 2012, is designed to prevent torture and other forms of ill-treatment by establishing a regular system of inspection visits to places of detention by international, as well as national, monitoring bodies. The Optional Protocol therefore established a new international expert body with a visiting mandate, the Sub-Committee for the Prevention of Torture (SPT) which reports to the Committee against Torture. The Protocol also obliges states parties

to establish national inspection bodies (**"National Preventive Mechanisms"**). Under the supervision of the Sub-Committee, national bodies are to regularly visit all places of detention and deprivation of liberty, and make recommendations for the improvement in the treatment of those deprived of their liberty as well as the conditions of their detention.

This focus on prevention represents an innovative development within the UN human rights system, as existing international bodies can only act after a violation has occurred. Visits to places of detention are one of the most effective methods of preventing torture and improving detention conditions. Inspired by the success of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which was set up under the Council of Europe's European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT), providing for the first time a non-judicial preventive mechanism in Europe to protect persons deprived of their liberty, the Optional Protocol to the UN Convention set criteria and safeguards for effective preventive visits on a world-wide scale and by national expert bodies. This Protocol is therefore considered to be a tangible step forward in strengthening the international and national prevention mechanisms against torture and inhuman and degrading treatment.

However, even though international legal safeguards for torture prevention exist, they are not always fully implemented on the national level. It is imperative that national legislation provisions are harmonised with international standards and that national systems for monitoring and reporting are created. The full eradication of torture can only become a reality once international standards find their place in viable and impartial national imple-

mentation and monitoring systems in all UN member states on the national and local level. Furthermore, providing victims of torture and inhuman and degrading treatment with rehabilitation, legal aid and compensation as well as providing assistance for their reintegration in societal life are essential requirements for a just and fair national order.

There are three main aspects to the **effective prevention of torture:**

1. Establishing an **effective legal framework** and assuring its **full implementation** as well as applying appropriate **safeguards** for the prevention of torture – for example, fundamental safeguards in custody (access to lawyers, doctors, judges, etc.) and the prohibition of incommunicado detention;
2. Establishing **control mechanisms** and, in particular, national **visiting mechanisms** to places of detention, as well as providing for **independent monitoring and reporting** by civil organisations;
3. Ongoing **training** for those concerned, such as police officers, prison guards, lawyers, judges, medical doctors, etc. Aside from that, each and every individual can be involved in torture prevention activities through action, campaigning, lobbying for ratification of the international instruments and their national implementation, and through writing letters and appeals. By participating in NGO work and volunteering, or even merely by educating family and friends, we can all contribute to **raising awareness** of the issues surrounding the prevention of torture in our local community or region. Last but not least, we can assist and support the victims of torture with an understanding of how their concerns can be addressed, by helping to report their cases and by the pursuit of legal action against the perpetrator(s).

GOOD TO KNOW

1. GOOD PRACTICES

There are a large number of initiatives worldwide operating to mobilise governments and society to act against torture-related practices. Such initiatives operate in conjunction with educational programs aimed at preventing torture and ill-treatment, as well providing legal assistance and physical and psychological rehabilitation to torture victims.

Many of the practices are grass-roots and action-driven, while others work from the top down to build local capacity and community knowledge as a means of prevention and protection. In addition, institutional capacity-building and state ratification of international treaties, and the consequent amendments to legislation and implementation, as well as training and education programs, further promote good practices regarding the prevention of torture and ill-treatment. Each different level provides unique mechanisms with which to promote good practices, while also operating on a larger, more-generalised scale to create and set state and international ratification and implementation standards.

"Open your newspaper any day of the week and you will find a report from somewhere in the world of someone being imprisoned, tortured or executed because his opinions or religion are unacceptable to his government The newspaper reader feels a sickening sense of impotence. Yet if these feelings of disgust could be united into common action, something effective could be done."

Peter Benenson, Founder of Amnesty International.

Good practices to prevent torture and ill-treatment can be:

- grass root, action-driven – campaigning, lobbying, awareness raising, educational activities on the local level;
- institution and capacity-building, influencing structures and institutions already in place, reforming them or building up new institutions with the capacity to deal with the issues at ground level.

Activities on the national level

The Austrian Advisory Board for Human Rights

Set up in 1999, on the suggestion of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Austrian Advisory Board for Human Rights provides advice to the Minister of the Interior, and produces reports and recommendations addressing structural human rights issues regarding the activities of the Austrian police. It oversees six Human Rights Commissions, which act as monitoring bodies, and may visit any place of police detention in Austria at any time without notice. This has led to significant improvements in police-run detention centres. With the ratification of the Optional Protocol to the UN Convention against Torture, the Advisory Board will be integrated into the Austrian Ombudsman Board, an independent monitoring body overseeing the state's public administration and designated as a National Preventive Mechanism according to the Protocol.

(Source: Menschenrechtsbeirat – Human Rights Advisory Board, www.menschenrechtsbeirat.at)

Activities on the international level

The Special Rapporteur on Torture – Goals, Mandate and Activities

The former United Nations Commission on Human Rights, in Resolution 1985/33, decided to appoint a Special Rapporteur to examine questions relevant to torture, as well as to seek and receive credible and reliable information on the issue and to respond effectively to the information. The Special Rapporteur submits a comprehensive report on his or her activities to the Human Rights Council (the Commission's successor) each year, reviewing the occurrence and extent of the practice

of torture and making recommendations to assist governments in eradication and prevention. The mandate of the Special Rapporteur covers all countries, irrespective of whether the state has ratified the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

The Rapporteur's mandate is comprised of three main activities: transmitting communications consisting of urgent appeals and allegation letters (alleged cases of torture) to governments; undertaking fact-finding missions (country visits) to countries where information suggests that torture may involve more than isolated and sporadic incidents; and submitting annual reports on the Special Rapporteur's activities, mandate and methods of work to the Human Rights Council and the UN General Assembly.

Unlike the treaty monitoring bodies established under international treaties, the Special Rapporteur does not require the exhaustion of domestic remedies to act on individual cases involving a risk of torture ("urgent appeals") or on alleged acts of torture ("allegations").

Since 1 November 2010, the UN Special Rapporteur on Torture is Mr. Juan Méndez from Argentina.

Urgent appeals should be addressed to:
Special Rapporteur on Torture
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland
E-mail: urgent-action@ohchr.org

(Source: United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx)

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)
Establishment
The CPT was set up under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which was adopted in 1987. It began its work in 1989, when the Convention entered into force.

Membership
The CPT covers 47 European countries (all Council of Europe member states including Turkey, the Russian Federation and the countries of the South Caucasus). Since March 2002, non-members of the Council of Europe may also accede upon the invitation of the Committee of Ministers.

The Committee is composed of independent experts with different professional backgrounds, including doctors, lawyers and experts on police matters, prisons and human rights. The number of members corresponds to the number of states parties to the Convention.

Terms of Reference
The Committee deals not only with issues relating to torture, but also to a whole range of situations which could amount to inhuman or degrading treatment or punishment. It carries out on-site inspections and examines the treatment of persons

deprived of their liberty. The CPT inspects police stations, prisons, psychiatric hospitals and all other places of detention, such as accommodation facilities for irregular immigrants and asylum-seekers in the transit areas of international airports. The Committee members have the power to speak to the detainees in private.

Working Methods

The Committee conducts periodic visits to all states parties and may also carry out ad hoc visits as required by the circumstances. Its findings are set out in confidential reports to the government concerned with accompanying recommendations. The adherence to the principle of confidentiality, as observed during the visits and in the process of drafting and delivering the reports, is an important basis for the Committee's credibility and has successfully enhanced the CPT's international standing, while also permitting consistent and constructive dialogue with governments. The reports, together with the comments made by the governments concerned, may be published with the latter's agreement. With the exception of the Russian Federation consent for publication has consistently been given.

Possible Sanctions

If a state refuses to cooperate or to improve the situation in line with the Committee's recommendations, the CPT may exert political pressure by issuing a public statement. Up until now, it has exercised this power six times: in 1992 and 1996 concerning Turkey, in 2001, 2003 and 2007 concerning the Chechen Republic of the Russian Federation and in 2011 concerning Greece.

CPT Visits and Reports

As of 1 January 2012, the Committee has conducted 314 state visits (190 periodic visits and 124 ad hoc visits) and has published 263 reports.

(Source: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), http://www.cpt.coe.int)

Activities of Non-Governmental Organisations (NGOs)

In 1997, the UN proclaimed 26 June as an International Day in Support of Victims of Torture. Ever since, world-wide international networks for

the prevention and prohibition of torture such as **CINAT,** the **Coalition of International Non-governmental Organisations against Torture**, have developed international programs, high-profile events and large scale campaigns for the full eradication of torture. Many individuals and celebrities participate in those events.

Amnesty International (AI)

The activities of **Amnesty International (AI)** world-wide are an example of a holistic approach to both grass-root and institution and capacity-building endeavours.

On 28 May 1961, the British lawyer Peter Benenson published the article „The Forgotten Prisoners" in the London newspaper "The Observer", which inspired the creation of Amnesty International.

Currently, Amnesty International has an International Secretariat in London and support-

ing offices all over the world, with more than three million members, subscribers and regular donors in more than 150 countries and territories. It is inherently a democratic movement, self-governed by a nine-member International Executive Committee (IEC) whose members' four-year terms are staggered, with half the members up for re-election every two years by an International Council representing each section of the organisation. Campaigning, reporting on human rights issues, and lobbying with governments on a specific human rights issue are all part of Amnesty International's activities. In October 2000, AI adopted the **12-Point Programme for the Prevention of Torture** which became a platform for further international initiatives to prevent torture and strengthen the mechanisms eradicates its occurrence and state-institutionalisation.

**12-Point-Programme for
the Prevention of Torture**
Amnesty International calls on all governments to implement the organisation's 12-Point Programme for the Prevention of Torture:

1. *Official condemnation of torture*
   The highest authorities of every country should demonstrate their total opposition to torture. They should make clear to all law enforcement personnel that torture will not be tolerated under any circumstances.

2. *Limits on incommunicado detention*
   Torture often takes place while the victims are held incommunicado - unable to contact people outside who could help them or find out what is happening to them. Governments should adopt safeguards to ensure

that incommunicado detention does not become an opportunity for torture. It is vital that all prisoners be brought before a judicial authority promptly after being taken into custody and that relatives, lawyers and doctors have prompt and regular access to them.

3. *No secret detention*
   In some countries torture takes place in secret centres, often after the victims are made to "disappear". Governments should ensure that prisoners are held in publicly recognised places, and that accurate information about their whereabouts is made available to relatives and lawyers.

4. *Safeguards during interrogation
   and custody*
   Governments should keep procedures for detention and interrogation under regular review. All prisoners should be promptly told of their rights, including the right to lodge complaints about their treatment. There should be regular independent visits of inspection to places of detention. An important safeguard against torture would be the separation of authorities responsible for detention from those in charge of interrogation.

5. *Independent investigation
   of reports of torture*
   Governments should ensure that all complaints and reports of torture are impartially and effectively investigated. The methods and findings of such investigations should be made public. Complainants and witnesses should be protected from intimidation.

6. No use of statements extracted under torture

Governments should ensure that confessions or other evidence obtained under torture may never be invoked in legal proceedings.

7. Prohibition of torture in law

Governments should ensure that acts of torture are punishable offences under the criminal law. In accordance with international law, the prohibition of torture must not be suspended under any circumstances, including states of war or other public emergency.

8. Prosecution of alleged torturers

Those responsible for torture should be brought to justice. The principle should apply wherever they happen to be, wherever the crime was committed and whatever the nationality of the perpetrators or victims. There should be no "safe haven" for torturers.

9. Training procedures

It should be made clear during the training of all officials involved in the custody, interrogation or treatment of prisoners that torture is a criminal act. They should be instructed that they are obliged to disobey any order to torture.

10. Compensation and rehabilitation

Victims of torture and their dependants should be entitled to obtain financial compensation. Victims should be provided with appropriate medical care and rehabilitation.

11. International response

Governments should use all available channels to intercede with governments accused of torture. Intergovernmental mechanisms should be established and used to investigate reports of torture urgently and to take effective action against it. Governments should ensure that military, security or police transfers or training do not facilitate the practice of torture.

12. Ratification of international instruments

All governments should ratify international instruments containing safeguards and remedies against torture, including the International Covenant on Civil and Political Rights and its Optional Protocol which provides for individual complaints.

The 12-Point-Programme was relaunched in April 2005 within the campaign "Against Torture in the 'War on Terror'", after testimonies of "terrorist suspects", held in places of detention such as Guantánamo Bay, had revealed that the "War on Terror" had led to the increasing use and acceptance of torture and other forms of ill-treatment.

Amnesty International documented a wide range of human rights abuses, justified by the perpetrators as necessary to fulfill national security and anti-terrorist operations. This led to a further campaign in 2006, named Amnesty International's "Counter Terror with Justice Campaign". Finally, Amnesty launched another worldwide campaign in 2010, "Security with Human Rights", calling for an end to human rights violations committed by governments in the name of counter-terrorism and national security. (Source: Amnesty International, http://www.amnesty.org/)

Association for the Prevention of Torture (APT)
The Association for the Prevention of Torture (APT) is an international NGO working globally, regionally and nationally with a wide range of stakeholders including state authorities, national institutions, and civil society. It has been at the forefront of the international campaign for the adoption and implementation of the Optional Protocol to the UN Convention against Torture, and offers legal advice on criminalising torture, while also providing training relating to visiting places of detention, and advising on the establishment and operation of national prevention mechanisms.
(Source: Association for the Prevention of Torture, www.apt.ch)

Code of Ethics
In Tokyo in 1975, the World Medical Association (WMA) adopted a **Declaration on Guidelines for Medical Doctors Concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment.** The WMA clearly voiced the position of the medical profession against torture and ill-treatment by proclaiming that "the doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife". A number of other national medical associations have elaborated their own codes of ethics against the involvement of doctors in torture and ill-treatment. (Source: The World Medical Association: www.wma.net)

2. TRENDS

• The trade in instruments of torture such as shackles, leg irons, thumbscrews, whips and electro-shock technology has dramatically increased in the last few years. According to the 2001 "Stopping the Torture Trade" report by Amnesty International, the number of countries known to be producing or supplying electro shock equipment rose from 30 in the 1980s to more than 130 in 2000. In response to an initiative of the former Special Rapporteur against Torture, Theo van Boven, the European Union in 2005 introduced a ban on the trade with torture instruments. However, according to a report released by Amnesty International and the Omega Research Foundation in March 2010, a number of European countries continue to export equipment designed for torture or ill-treatment. The Czech Republic, for example, has been found to have issued export licenses covering shackles, electric shock weapons and chemical sprays to six countries where police and security forces were known to use such equipment for torture and other forms of ill-treatment, while Germany issued similar licenses for foot-chains and chemical sprays, and suppliers in Italy and Spain promoted for sale 50,000 volt electric shock "cuffs" or "sleeves" for use on prisoners.

• Currently, prison populations are growing in almost all parts of the world. In a parallel development, the number of women and juvenile prisoners is also increasing dramatically. According to the most recent World Prison Population List by the International Centre of Prison Studies, which gives details of the number of prisoners held in 218 independent countries and dependent territories, more than 9.8 million people are detained in penal institutions throughout the world. Such high numbers of prisoners places significant strain on prison staff and management, which consequently necessitates further training, increased human rights awareness and greater resources.

- The so-called "War on Terror" has been used by governments to restrict human rights guarantees and to disregard the absolute prohibition of torture and other forms of ill-treatment. A number of states have issued guidelines to intelligence officers and security forces that approve interrogation techniques causing physical and mental harm and are prohibited under international as well as most national laws as forms of torture or cruel or inhuman treatment.

3. CHRONOLOGY

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment – the building blocks:

1948 Universal Declaration of Human Rights (UDHR), Art. 5

1949 The Four Geneva Conventions

1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Art. 3

1957 United Nations Standard Minimum Rules for the Treatment of Prisoners

1966 International Covenant on Civil and Political Rights (ICCPR), Art. 7

1966 Optional Protocol to the International Covenant on Civil and Political Rights

1969 American Convention on Human Rights, Art. 5

1979 United Nations Code of Conduct for Law Enforcement Officials

1981 African (Banjul) Charter on Human and People's Rights, Art. 5

1982 Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

1985 United Nations Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

1985 Inter-American Convention to Prevent and Punish Torture

1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT) establishing the European Committee for the Prevention of Torture (CPT)

1990 United Nations Rules for the Protection of Juveniles Deprived of their Liberty

1992 Inter-American Convention to Prevent and Punish Torture

1994 Inter-American Convention on Forced Disappearance of Persons

1998 Statute of the International Criminal Court

2002 Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) establishing the Sub-Committee for the Prevention of Torture (SPT)

2006 International Convention for the Protection of All Persons from Enforced Disappearances (CPED)

SELECTED ACTIVITIES

ACTIVITY I:
TORTURING TERRORISTS?

Part I: Introduction

Terrorism and the torture of (suspected) terrorists and perpetrators of crimes sparked a heated debate, particularly after the events of 11 September 2001. Many people have voiced both their opinions and concerns, yet in different ways.

Through the proposed discussion, an attempt could be made to identify arguments for and against the questions posed. Analyse them within the human rights principles framework, and discuss various other related issues.

Type of activity: discussion

Discussion question:

Is it acceptable to torture (suspected) crime perpetrators or terrorists in order to save other people's lives?

Part II:
General Information on the Discussion

Aims and objectives:
• opinion shaping, opinion sharing and defending;
• acquisition of knowledge and raising awareness of how a democratic society should deal with torture-related issues;
• demonstrating that human rights and rule-of-law provisions and norms can be a helpful framework for understanding complicated dilemmas.

Target group: young adults, adults

Group size: 10-12

Time: 90-120 min

Preparation:
• Collect recent local and international newspaper clippings, articles and photos, and prepare and copy a collection of the international and regional human rights standards on the prohibition of torture;
• Ask the participants to bring a topic-related item themselves;
• Alternatively, review the judgement in the German case of Wolfgang Daschner.

Material: coloured cards, copies of the material prepared, board or paper, markers

Skills involved:
• building argumentative and critical skills;
• communication skills;
• conflict management skills.

Discussion rules:

Before the discussion starts, ask the participants to design their own rules and make sure that the whole group agrees and accepts the proposed rules.

Post the rules visibly and consult them only when problems arise.

The facilitator has to make sure that the following two rules are included in the list the participants elaborate:

1. Only one person at a time should be speaking.
2. The group has to invent a sign through which to express disagreement or dissatisfaction in a respectful way.

Part III: Specific Information
on the Discussion

Introduction of the topic:

As an introduction to the topic, please present in short the prepared newspaper clippings, contradictory statements by public officials, human rights documents and provisions connected with terrorism and the prohibition of torture, etc.

Divide the group into two and make sure that the groups examine and develop the arguments **for** or **against** in view of the universal human rights principles, moral and ethical considerations, etc.

Discussion process:
The discussion process has to be chaired with respect and sensibility. No participant should ever be given the feeling that her/his arguments or attitudes are inappropriate or foolish. Ask the participants to arrange the topic-related items they brought to the room.
Give time (45 min.) for smaller group work and formulating arguments.
Start the discussion by asking the participants to present their arguments and post them on the left (against) or the right (for) side of a line through the room. Ask whether all agree with the position of the proposed arguments and try to bring the group to discuss the differences in approach, the understanding and rationale of their positions.
(plan 45 min. to 60 min.)

Feedback:
After the discussion is over, please distribute to all participants a red and a green card, for example, and ask them to write down both their positive and negative feelings about the content and the organisation of the discussion. Finally, read the cards out loud and give time for reflection. As an alternative, participants might pin the cards on the wall or pin board.

Methodological hints:
• Always keep and make use, if needed, of a 5 minutes time-out (cooling down) option when the debate is heated and runs the risk of getting out of control;
• Give time for silent reflection when confusion or anger builds up;
• Try to summarise, clarify and mitigate arguments and do not take sides openly.

Tips for variation:
If you want to give more structure to the contents of the discussion you can give the participants a handout called "The Ladder of Torture"
• Someone has planted a bomb and admits it. We must torture to save lives.
• Someone is suspected of planting a bomb. We must torture to find out more.
• Someone is close to someone suspected of planting a bomb. We must torture the friend/relative to find out the bomber's plans.
• Someone reports someone else who shares the same political views as the bomber. We must torture that political ally to find out about others who support him.
• Someone has refused to tell the police where a suspect is. This person must be tortured to make sure others don't dare do the same thing.

If you use this handout, it first leads to the questions of where to draw the line – when, if ever, could torture be justified?

(Source: Flowers, Nancy; et al. 2000. *The Human Rights Education Handbook. Effective Practices for Learning, Action and Change.*)

Part IV: Follow-up
Related Rights/areas of further exploration: right to life, death penalty, human security

**ACTIVITY II:
POSTERS AGAINST TORTURE**

Part I: Introduction
Different forms of torture and other cruel, inhuman and degrading treatment and punishment are not always clearly evident. Nevertheless, most people have very clear notions of what can be regarded as cruel, inhuman or degrading treatment.

Through this activity, the participants will be encouraged to try to translate their knowledge into action .
Type of activity: creative

Part II: General Information on the Activity
Aims and objectives:
• developing creative and innovative approaches to complex problems;
• illustrating the complexity of the topic.
Target group: young adults, adults
Group size: 10-20 in groups of 4 or 5
Time: 120 min.

Preparation:
• Collect pictures and texts on the topic;
• Collect and prepare copies of the relevant international and regional human rights standards on the prohibition of torture.

Material: Flip chart or paper, markers, shocking photos and stories of torture victims, etc.

Skills involved:
• creative thinking;
• realisation of creative ideas.

Part III: Specific Information on the Activity
Introduction of the topic:
To warm up, ask the participants to share their thoughts, ideas and opinions on torture in a brainstorming session. Record the most interesting answers on a flipchart or board.

Activity process:
Split the group into smaller groups (4-5 members max.) and spread the collected material on a large table or on the floor. Allow for enough time to review the pictures and photographs and read the texts.
Give a large chart of paper to each group and ask the participants to create posters against torture and other cruel, inhuman and degrading treatment by choosing from the given material or by creating their own pictures and/or texts.
Use the last 45 minutes for presenting the posters to the plenary group. Ask the participants not only to interpret their work but also to tell about their thoughts and feelings while creating the posters.

Feedback:
Ask the participants one by one to characterise their experience with the exercise in one word or one phrase.
For a second round, you can ask them what they liked best and whether there was anything about the exercise they found disturbing.

Methodological hints:
Depending on the group you work with you should be very careful about exhibiting shocking details of torture photos or reports!

Part IV: Follow-up
Invite Amnesty International or other experienced local activists to share their experiences and eventually start a new group/campaign.

Related rights/areas of further exploration:
right to life, death penalty, human security

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Boltzmann Institute for Human Rights, Atlas of Torture: www.atlas-of-torture.org

Canadian Centre for Victims of Torture: www.ccvt.org

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: www.cpt.coe.int/en

International Rehabilitation Council for Torture Victims: www.irct.org

King's College London, International Centre for Prison Studies, World Prison Population List: www.kcl.ac.uk/depsta/law/research/icps/downloads/wppl-8th_41.pdf

No Torture: http://notorture.ahrchk.net

Stop Torture Campaign: web.amnesty.org/pages/stoptorture-index-eng

United Nations Committee against Torture: www2.ohchr.org/english/bodies/cat/index. htm

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World Organisation against Torture: www.omct.org

FREEDOM FROM POVERTY

REDUCTION OF INEQUALITIES

SUSTAINABLE LIVELIHOODS

ACCESS TO RESOURCES

PARTICIPATION

DECENT STANDARD OF LIVING

»*Everyone […] has the right to social security and is entitled to realisation […] of the economic, social and cultural rights indispensable for his dignity and free development of his personality.*«

»*Everyone has the right to work […].*«

»*Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services […].*«

»*Everyone has the right to education. […].*«

Art. 22, 23, 25, 26 of the Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORY

"Dying of hunger in a land of surplus"

When the crops failed and there was no work, the villagers of Mundiar began searching for food in the jungle. They didn't find any. Instead, they found grass. And so for most of the summer, the village's 60 households got by eating sama – a fodder normally given to cattle. But humans are not supposed to eat grass, and soon, the villagers, their cheeks increasingly sunken, got weaker. They complained of constipation and lethargy. Finally, they started dying.

One villager, Murari, watched his entire family slowly succumb. First his father, Ganpat, died, followed by his wife Bordi. Four days later, he lost his daughter.

Across this remote part of north India – once covered in dense green forest but now made barren by drought – it is the same story. Over the past two months, more than 40 members of the tribal Sahariya community have starved to death. Some 60 million surplus tons of grain are currently sitting in government warehouses. This is, by any standards, a large food mountain. Unfortunately, none of them reached Mundiar or any of the other more remote interior villages in south-eastern Rajasthan [...].

Officially, nobody starves in India. Under a public distribution system, villagers who sink below the poverty line are entitled to ration cards, which allow them to buy subsidised grain from government shops. But in Bhoyal, as elsewhere, the system has collapsed. The local *sarpanch* [village head] handed out all the ration cards to cronies and members of his own caste, the villagers said. He also scratched out the names of widows entitled to government pensions. The government shop-owners, meanwhile, refuse to sell the cheap grain to the "untouchable" Sahariyas. Instead, they get rid of it on the black market. When the Sahariyas started dying, the shop-owners filled in their ration cards in an attempt to try to conceal their scam.

The levels of malnutrition in India – a country of 1 billion-plus people – are among the highest in the world. About one half of all Indian children are malnourished, while nearly 50 % of Indian women suffer from anemia. And yet, most of the grain on India's vast food mountain is either thrown away or eaten by rats.

It is those at the bottom of India's hierarchical caste system that suffer most. The tribal communities, who account for 30 % of Baran district's population, are also the victims of historical injustice. Before independence in 1947, the Sahariyas eked out a living by hunting and growing a few crops. After independence, officials drove them out of the jungle and confiscated their land. The Sahariyas were forced to seek jobs as agricultural labourers. When the crops failed this summer, they had no work and therefore nothing to eat.

"Politicians are not interested in us", one woman, Nabbo, 50, said as she prepared her evening meal of chapattis made from sama – wild grass seed.

(Source: Luke Harding. 2002. *Dying of hunger in a land of surplus. Caste and corruption connive to keep food from India's poor.*)

Discussion questions

1. What are the deprivations and vulnerabilities experienced by the poor in Baran? Articulate these as *"violations of the human rights to …".*

2. What does this experience evoke in you and what do you think needs to be done?

3. Compare/contrast the situation of poverty in Baran with what the poor in your country/context experience. What are the images of poverty in your experience?
4. Do you see any connection between increasing poverty and human security? Do you think that treating people in ways such as those described in the illustration story can have an effect on human security? If yes, what kind of effects?

NEED TO KNOW

1. INTRODUCTION

Although poverty has been seen as a historical phenomenon, the forms in which it manifests itself today are becoming increasingly complex. This complexity is a result of many factors, including the changing nature of relationships between humans, the relationship between society and factors and processes of production, and the outlook of governments and international institutions like the World Bank, the International Monetary Fund, or the United Nations on various dimensions of poverty.

The concept of poverty has evolved over time. Poverty, which used to be seen as income-related only, is now viewed as a **multidimensional** concept that derives from and is closely linked to politics, geography, history, culture and societal specificities. In developing countries, poverty is pervasive and is characterised by hunger, lack of land and livelihood resources, inefficient redistribution policies, unemployment, illiteracy, epidemics, lack of health services and safe water. In developed countries, poverty manifests itself in the form of social exclusion, in rising unemployment and low wages. In both cases, poverty exists because of lack of equity, equality, human security and peace.

Poverty means having no access to the opportunities the world can offer. The poor are not able to change their situation as they are denied that chance due to a lack of political freedom, the inability to participate in decision-making processes, lack of personal security, inability to participate in the life of a community and threats to sustainable and intergenerational equity. Poverty is the **denial of economic, social and political power and resources**. It is this denial that keeps the poor poor.

Poverty and Human Security
Poverty, leading to grave food and social insecurities, is a direct infringement of human security. It not only threatens the existence of a great number of people but it adds to their vulnerability to violence, mistreatment and social, political and economic voicelessness.
Amartya Sen emphasises the need to strive for global equity and human security: *"The urgent tasks include conceptual clarification as well as pro-*

motion of public discussion, in addition to identifying concrete projects for action related to institutional change for promoting equity and for the safeguarding of basic human security. A better understanding of conflicts and values has to be integrated with investigation of the demands of health, education, poverty removal and the reduction of gender inequality and insecurity."
(Source: Human Security Commission. 2001. *Report on the Second Meeting of the Commission on Human Security, 16-17 December 2001.*)
Poverty is both a state of deprivation and of vulnerability. The resultant growing inequality and discrimination between nations and within nations violates the rights of the poor to live in security and with dignity.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

Defining Poverty

There are various definitions of poverty and its manifestations:

- From the **income perspective**, a person is poor if, and only if, their income level is below the defined poverty line. Many countries have adopted income poverty lines to monitor the progress in reducing the incidence of poverty. The cut-off poverty line is defined in terms of having enough income for a specified amount of food.

- According to the **UNDP Human Development Report (HDR)** 1997, *"poverty means that opportunities and choices most basic to human development are denied - to lead a long, healthy, creative life and to enjoy a decent standard of living, freedom, dignity,*

self-respect and the respect of others." The **Multidimensional Poverty Index** (UNDP, Human Development Report 2010) uses indicators to identify the various dimensions of poverty like poor health and nutrition, low education and skills, inadequate livelihoods, bad housing conditions, social exclusion and a lack of participation. The Multidimensional Poverty Index complements monetary-based methods with a broader approach and replaced the Human Poverty Index which had been published since 1997.

- From a **human rights perspective**, the United Nations Office of the High Commissioner for Human Rights views poverty as *"a human condition characterised by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other fundamental civil, cultural, economic, political and social rights."* In the **Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies** by the Office of the High Commissioner for Human Rights, 2002, poverty is viewed as an *"extreme form of deprivation".* The Report suggests that only those capability failures should count as poverty which are deemed to be basic in some order of priority. While these may differ from one society to another, the common set of needs considered basic in most societies includes the need of being adequately nourished, avoiding preventable morbidity and premature mortality, being adequately sheltered, having basic education, being able to ensure the security of the person, having equitable access to justice, being able to appear in public without shame, being able to earn a livelihood and taking part in the life of a community.

Debates on how to index and measure poverty persist, but the complexity of human life

means that poverty will always remain in search of a definition. Vulnerability and deprivation, being essentially subjective, cannot be narrowed to a rigid framework that is universally applicable.

Dimensions of Poverty

The phenomenon of poverty is understood and articulated differently depending on the specific economic, social, cultural and political context. Going a step forward, we shall now try to relate the words included in definitions of poverty (e.g. justice, vulnerability, dignity, security, opportunities, etc.) to real-life issues. This helps explain the different dimensions of poverty:

Livelihoods: Denial of access to land, forests, water – e.g. in rural areas, state forest laws do not allow indigenous people to collect food and fodder that rightfully belong to them. In the urban context, the city wants rural migrants for their labour, but does not take responsibility for their shelter, health and educational needs, pushing them further into vulnerability and insecurity. Racism and discrimination based on ethnicity have also been critical factors for denying communities and groups access to natural resources vital for their livelihoods and therefore their human right to live in dignity.
☺☞ *Right to Work*
       Non-Discrimination

Basic needs: Denial of food, education, healthy living and housing – e.g. the commercialisation of water, electricity, school and hospital services pushes the prices of essential services beyond the reach of the poor, forcing them to sell their meagre assets and live below the basic needs of people. This robs them of the **right to living in dignity.**
☺☞ *Right to Health*
       Right to Education

Justice: Denial of justice per se or timely justice – e.g. the poor in many countries cannot access the judicial system due to the high costs associated with it. Young people from slums, ethnic, or religious minorities are the first to be rounded up as easy suspects for crimes, or women who seek intervention by the police in matters of domestic violence are disregarded on the pretext of the issue being a private matter. Sometimes, due to pressure from the state and powerful lobbies, courts are seen to delay judicial matters relating to workers' compensation or the rehabilitation of displaced people, which costs the poor their livelihoods.
☺☞ *Rule of Law and Fair Trial*
       Non-Discrimination
       Human Rights of Women

Organisation: Denial of the right to organise, assume power and to resist injustice – e.g. poverty interferes with the freedom of workers to organise themselves for better working conditions.
☺☞ *Right to Work*

Participation: Denial of the right to participate in and influence decisions that affect life – e.g. growing collusion of political and corporate interests usurps the space of citizens to effectively participate in public matters such as the provision of basic services. Illiteracy and lack of information due to displacement deny refugees the right to determine their future. Most Roma, due to their migratory nature, are often not even listed on electoral registers and therefore cannot vote.
☺☞ *Right to Asylum*
       Minority Rights

Human dignity: Denial of the right to live a life in respect and dignity – e.g. in rural areas, caste, ethnic and other minority groups who form a large part of the landless or marginal

landowners are forced to compromise their dignity for earning meagre wages. Children, instead of being at school, are forced into exploitative labour such as waste recycling, leather tanning or agriculture.

☺☞ *Human Rights of the Child*
     Right to Work

Groups Vulnerable to Poverty

Though poverty is a widespread phenomenon and affects people all over the world, it is particularly acute for women, children and persons with disabilities:

The **feminisation** of poverty has become a significant problem in countries with economies in transition due to the increase in male migration, unemployment, and due to the proliferation of household export-oriented economies that are underpaid for their labour. Most female labour is undocumented and unpaid. Women are preferred to men as workers in many sectors of economy as they are seen as a "docile workforce". In many communities, women do not possess and do not have control over land, water, property and other resources and face social and cultural barriers in realising their human rights.

☺☞ *Human Rights of Women*

Poverty denies **children** the opportunity to fulfil their potential as human beings and makes them vulnerable to violence, trafficking, exploitation and abuse. Higher infant and child mortality is often caused by malnutrition; high child/adult ratios are an additional cause for income poverty. With the rapid rise of urbanisation, the number of children living on the streets is increasing. According to UNICEF, in 2010 68 million children of primary school age did not attend school and fall easy prey to different forms of exploitation. Furthermore, an estimated 150 million children (aged 5-14) are engaged in child labour. Moreover, increasing commer-

cialisation of education and health services deprives children of their basic constitutional rights in many countries.

☺☞ *Human Rights of the Child*

Persons with disabilities are among the poorest people in developing countries. Poverty can cause disabilities and may also lead to secondary disabilities for persons already affected by disabilities, as a result of poor living conditions, lack of food or water and poor access to health care. The UNDP estimates that there are 650 million people with disabilities around the globe and that 80% of them live in developing countries, often in extreme poverty and social exclusion. According to these figures, only a very small ratio of adults with disabilities today has paid employment.

Why Poverty Persists

Governments of the highly developed Western countries, which control the governance of the world economy, are content to tolerate and maintain trade and financial structures which concentrate wealth in the industrialised world and exclude the poorest countries and people from a share in global prosperity, resulting in inequality among nations of the North and South. Interestingly enough, both within developed and developing countries, there is a widening gap between the rich and the poor.

The **Structural Adjustment Programmes (SAPs)** of the World Bank and the stabilisation packages of the International Monetary Fund came with the promise of generating expanded opportunities of employment, income, wealth and economic development by integrating national economies into a global economic system. SAPs that seek to eradicate poverty through fiscal discipline without addressing the inequalities in the distributive systems may intensify poverty, as countries spend money paying off debts, thereby how-

ever neglecting expenditure on basic services like health, education and shelter.

Some economic trends that can be described as "**neo-liberal globalisation**" put emphasis on production for exports to the detriment of the rights of people to fulfil their own needs and earn a livelihood with dignity. The roll-back of the state from its welfare responsibilities of health, education, food and shelter and the absence of safety nets impact specifically the poor. Inflation, contraction of employment and erosion of real wages brought out by liberalisation and privatisation of assets also affect the poor.

The UNDP Human Development Report 2010 points out that rapid economic growth in already rich countries of Western Europe, North America and Oceania and consistent slow growth in Africa contributed to the **increase in global inequality** in the second half of the 20th century. Even in times of the financial crisis the gap between developed and developing countries widened. The richest country today, Liechtenstein, is now 3 times richer than the richest country 1970, the United States. The poorest country Zimbabwe is now 25% poorer than the poorest country 1970 (also Zimbabwe).

Today, a quarter of the world's people live in severe poverty confined to the margins of society. According to the UNDP Human Development Report 2010, an estimated 1.44 billion people survive on less than the equivalent of $1.25 a day. Consequently, the examination of developments in this process also leads to highly alarming data, such as the prediction that in case the present policies are kept, the goal to reduce child mortality will be missed and the goal to ensure primary education will not be met, leaving 47 million children out of school by 2015. While there has been progress

as far as access to safe drinking water and the provision of basic vaccinations are concerned, some goals, like the achievement of literacy, still lack proper implementation. According to the Human Development Report 2005, 800 million people remain illiterate worldwide. Another issue to be considered remains the pledge to combat child mortality, a challenge highlighted by the 2005 Human Development Report according to which in 2002 every three seconds a child less than 5 years of age died. The most recent Child Mortality Report (2010) estimates show that nearly 8.1 million children under age five died in 2009 – or more than 22.000 children a day. More needs to be done, for example, in the fight against HIV/AIDS, and the policy of some of the worst-affected countries to deny and neglect the topic or even emphasise stereotypes will certainly not add to the achievement of the relevant Millennium Development Goals.

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

Relative Poverty and Absolute Poverty
Relative Poverty means that a person or group of people is poor in relation to others or in relation to what is considered to be a fair standard of living/level of consumption in a particular society. **Absolute Poverty** means that people are poor in relation to what is held to be the standard of minimum requirement. An individual who is categorised as absolutely poor by American standards may be considered relatively poor, say, in the African context.

Social Exclusion
Social Exclusion is often used synonymously with "relative poverty", but the concepts are not identical. Social exclusion may lead

WE MUST BE MILES BELOW THE POVERTY LINE THAT'S WHY THE FALL IN PRICES DO NOT AFFECT US

INFLATION RATE FALLS TO 4·71%

Courtesy :- Economic Times, 29-2-96.

to poverty and at the same time, social exclusion may be the outcome of poverty.

Discussion questions

- *Does a larger population automatically translate into more poverty?*

It is commonly believed, that high population growth in least developed and developing countries is responsible for widespread poverty in these nations. This argument is advocated by the respective governments from the South and the North to divert attention from the central issues that are the root causes of poverty in these regions. These issues are the continued extraction and exploitation of natural resources by commercial interests of the developed countries resulting in the disenfranchisement of rights of communities over resources; lack of allocation of funds to basic amenities such as education, health and water, the provision of which could substantially reduce the mortality and disease rates of women and children; and increasing conflicts and wars over gaining control over resources, causing political, social and economic instability. The argument that a large number of poor people stands in the way of the progress of a nation is not valid, as it is actually the redistribution policies of many governments, which are responsible for allocating the gains

of development in a just manner. Similarly, the notion that the poor are responsible for consuming natural resources and for environmental degradation is disputable, as it is actually the rich that have higher levels of consumption than the poor.

- *Will sustainable development lead to poverty reduction?*

Poverty pushes the poor to choose unsustainable ways of living. The absence of sanitation facilities and disposal systems, for instance, as well as lack of fuel may make the poor resort to practices that contribute to environmental degradation. Only if developed countries decide to respect the commitments they have been making to the world such as to reduce greenhouse gas emissions, to bring in energy efficiency standards and to pay transaction taxes for movement of capital across borders, sustainable development can be achieved, resulting in a substantial reduction of poverty.

- *Is it possible to finance poverty eradication?*

Yes it is. The additional cost of achieving basic social services for all in developing countries is estimated at about US $40 billion a year, which is approximately 5.6% of the US defence budget for 2012. Most of these resources can also come from restructuring existing spending by national governments and multilateral banks (World Bank, Asian Development Bank and others) and other aid agencies.

Financing poverty eradication would be much easier if international institutions like the World Bank, International Monetary Fund, and the governments of the OECD countries actually decided to write off existing debts against concrete commitments by governments in order to channel funds into poverty eradication based on local social requirements.

The estimated costs would be further reduced if respective states decided to undertake radical reforms in the area of redistribution of

wealth and resources and if they decided to give developmental spending priority over defence expenditures.

4. IMPLEMENTATION AND MONITORING

During the UN Millennium Assembly session in 2000, heads of states and governments acknowledged their collective responsibility to uphold the principles of human dignity, equality and equity at the global level. They set **eight goals for development and poverty eradication** to be achieved by 2015. These include: to eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and empower women, reduce child mortality, improve maternal health, ensure environmental sustainability and develop a global partnership for development.

The UN Millennium Development Goals

Goal 1: Eradicate extreme poverty and hunger

Goal 2: Achieve universal primary education

Goal 3: Promote gender equality and empower women

Goal 4: Reduce child mortality

Goal 5: Improve maternal health

Goal 6: Combat HIV/AIDS, Malaria and other diseases

Goal 7: Ensure environmental sustainability

Goal 8: Develop a global partnership for development

Globalisation and its controversial implications are generating new forms of poverty.

Moreover, these new forms are manifested in societies that are at different levels of socio-political and economic development, comprising people of different faiths, beliefs and cultures. For example, the impact of globalisation on Africa is quite unlike that on India mainly due to the different socio-political and economic conditions in Africa as compared to India. These distinct differences between cultures and geographic regions have also had an impact on how people have perceived threats emerging from impoverishment and social marginalisation.

The critical issue, therefore, is to further develop the **framework that monitors** these **different forms of poverty** at the global and local levels and also to empower people to strengthen their resistance and struggle against exploitative forces.

The **UN Charter** and the **Universal Declaration of Human Rights** sought to provide the moral framework for constructing a new system of rights and obligations, placing highest emphasis on guaranteeing human dignity, peace and human security for all people in the period after World War II.

It is the holistic approach to human rights that enables a response to the multi-dimensional nature of poverty. This approach goes beyond charity, recognising that freedom from poverty is only possible when the poor are **empowered through human rights education**. It affirms that the poor have legal entitlements and that state and non-state actors have legal obligations to fulfil. While individual states have the main responsibility for realising the human rights of their citizens, other states and non-state actors also have an obligation to contribute to and support this process. This is of utmost importance for establishing equitable, just and non-protectionist systems of multilateral trade, an adequate flow of financial assistance, and

for ensuring that the poor have a stake in the development process in this globalising world.

These **values** find expression in political statements such as the Rio Declaration, Agenda 21, the Copenhagen Declaration, the Beijing Platform for Action and the Habitat Agenda, designed by states as an international developmental architecture to eradicate poverty and make an indispensable requirement for sustainable development.

Treaty Bodies Monitoring Poverty

The monitoring bodies examine the state reports at regular intervals, may accept complaints, and make observations and recommendations to states, economic institutions, UN agencies and others to take steps to improve their human rights record, including poverty alleviation.

The Concluding Observations on various state party reports by the **Committee on Economic, Social and Cultural Rights** show that lack of clarity of the status of the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** in domestic law, lack of enforcement of laws based on international human rights commitments and lack of information on the treaty instrument are impeding factors. Reports observe that debt burden, the absence of disaggregated data, widespread corruption in state authorities, military regimes undermining judiciary, and entrenched conservative religious influences imposing discrimination get in the way of implementing poverty reduction strategies.

Though the number of countries which have ratified the ICCPR and ICESCR has increased dramatically since 1990, there is a huge gap between commitments, policy intentions and actual implementation. The lack of political will of governments, conflicting commitments made on international platforms like the WTO (e.g. TRIPS which could result in increasing the costs of medicines to satisfy corporate greed, and thus denying individuals their basic human right to a healthy life and living in dignity) and inadequate resource allocation for realising various commitments are major threats.

Special Rapporteurs and Independent Experts

The United Nations Commission on Human Rights (which has been replaced by the Human Rights Council in 2006) has appointed two Independent Experts – one has the mandate to report to a special working group on the implementation of the right to development (Resolution 1998/72) while the other has the responsibility for investigating and making recommendations regarding the effect extreme poverty has on human rights (Resolution 1998/25). The **Independent Expert on Human Rights and Extreme Poverty** evaluates the measures taken at the national and international levels to promote the full enjoyment of human rights by people living in extreme poverty, examines the obstacles encountered and the progress made by women and men living in extreme poverty, and also makes recommendations and proposals in the sphere of technical assistance and other areas for the reduction and eventual elimination of poverty.

In her 2001 Report to the Commission on Human Rights on human rights and extreme poverty the Independent Expert presented essential findings on how the situation of the poor can be changed. To fulfil those requirements, human rights education is necessary to empower the poor and help them change their living conditions. The human rights education process promotes and enhances critical analysis of all the circumstances and

realities that confront the poor. It provides appropriate knowledge, skills and capacities to deal with the forces that keep them poor. It enables the building of organisations and the creation of self-help networks so that they can claim and pursue the progressive realisation of all human rights and fully eradicate poverty. In her 2004 report the Independent Expert pointed out that *"the total world military budget for 2003 alone would cover the cost of building all the schools that Africa needs for young people aged from 0 to 18 years and pay their teachers for 15 years"*. In her report of 2010 the Independent Expert Magdalena Sepúlveda Carmona presented her recommendations on how to improve the draft guiding principles on extreme poverty and human rights, which were originally drafted by the Sub-Commission on the Protection and Promotion of Human Rights in 2006.

Development and Poverty Eradication
Goal: To halve, by the year 2015, the proportion of the world's population whose income is less than one dollar a day and the proportion of people who suffer from hunger.
Strategies for Moving Forward:
Income poverty
- Ensuring support for country-led economic and social initiatives that focus on poverty reduction;
- Strengthening capabilities to provide basic social services;
- Assisting capacity-building for poverty assessment, monitoring and planning.

Hunger
- Taking stock of actions taken since the 1996 World Food Summit and propos-

ing new plans at the national and international levels to achieve hunger goals;
- Ensuring that food, agricultural trade and overall trade policies are conducive to fostering food security for all through a fair and just world trade system;
- Continuing to give priority to small farmers, and supporting their efforts to promote environmental awareness and low-cost simple technologies.
(Source: United Nations General Assembly. 2001. *Road map towards the implementation of the United Nations Millennium Declaration.*)

Progress on poverty reduction is still being made, despite significant setbacks due to the 2008-2009 and still ongoing economic downturn, and food and energy crises. The developing world as a whole remains on track to achieve the poverty reduction target by 2015. Though progress has been made, it is uneven. And without a major push forward, many of the Millennium Development Goals targets are likely to be missed in most regions. Old and new challenges threaten to further slow down progress in some areas or even undo successes achieved so far.

The most severe impact of climate change is being felt by vulnerable populations who have contributed least to the problem. The risk of death or disability and economic loss due to natural disasters is increasing globally and is concentrated in poorer countries. Armed conflict remains a major threat to human security and to hard-won Millennium Development Goals gains. Large populations of refugees remain in camps with limited opportunities to improve their lives. In 2009, 42 million people had been displaced by conflict or persecution, four fifths of them in developing countries.

Gender equality and the empowerment of women are at the heart of the MDGs and are preconditions for overcoming poverty, hunger and disease. But progress has been sluggish on all fronts – from education to access to political decision-making.
(Source: United Nations. 2010. *The Millennium Development Goals Report 2010.*)

GOOD TO KNOW

There is a consensus emerging based on the experience of peoples' movements and the work of NGOs and aid agencies that, for development to reach the poor, some fundamental steps which involve land reforms, ownership and control of livelihoods and resources by the poor, literacy and education, health, shelter and nutrition need to be taken. Offering hybrid cows instead of land to the landless, exclusive loans for buying land for agriculture without addressing other infrastructural needs in a situation where crops are dependent on irrigation, providing flexible schools for child labourers rather than ensuring their full attendance at school are approaches that have not worked. They have only perpetuated poverty. The main issues are political will and redistribution.

Effective poverty eradication is successful when it takes place at the local, decentralised levels. It is only when the poor participate as subjects and not as objects of the development process, that it becomes possible to generate human development with equity.

Common and specific lessons learnt from local, national and international experiences in the area of poverty reduction:
- Poverty is a social, cultural and political issue as much as an economic one.

- Political and economic empowerment of the poor is the means to eradicate poverty.
- The right to information and human rights education enables the marginalised to become aware of their human rights and this can lead to their taking action.
- Building organisations of the people enhances their collective strength, whereby they can claim their human rights. Through empowerment the poor can assert their right to resources and enhance their dignity and self-respect.
- Ensuring work at liveable wages and access to livelihood resources remains a key to poverty reduction.
- Reduction in poverty should be accompanied by reduction in inequality. Priority must be placed on eliminating all forms of discrimination against women as well as racism and discrimination based on ethnicity, social status, etc.
- Greater spending on education, health, housing, water, sanitation and affordable provision of food reduces poverty.
- The state and its agencies have a significant role in poverty reduction especially in the era of globalisation.

- Greater accountability of international and domestic developmental and financial institutions would result in ensuring fair and just economic growth.
- Many of the countries of the world are not in a position to eradicate poverty immediately. Their own efforts need to be supported and complemented by international assistance and cooperation.
- Debt write-offs have a direct relationship to poverty reduction. If debt write-offs were tied to investments in education, health and other sectors they would contribute to poverty reduction.
- War and strife increase poverty. Efforts to eradicate poverty without ensuring conditions of real peace and security are bound to fail.

1. GOOD PRACTICES

The Poor are Bankable

The Grameen Bank, Bangladesh, started as a small village credit society in Jobra in 1976. By 2009, it had reached out to 7.9 million borrowers, 97% of whom were women. With 2.562 branches, it provides services in over 83.000 villages.

The Grameen Bank attempts to mobilise the poor and move them forward primarily through local capital accumulation and asset creation. Its purposes are to extend banking facilities to poor men and women in rural Bangladesh, eliminate the exploitation by money lenders, create opportunities for self-employment for unutilised and underutilised human resources, organise the disadvantaged people in way they understand and ensure self-reliant, social-economic development through mutual support.

By focusing on those who have been considered the greatest credit risks, the bank has established the fact that the poor are creditworthy. The bank addresses both the double burden of gender and poverty which poor women face. The Grameen Bank has been able to initiate significant changes in the patterns of ownership of means of production and circumstances of production in rural areas. These changes are significant, not simply because they were able to move the poor above the poverty line, but also because, with sensitive support, they released a great deal of creativity in villages. The Grameen Bank process is attempted in other neighbouring countries, too. 90% of the bank are owned by the poor, 10% by the government.

Freedom from Hunger

Food First, based in California, USA, is committed to eliminating the injustices that cause hunger. It believes that all people have the basic right to feed themselves and that they must have real democratic control over the resources needed to sustain themselves and their families. The organisation works to awaken people to the possibility and their own power to bring about social change by undertaking research, analysis, education and advocacy in order to explode myths and expose root causes, identify obstacles to change and address ways to remove them, evaluate and publicise successful and promising alternatives.

Economic Justice

Freedom from Debt Coalition (FDC), based in the Philippines, works for human development and focuses on equity (including gender equality), economic rights and justice, equitable and sustainable growth, pressing governments towards their proper role and fighting for beneficial global economic relations among nations. The FDC supports the

worldwide campaign to cancel the debts of the poorest countries of the world. The Coalition has taken up several other issues including food security, public spending, and the impact of economic policies on women. Its advocacy work integrates major tasks in popular education and public information, mass mobilisation, policy research and analysis, alliance building and provincial networking.

Cotonou Agreement

The Cotonou Agreement is the most comprehensive partnership agreement between developing countries and the European Union. Since 2000, it has been the framework for the EU's relations with 79 countries from Africa, the Caribbean and the Pacific (ACP). Article 54 of the Agreement addresses food security exclusively and thus recognises the important role it plays in assuring human security and human well-being. The agreement also demonstrates the evolving grid of priorities in the current EU development assistance policies in relation to enhancing human security. The first revision of the Cotonou Agreement took place in 2005 and prepared the ground for the 2007-2013 financial framework of development assistance. Negotiations for a second revision were concluded in 2010. The official signature ceremony took place in Ouagadougou, Burkina Faso, on 23 June 2010.

The European Anti-Poverty Network

The European Anti Poverty Network (EAPN) is an independent network of non-governmental organisations (NGOs) and groups involved in the fight against poverty and social exclusion in the member states of the European Union, established in 1990. At present, EAPN is a network of 26 national networks of voluntary organisations and 23 European organisations. The members of EAPN are involved in a variety of activities aimed at combating poverty and social exclusion including education and training activities, service provision and activities aimed at the participation and empowerment of people experiencing poverty and social exclusion. The members of EAPN aim to put the fight against poverty high on the agenda of the EU and to ensure cooperation at EU level aimed at the eradication of poverty and social exclusion. Additionally, EAPN has consultative status with the Council of Europe and is a founding member of the Platform of European Social NGOs.

International Council on Social Welfare

The International Council on Social Welfare (ICSW) is a global non-governmental organisation which represents a wide range of national and international member organisations that seek to advance social welfare, social development and social justice. ICSW's basic mission is to promote forms of social and economic development which aim to reduce poverty, hardship and vulnerability throughout the world, especially amongst disadvantaged people. It strives for recognition and protection of fundamental rights to food, shelter, education, health care and security. It seeks also to advance equality of opportunity, freedom of self-expression and access to human services. It seeks implementation of these proposals by governments, international organisations, non-governmental agencies and others. It does so in cooperation with its network of members and with a wide range of other organisations at local, national and international levels. ICSW's Global Conference is held every two years and covers a wide range of social development and social welfare issues (recent venues include France 2008 and Hong Kong 2010). A Global Civil Society Forum is convened every year in New York immediately before the meeting of the UN Commission for Social Development. It is addressed by leading governmental and civil society experts from around the world.

The UN World Food Programme

The World Food Programme is the UN organisation fighting against hunger in the world. For example in 2010 it gave assistance to more than 109 million people in 75 countries. This was done in emergency relief and in other programmes, for example helping communities building better futures after immediate relief has ended and long-term solutions have not yet started. The goal is to help people suffering from hunger, which were around 925 million people in 2010.

2. TRENDS

Progress towards Millennium Development Goals – Are countries on track?

Many countries have made significant progress but others, generally the poorest countries, seem unlikely to achieve the goals. The analysis of four of the eight millennium goals – child mortality, school enrolment, gender parity in education as well as access to water and sanitation – led to the following findings in the 2005 UN Development Report: 50 countries, out of which 24 were in Sub-Saharan Africa, with a population of at least 900 million went backwards instead of forwards with regard to at least one Millennium Development Goal. Even worse, another 65 countries would not meet even one Millennium Development Goal until after 2040. This affects primarily, but not exclusively, their 1.2 billion inhabitants.

(Source: United Nations Development Programme (UNDP). 2005. *Human Development Report 2005.)*

The world's average Human Development Index (HDI) has increased 18% since 1990, reflecting large aggregate improvements in life expectancy, school enrolment, literacy and income. Almost all countries have ben-

efited from this progress. Based on data from 1970–2010, of 135 countries that combined have 92% of the world's population, only 3 (the Democratic Republic of the Congo, Zambia and Zimbabwe) have a lower HDI today than in 1970. Overall, poor countries are catching up with rich countries. This convergence paints a far more optimistic picture than a perspective limited to trends in income, where divergence has continued. But not all countries have seen rapid progress; those experiencing the slowest progress are countries in Sub-Saharan Africa struck by the HIV epidemic, and countries in the former Soviet Union suffering increased adult mortality.

(Source: United Nations Development Programme (UNDP). 2010. *Human Development Report 2010.)*
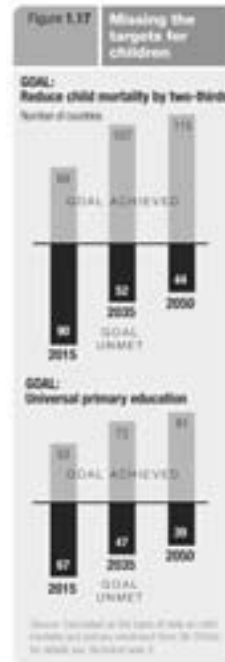
(Source: United Nations Development Programme (UNDP). 2005. *Human Development Report 2005.)*

Europe 2020 Initiative

Concretely, the European Union has set five ambitious objectives – on employment, innovation, education, social inclusion and climate/energy – to be reached by 2020. Especially, to reduce the share of early school leavers to 10% from the current 15% and increase the share of the population aged 30–34 having completed tertiary education from 31% to at least 40% and to reduce the number of Europeans living below national poverty lines by 25%, lifting 20 million people out of poverty. Each member state will adopt its own national targets in each of these areas. Concrete actions at EU and national levels will underpin the strategy.

3. CHRONOLOGY

**Freedom from poverty –
Main provisions and activities**

1948 Universal Declaration of Human Rights, Art. 22, 23, 25, 26

1961 European Social Charter (ratifications by April 2012: 13)

1965 Convention on the Elimination of All Forms of Racial Discrimination, Art. 5 (ratifications by April 2012: 174)

1966 International Covenant on Economic, Social and Cultural Rights, Art. 6, 7, 9, 11, 12, 13 (ratifications by April 2012: 160)

1979 Convention on the Elimination of All Forms of Discrimination against Women, Art. 10, 11, 12, 13, 14 (ratifications by April 2012: 186)

1981 African Charter on Human and Peoples' Rights, Art. 14-17, 20-22 (ratifications by April 2012: 53)

1988 Additional Protocol of San Salvador on Economic, Social and Cultural Rights to the American Convention on Human Rights (ratifications by April 2012: 15)

1989 Convention on the Rights of the Child, Art. 27 (ratifications by April 2012: 193)

1992 International Day for the Eradication of Poverty, October 17, is officially recognised by the United Nations. The first commemoration took place in Paris in 1987.

1996 Revised European Social Charter (gradually replacing the initial 1961 treaty; ratifications by April 2012: 30)

1998 Appointment of the Independent Expert on Human Rights and Extreme Poverty

2000 Adoption of Millennium Development Goals by the UN General Assembly

2005 World Summit "Outcome Document" reiterates commitment to the Millennium Development Goals and to the eradication of poverty (UN Doc. A/RES/60/1, paras. 17, 19, 47)

2010 Millennium Development Goals 2010 Review Summit: Adoption of a global action plan to achieve the MDGs by 2015

SELECTED ACTIVITIES

ACTIVITY I:
"THE WORLD IN A VILLAGE"

Part I: Introduction
The exercise deals with inequality and deprivation faced by the poor in the context of international human rights instruments.

Part II: General Information
Type of activity: Exercise
Aims and objectives: Sensitising the participants to the issues of inequality in the global distribution of wealth and resources. The exercise helps young people to reflect on their own status in relation to poverty and the fulfilment of their human rights. It gives them an opportunity to realise the urgent need for changing the inequalities and injustices experienced by the poor and setting priorities in order to ensure development for all.
Target group: Children and young people
Group size: 20-25
Time: 90 minutes
Preparation: Make enough copies of the activity sheets for the number of people participating in the exercise.
Material: Photocopies of the worksheets (as attached), colour pencils/markers
Skills involved: Analytical skills, discussion and reflective skills

Part III: Specific Information on the Activity
Instructions:
Distribute the worksheets to the participants. Then ask them to implement the instructions on their worksheets as you read them out:
*I. **Ask the participants*** to imagine that the entire world (7 billion) had shrunk into a representative village consisting of just ten villagers.

1. In the first row, draw a circle round the figure that represents you in the line of the world's richest person (the first figure) to the world's poorest (the tenth).
2. 50% of the world's population (five of the villagers) would be malnourished, hungry or starved. Cross out the last five bowls in the second row.
3. Eight of them would be living in substandard housing (80% of the world's population). These include slum dwellers, the homeless and displaced, and refugees. Strike out the last eight houses.
4. Seven would be unable to read, i.e. 70% of all the people in this world cannot read. Put your thumbprint on the last seven books in the fourth row.
5. One person would have 60% of the total wealth in the world – that leaves the other nine to share the remaining 40%. Cross out the first six piles of money in the fifth row and mark the first person in the first row with a large 6.
6. Only 1% of the people in the world own a computer (one tenth of the first computer on this scale). In the sixth row, paint the nose of the first man at the computer red.
7. 1% of the world's population has access to higher education. Draw a circle round the tassel of the first graduate in the seventh row, to represent just one tenth of this drawing.
8. Look at this sheet again and see if you want to revise your rating for yourself. Draw two circles round your new rating.

II. Now ask the participants to listen to these statements:
• If you have food for the next meal at home, clothes, a roof over your head and a place to sleep, you are among the top three of the wealthiest people.

• And if you (or your parents, in case you are a minor) have money in the bank, some in your wallet and some loose change in the dish at home, then you qualify to represent the richest person on our scale.

III. Give the most recent statistics on education, health, water, sanitation and military expenditure, etc. from the most recent Human Development Report of the UNDP and/or World Development Report of World Bank, for a country or group of countries, depending on the participants' profiles.

IV. Feedback:

The group is encouraged to discuss what they feel about the various statistics that have been placed before them. The exercise can explore

• the contradictions that the data highlights;

• whether their own reality is like or unlike the statistics;

• the connection of this data with the realisation and/or violation of various human rights in relation to poverty;

• the goals and priorities that they would like to set for development and why.

Practical hints:

While the participants are doing the exercise individually, encourage them to share their point of view with others. The role of the facilitator is to provide data and facilitate discussion.

Part IV: Follow-up

The participants could be encouraged to make a plan for doing human rights education activities based on the above activity to sensitise their peers.
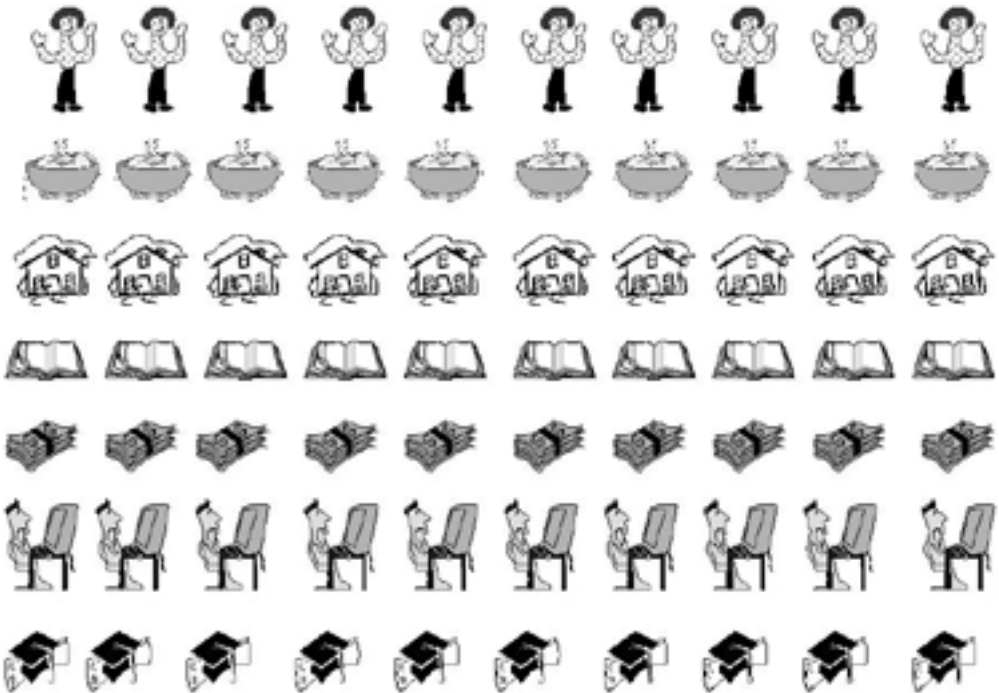
(Source: Adapted from: Abhivyakti – Media for Development. Available at: www.abhivyakti.org.in.)

ACTIVITY II:
ACTION CAMPAIGN

☺**2**

Part I: Introduction
The widespread nature of poverty may seem overwhelming and people may feel they have no role in its eradication. This activity develops an action campaign on a local issue relating to poverty.

Part II: General Information
Type of activity: Creative action
Aims and objectives: Raising awareness for poverty in the participants' immediate context; developing connections between the immediate manifestations and causes of poverty as a whole; identifying actions – what the participants can do in relation to a particular poverty situation.
Target group: Adults, young adults
Group size: 20 persons or fewer in working groups comprising 4-5 members
Time: 150 minutes
Preparation: Flip chart, markers, paints, crayons, pens, felt pens, poster paper, and pictures of people living in poverty. Download case studies from the internet from some of the sites suggested in the section on good practices in this module that highlight different human rights violations. For example, governments that hand over to the multinational corporations the right to privatise basic services or rights over land, forests, lakes, for example to carry out commercial farming or fishing. From *"Voices of the Poor"* (www.worldbank.org) or any other information source select some quotations by poor persons on their own situation.
Skills involved: Analytical skills, articulation skills, empathy – putting oneself in the shoes of the poor.

Part III: Specific Information on the Activity
Instruction:
- Begin by reading out a few of the selected quotations that reflect the voices of the poor from different situations.
- Encourage the participants to mention the individuals/groups/communities from their contexts that live in absolute or relative poverty or face social exclusion. Through consensus let the groups identify the cases they would like to pursue in the exercise. Divide the participants so that each working group has 4-5 members.
- The volunteer reporting the particular poverty case takes on the role of being one of the poor, while other members of the group seek to talk to him/her, thus exploring various dimensions (social/political/economic/cultural/environmental) of the person's/community's life.
- The group members then list the issues/dimensions of poverty, the immediate causes and structural causes and identify who and what has a bearing on the situation. The group relates this to the appropriate articles from human rights treaties.
- Now ask all of the groups to develop a human rights campaign for addressing the issues faced by this group and propose viable immediate and long-term actions. The group can then prepare a pamphlet/poster/any form of campaign material to convince the rest of the group to join the campaign.

Feedback:
Other participants have the opportunity to clarify, seek information on why joining the campaign is important. The exercise provides a life context for addressing myths, miscon-

ceptions, and biases. The facilitator uses the opportunity to make facts known about poverty/globalisation, to summarise the insights in relation to micro-macro linkages of poverty and encourage creative ideas on how to proceed from there.

Part IV: Follow up
Watch a film that features a campaign on a particular issue of poverty or arrange a field visit to an NGO working with marginalised communities. Encourage the members to associate with an NGO/local campaign that touches upon their life.

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United Nations "Stand Up and Take Action against Poverty" Campaign: http://standagainstpoverty.org/suap/

World Bank – Poverty Net: www.worldbank.org/poverty

ANTI-RACISM AND NON-DISCRIMINATION

»*Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.[…]*«

Article 2, Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORY

In 1960, the grandstand of an important sporting ground in Toowoomba, Queensland, Australia, was named the *"E.S. 'Nigger' Brown Stand"*, in honour of a well-known sporting and civic personality, Mr. E.S. Brown. The racist, offending word "nigger" (hereinafter referred to as "the offending term") appears on a large sign on the stand. Mr. Brown, who died in 1972, was of white Anglo-Saxon extraction and acquired the offending term as his nickname. The offending term is also repeated orally in public announcements relating to facilities at the ground and in match commentaries.

In 1999, Mr. H., an Australian of Aboriginal origin requested the trustees of the sports ground to remove the offending term, which he found objectionable and offensive. After considering the views of numerous members of the community who had no objection to the use of the offending term on the stand, the trustees advised the petitioner that no further action would be taken. In a public meeting chaired by a prominent member of the local indigenous community, and attended by a cross-section of the local Aboriginal community, the mayor and the chair of the sports ground trust passed a resolution *"that the name 'E.S. Nigger Brown' remain on the stand in honour of a great sportsman and that in the interest of the spirit of reconciliation, racially derogative or offensive terms will not be used or displayed in future"*.

The petitioner brought a federal court action, on the basis that the trustees' failure to remove the offending term violated the federal Racial Discrimination Act 1975. He sought removal of the offending term from the grandstand and an apology from the trustees. The Federal Court dismissed the petitioner's

application. The Court considered that the petitioner had not demonstrated that the decision was an act *"reasonably likely in all the circumstances to offend, insult, humiliate or intimidate an indigenous Australian or indigenous Australians generally"*. Finally, the Court considered that the Act did not protect the *"personal sensitivities of individuals"*, as it considered to be the case here, but rather *"render[ed] acts against individuals unlawful only where those acts involve treating the individual differently and less advantageously than other persons who do not share the membership of the complainant's racial, national or ethnic group"*.

In 2002, the High Court of Australia refused the petitioner's application.

In an individual complaint to the United Nations Committee on the Elimination of Racial Discrimination (CERD), the petitioner contended that the term was *"the most racially offensive, or one of the most racially offensive, words in the English language"*. Accordingly, he and his family were offended by its use at the ground and are unable to attend functions at what is the area's most important football venue. He argued that whatever may have been the position in 1960, contemporary display and use of the offending term was *"extremely offensive, especially to the Aboriginal people, and fell within the definition of racial discrimination in Article 1"* of the United Nations Convention on the Elimination of All Forms of Racial Discrimination (ICERD). He argued that any state party to the Convention had an obligation to amend laws having the effect of perpetuating racial discrimination, and to undertake to combat prejudices leading to racial discrimination. The use of words such as the offending term in a very public

way provided the term with formal sanction or approval, and might perpetuate racism and reinforce prejudices leading to racial discrimination. The petitioner therefore sought the removal of the offending term from the sign and an apology, as well as changes to Australian law to provide an effective remedy against racially-offensive signs.

In its communication No. 26/2002 the Committee (CERD) considered that the *"use and maintenance of the offending term can at present time be considered offensive and insulting, even if for an extended period it may not have necessarily been so regarded."* Furthermore, it considered that *"the memory of a distinguished sportsperson may be honoured in ways other than by maintaining and displaying a public sign considered to be racially offensive. The Committee recommends that the state party take the necessary measures to secure the removal of the offending term from the sign in question, and to inform the Committee of such action it takes in this respect."* (Source: United Nations Committee on the Elimination of Racial Discrimination (CERD). *Communication No. 26/2002, CERD/C/62/D/26/2002 of 14 April 2003.*)

Discussion questions

1. What is the message of the story?
2. Which human rights have been violated?
3. What did Mr. H. do to defend his rights?
4. Why did the national courts not follow his consideration?
5. Why did the local community not support him?
6. Why did the Committee follow the petitioner's consideration?
7. Are stereotypes or prejudices towards a particular group of people included and if so, which?
8. Have you heard of similar incidents in your country? What can you do about it?
9. Which constructs do racists use for justifying their attitudes and behaviour? Which arguments might be suitable for countering racist attitudes?
10. How is non-discrimination linked to the freedom of expression?

NEED TO KNOW

1. NON-DISCRIMINATION – THE ENDLESS AND ONGOING STRUGGLE FOR EQUALITY

Think of one single person you know who has never been subject to any form of discrimination in their whole life. You'll see you will not find anyone!

The principle that all human beings have equal rights and should be treated equally is a cornerstone of the concept of human rights and derives from the **inherent and equal human dignity of every individual**. As a common standard of achievement for all peoples and all nations, the Universal Declaration of Human Rights sets out the basic principles of equality and non-discrimination regarding the enjoyment of human rights and fundamental freedoms, prohibiting *"distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"*. But this natural right to equality has never

been fully provided to all human beings, neither in the past nor in the present.

Discrimination in one or the other form has always been a problem since the beginning of humankind. Discrimination has occurred against indigenous people and minorities everywhere, from the forests of Ecuador to the islands of Japan, against the Aborigines, Roma, Jews and persons with dark skin. It happens to migrants, refugees and asylum-seekers. It occurs against children who are harassed or abused, against women treated as less valuable human beings, against people infected with HIV/AIDS and against those with physical or psychological impairments or because of their sexual identity. It is even found in our language, through which we sometimes intentionally or unintentionally demarcate ourselves from others. Discrimination appears in so many forms, and it can be presumed that everyone has been affected by it to varying extents. Therefore, consciousness of this issue is essential in order to deal with it effectively. The root cause for discrimination is the false feeling of superiority to any other person, and discrimination is the expression of such an imagined superiority.

This module concentrates on some of the gravest and most devastating forms of discrimination, namely **racism, racist discrimination and the related attitudes of xenophobia and intolerance.**

In the history of mankind human beings have again and again been classified according to the artificially created category of "race", together with the wrong assumption of the existence of "superior races" and "inferior races". Charles Darwin's theories of evolution and survival of the fittest, for example, have been wrongly used to "scientifically" justify notions of "racial superiority". Forms of discrimination and racism have been manifested in the Indian caste system as well as in the ancient Greek and Chinese conceptions of cultural superiority. Racism in the medieval times was dominated by the persecution of Jews all over the world. The Spanish colonial rule, especially of the 16th and 17th century, firstly introduced a racist caste society in the "New World" (the South-American continent), where "blood purity" became a supreme principle. Victims of this system were Native Americans and deported and enslaved persons from Africa. Other colonial powers adopted these structures and made them the basis for their own colonial societies. In the "New World", the derogatory term "negro" was a synonym for an enslaved member of an "inferior race", in contrast to the white "master race". At the end of the 18th century and the beginning of the 19th century, the ideology of racism grew into another dimension. After the American Civil War, African Americans were terrorised by the Ku Klux Klan in the Southern states. Although the Fourteenth Amendment to the US Constitution guaranteed equal protection under the law to all citizens, institutionalised segregation ("separate but equal" doctrine) was upheld until the late 1960s. The 20th century saw very extreme forms of racism: the racist hatred of the Nazi regime in Europe resulted in the genocide of European Jews; the institutionalised racist discrimination of South Africa's Apartheid system, or the genocides in Ex-Yugoslavia and Rwanda.

Today, as a consequence of these crimes against humanity, the prohibition of discrimination is established in many international treaties and constitutes an important element in the legislation of a variety of nations. Nevertheless, discrimination based on colour, ethnicity, as well as religion, gender, sexual identity or other forms of discrimination are still one of the most frequently occurring human rights violations throughout the world.

☺☞ *Human Rights of Women*
   Religious Freedoms
   Minority Rights

Discrimination and Human Security
One of the major purposes of human security is to provide the conditions for people to exercise and expand their opportunities, choices and capabilities free of insecurity. Discrimination based on either ground obstructs people from equally exercising their rights and choices and not only results in economic and social insecurity but also disastrously affects the self-respect, self-determination and the human dignity of the discriminated human being. Racism, racist discrimination and other violations of rights of persons belonging to vulnerable groups, minorities or immigrants can also be a cause for serious conflicts, and seriously disturb international peace and security. The recognition of the inherent dignity and of equal rights of all members of the human family, as stated already in the Preamble of the Universal Declaration of Human Rights, is the foundation of freedom, justice and peace in the world. Therefore, overcoming de facto inequalities based on categories such as "race", gender, disability, ethnic identity, religion, sexual identity, language or any other social condition must be of highest priority on the Human Security agenda.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

Racism and racist discrimination constitute gross violations of, and obstacles to, the full enjoyment of all human rights and deny the self-evident truth that **all human beings are born free and equal in dignity and rights**.

There are various technical terms such as racism, xenophobia, prejudice and intolerance. Discrimination implies elements of all of these phenomena.

To begin with, it is very important to distinguish two major aspects of discrimination:

Attitude or Action: There is a significant difference between beliefs and personal opinions on the one hand, and the concrete manifestations and actions, which are motivated by those attitudes and beliefs on the other hand. The first notion concerns the mind of each individual, whereas the latter involves actions which also affect others. In practice, however, racist or xenophobic attitudes and beliefs mostly lead to actions that negatively affect others, i.e. insults, verbal abuses, humiliations or even physical attacks and violence, and differential treatment impairing the exercise of rights and freedoms. These kinds of actions can be characterised as discrimination, which under certain conditions can be sanctioned by law.
☺☞ *Freedom of Expression*

Perpetrators of Discrimination – States or Individuals: A second important area to be considered is that of the offender or actor. Traditionally, the international human rights protection system and the legal mechanisms for non-discrimination likewise are dominated by the idea of ensuring individuals protection from state interference. Therefore, the main actors (positively and negatively) have always been states, whereas discrimination between individuals has been more or less left unregulated. This perception has changed only recently, influenced by new developments in the international fight against racism and discrimination, leading to a more holistic understanding of discrimination and taking into account that many discriminatory incidents are caused by private, non-state actors.

An example is the widespread attitude of private landlords not willing to let apartments

to migrants, refugees or persons with dark skin. The incorporation of anti-discrimination regulations into the private sector, however, still creates a lot of controversy. In this regard cornerstones were laid by the Anti-Racism and Anti-Discrimination Directives of the European Community, obliging member states to effectively combat discrimination in the private sector, concerning the labour market and access to goods and services.

☺☞ *Implementation and Monitoring*

Racist Discrimination

Discrimination in general, considered as any distinction, exclusion, restriction or preference aimed at the denial or refusal of equal rights and their protection, is the denial of the principle of equality and an assault on human dignity. Depending on the reasons for this differential treatment, we speak about racist discrimination or discrimination on the grounds of ethnicity, colour, gender, disability, religion, sexual identity, etc.

It is crucial to know that not every distinction can automatically be defined as discrimination in the sense of a human rights abuse. As long as the distinction is based on reasonable and objective criteria, it may be justifiable. For example, in almost all states police or military jobs or employment with other public institutions is restricted to nationals of the respective states, which does not constitute discrimination.

The problem is how to define "reasonable criteria". What does it really mean and can these criteria be identical in different societies? These ambiguities may explain why the principle of equal treatment is one of the most controversial human rights principles, as equality before the law does not always mean **equality in fact or as a result**. Education in the native language is an example of such a gap, because treating every student equally in legal terms would hinder schools to offer special mother

tongue language classes, which in any case would mean unequal treatment of those students without good command of the language of instruction. Provisions such as mother tongue language classes are desired, not discriminatory and necessary in order to fully promote the cultural education of all students, including those belonging to minorities.

The **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)** of 1965 provides for a very comprehensive legal **definition of racist discrimination**, which has been used as basis for many other definitions and instruments involving discrimination: Article 1 of the Convention states that *"in this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".*

☺☞ *Implementation and Monitoring*

Three elements of discrimination:

In general, we can identify three elements which jointly constitute discrimination and which are common to all forms of discrimination:

1. **actions,** i.e. distinctions, exclusions, restrictions or preferences; **based on**
2. **categorisations** such as ethnicity, colour, descent, national origin, gender, age, disability, etc.; **with the**
3. **purpose and/or consequences of preventing victims from exercising and/or fully enjoying their human rights and fundamental freedoms**.

"You do not take a person who for years has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, "You're free to compete with all the others", and still justly believe that you have been completely fair. Thus it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates. [...] We seek not [...] just equality as a right and a theory but equality as a fact and equality as a result."

Lyndon B. Johnson. 1965.

Subsequently, a distinction has to be made between direct discrimination and indirect discrimination. Direct discrimination means that a person is treated less favourably than another in a comparable situation. Indirect discrimination means that an apparently neutral provision or practice de facto disadvantages one person/group compared to others.

Further important characteristics of discrimination: In most cases a dominant group discriminates against a less powerful or numerous one. **Domination** can either occur in terms of numbers (majority vs. minority) or power (i.e. "upper class" vs. "lower class"), in which case the minority can also dominate and discriminate against the majority, as was the case of the Apartheid regime in South Africa. Through domination one group treats another group as inferior and denies that group fundamental human rights. This means that discrimination is a denial of human dignity and equal rights for those discriminated against.

Another interesting aspect is that of positive discrimination or **"affirmative action"**, as it is also called, a term originally coming from the United States of America. It describes temporary special governmental measures which aim at reaching de facto equality and overcoming institutional forms of discrimination. **Institutionalised discrimination** refers to established laws, policies and customs, which systematically result in inequalities and discrimination within a society, organisation or institution. Affirmative action measures have always been highly controversial because temporarily it means again favouring a certain group over another one, in order to compensate for past inequalities and thus giving the target groups – e.g. women, ethnic minorities, etc. – equal opportunities in the present to enjoy all their fundamental freedoms, especially in the field of education, employment and business. With a view to ensuring full equality in practice, specific measures (positive action) are maintained or adopted only for a limited time period, until equality is reached. Therefore, this kind of preferential treatment cannot be considered as discrimination but be seen as a measure of combating discrimination.

Discussion questions

- Does prohibition of discrimination mean equal treatment only?
- What about the notion of equal opportu-

nities, which might mean treating people in equal situations unequally in order to compensate for unequal treatment in the past?

- What kind of action (hindering or favouring) is justifiable?

Racism

Racism causes damage by isolating and hurting people and dividing communities. Both active racism and passive acceptance of racist-based injustice or privilege disrupt the mental health and psychological functioning of both victims and perpetrators. The **causes and consequences** of racism and related intolerance and the means for their perpetuation are complex, involving legal vulnerability and discrimination, economic and educational disadvantage, social and political marginalisation, and psychological victimisation. Racism and discrimination have long-term effects on health, victims show intense stress-syndromes, and psychosomatic as well as auto-aggressive illnesses are common.

Interestingly, there does not exist any universally accepted **definition of racism**, as there are many different views on its exact meaning and scope. Racist theories involve the wrong assumption of the existence of so-called distinct "human races" (which is scientifically false) and the wrong assumption that ethnic groups are inherently superior or inferior, thus implying that some would be entitled to dominate or eliminate others. According to UNESCO, *"racism includes racist ideologies, prejudiced attitudes, discriminatory behaviour, structural arrangements and institutionalised practices resulting in racial inequality as well as the fallacious notion that discriminatory relations between groups are morally and scientifically justifiable; it is reflected in discriminatory provisions in legislation or regulations and discriminatory*

practices as well as in anti-social beliefs and acts; it hinders the development of its victims, perverts those who practice it, divides nations internally, impedes international co-operation and gives rise to political tensions between peoples; it is contrary to the fundamental principles of international law and, consequently, seriously disturbs international peace and security".

Racism exists at **different levels** – depending on the power used and the relation between the victim and the perpetrator:

- personal level (one's attitudes, values, beliefs),
- interpersonal level (behaviour towards others),
- cultural level (values and norms of social conduct),
- institutional level (laws, customs, traditions and practices).
  The former Apartheid regime of South Africa, which systematically segregated Blacks from Whites, is an appalling case of institutionalised racism and racist discrimination.

Today *"race"* is seen as a **social construct**. In fact, the term "race" itself is racist, as it presupposes and upholds the false belief of the existence of different "races".
Racists today put more emphasis on cultural differences than on biological characteristics, so that one could speak of a newly evolved "cultural racism", which most probably is the better description for most of the actual attitudes of today's racists.
Even racism as a way of thinking might be harmful, but without expression or other **manifestation**, racist ideas and racist ways of thinking which only exist in the racists' minds cannot be sanctioned by law. Only when these prejudices and thoughts lead to discriminatory policies, social customs, hate speech or separation of groups, we can talk

of punishable discriminatory or racist actions or discrimination.

☺☞ *Freedom of expression*

Racist violence is a particular grave example of the impact of racism, constituting specific acts of violence or harassment carried out against an individual or group on the basis of colour, descent or national/ethnic origin. The construct of a group of persons as a threat is an essential part of the social and political environment in which acts of violence based on hatred occur.

During the last decades of fighting racism and racist discrimination a broader understanding of the term racism has been developed, including the realisation that all societies in the world are affected and hindered by it. The international community has undertaken to determine the basic causes of racism and to call for the reforms necessary to prevent conflicts rooted in racism or racist discrimination. Unfortunately, in spite of all attempts to abolish policies and practices based on those phenomena, these theories and practices are still in existence or are even gaining ground or taking new forms, such as "ethnic-cleansing" which the world became witness during the conflicts in Ex-Yugoslavia, Darfur or Rwanda.

Anti-Semitism

Anti-Semitism has been widespread in history and continues to exist up to the present day. This hatred and often violent form of hostility against Jews seen as a distinct religious or ethnic group, today is as alive as ever, sometimes hidden and expressed in a covert manner.

At the beginning of the 20th century, with the rise of fascism, anti-Semitism became part of its ideology. During the Holocaust perpetrated by the Nazi regime, six million Jews were systematically killed only because of their being Jewish. Today attacks on Jewish communities and heritage are not rare and a considerable number of neo-Nazi groups openly express their anti-Semitic views. Anti-Semitism which is a particular form of racism is not only part of the neo-Nazi ideology, but is widespread in the entire population. Furthermore, the growing number of websites and literature glorifying and disseminating Nazi propaganda contributes to these worrying worldwide developments.

Since several years there is again an increase in anti-Semitism, which is rhetorically and physically manifested by a growing number of incidents, i.e. discrimination, hate speech and hate crime.

"[…] racism, racial discrimination, xenophobia and related intolerance, […] constitute serious violations of and obstacles to the full enjoyment of all human rights and deny the self-evident truth that all human beings are born free and equal in dignity and rights, […]."

Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. 2001.

Xenophobia

Xenophobia is described as morbid fear of foreigners or foreign countries, and also characterises attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity. In other words, xenophobia is a feeling based on non-rational images and ideas, which leads to a simplistic "good and bad" scenario.

Xenophobia is again an **attitude** and/or **belief.** Therefore only manifestations of xenophobia such as discriminatory behaviour are sanctioned by national and international law.

The distinction between racism and xenophobia is not of legal importance, and the **effects of racist or xenophobic behaviour and acts** on the victims is always the same. It robs people of their potential and opportunities to pursue their plans and dreams, it deeply damages their self-esteem and self-confidence, and in millions of cases, it has even cost them their lives. Racism and racist discrimination has a particular devastating impact on children, because witnessing or being victims of racism cause severe feelings of fear and disturbance. Racism leads to fears that crack children's confidence in themselves and others. Racist tones, words and stereotypes are able to enter their minds and become part of how they think about themselves.

During a U.N. Panel Discussion in New York discussing the impact of racism on children, a woman from Congo told the audience that the first time she experienced racism was at birth, when the nurse at the hospital refused to assist in the difficult delivery because her mother was from a different part of the country than the nurse. When she grew up she learned very fast, that her background – ethnicity, the language she spoke, and the region where she lived – influenced every aspect of her life. This made her feel useless, insecure and incapable already from the beginning of her childhood on.

Related phenomena: Intolerance and Prejudice

The Penn State University declares in its policy statement that **intolerance** is *"an attitude, feeling or belief wherein an individual shows contempt for other individuals or groups based on characteristics such as race, colour, national origin, gender, sexual orientation or political or religious belief".*

The classic definition of **prejudice** is that given by the famous Harvard psychologist Gordon Allport: *"[…] prejudice is an antipathy based on faulty and inflexible generalization; it may be felt or expressed; it may be directed toward a group or an individual of that group".*

Both attitudes are likely to be a motivation for any kind of discriminatory actions. Generally speaking, intolerance and prejudice are often seen as the foundation and starting point for other, more "specified", attitude or behaviour such as racism or xenophobia.

The notion of **ethnic prejudice** has only recently been developed, describing antipathy based on a wrong assumption of the cultural supremacy of a particular group in relation to another one. In the European context, for example, it is exemplified by anti-Turkish, anti-Polish or anti-Russian prejudices. As it typically attacks the cultural/religious characteristics (real or imagined) of a particular group, some similarities to the recent under-

standing of racism as "cultural racism" can be seen.

Prejudice and intolerance are usually hard to address or fight because they are acquired over time. Furthermore, the notion "tolerance" is controversial, as it might imply a wrong feeling of superiority in tolerating the existence of others but not really welcoming or respecting them and their equal rights. On the other hand, it is important to know that intolerance and intolerant behaviour shouldn't be tolerated or endured. Intolerance should be confronted with civil courage, which means tackling intolerant behaviour with all appropriate means.

Discussion questions

- Who can decide on the limits of tolerance?
- Are there any norms or standards already created to distinguish between tolerance and intolerance and if not, can they be created at all?
- Are there regional or cultural differences in the perception of such norms?

Limits and standards developed under international human rights law could constitute such a minimum level below which societies and their individuals fall into intolerance and the violation of human rights.

Implementation and Monitoring

It is commonly agreed upon that racists are not born as such, but they develop, and therefore a primary cause of racism and xenophobia is ignorance. On the occasion of the International Day for the Elimination of Racial Discrimination on 21 March 2011, UN Secretary-General Ban Ki-moon said the following: *"[…] Overcoming racism compels us to address public policies and private attitudes that perpetuate it. On this International Day, I call on Member States, international and non-governmental organizations, the media, civil society and all individuals […] to work together against racism whenever and wherever it occurs."*

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

Racism and racist discrimination is a continuous problem manifested in a variety of ways in every country in the world. Although racism, racist discrimination or conceit of superiority is spontaneously linked with discrimination by whites against non-whites, there is no society that can claim to be free from any form of racism.

There are numerous examples in the **Asian** region. The Koreans in Japan, for example, have no right to hold public positions, only because of their Korean ethnic origin. Until recently, the Chinese minority in Indonesia could not celebrate their traditional Chinese New Year publicly. The United Nations Human Rights Committees have repeatedly expressed concern over discrimination against ethnic and religious minorities in China. The caste system in India gravely discriminates "members of lower castes"; there are even reported incidents of mass rapes and organised massacres committed by "members of higher castes". Racism also exists in **African** countries: Members of ethnic groups who are not in power often face discrimination and harassment motivated by racism and racist violence threatening their lives.

Discrimination of Roma – an estimated number of eight million living across the European continent – constitutes one of **Eu-**

rope's gravest human rights violations. Having been nomads for much of their history, Roma have usually been forced to assimilate. In some countries, the use of the Romani language has been forbidden and children have been taken away from their parents. Today, Roma communities still experience discrimination in all areas of life such as employment, housing, education, access to justice or access to health care services.

☺☞ *Minority Rights*

4. IMPLEMENTATION AND MONITORING

The lessons learned from slavery, colonialism and above all from the Second World War led to the incorporation of the principle of non-discrimination into many national constitutions and international treaties. The most important international instrument to eliminate racist discrimination is the **International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)** of 21 December 1965. With the elaboration of this Convention, the General Assembly of the United Nations reacted to the horrors of the Holocaust and to the continuing existence of racist attitudes and policies in the post-war world. ICERD is based on the principle of dignity and equality, it condemns any form of racist discrimination and obliges states parties to pursue by all appropriate means and without delay a policy of eliminating racist discrimination in all its forms. So far (January 2012), it has been ratified by 175 states and has proved to be a very relevant tool in the fight against racist discrimination.

The Convention's provisions with regard to the principle of non-discrimination are applicable to states, the private sector and in some regard also to individuals. The fundamental principle of non-discrimination guarantees individuals a certain conduct of states and their authorities. Therefore, states have the **obligation to respect, to protect and to fulfil the principle of non-discrimination**:

- *Obligation to respect:* In this context, states are prohibited from acting in contravention of recognised rights and fundamental freedoms. In other words, states must respect and secure to everyone within their jurisdiction all rights and freedoms provided by statute, which shall be subject only to such limitations or interference as are prescribed by law, necessary and legitimate. With regard to discrimination, this means that states have to respect the equality of individuals, and must not support or tolerate racism and discrimination.

- *Obligation to protect:* This element requires states to protect individuals from violations of their rights. With regard to discrimination, this obligation also refers to racist and discriminatory behaviour of private persons, meaning that the state has to actively "combat" racist discrimination and other manifestations of racism by individuals in society.

- *Obligation to fulfil:* States must provide for the most effective realisation of the guaranteed rights through adequate legal, administrative, judicial or factual measures. Article 5 of ICERD requires states parties to prohibit and eliminate racist discrimination and to guarantee the right of everyone to equality before the law.

- *Obligations in the private sector (NGOs, media, etc.):* The private sector, in addition to governments, also has considerable power to fight discrimination and racism. Its actors constitute the broadest part of civil society, and usually discrimination and racist attitudes can most effectively be confronted from within civil society with a *"bottom up"* approach.

☺☞ *Good Practices*

The fact that discrimination is one of the most frequently occurring human rights violations shows how much work still has to be done in this field. In principle, the implementation of international human rights obligations is a state responsibility. Therefore, international instruments fighting racist discrimination need to be ratified and implemented by the states parties. Effective implementation of international standards, however, can only be guaranteed if efficient **monitoring systems** and strong enforcement mechanisms exist.

Besides stipulating the states parties' obligations, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) also established the **Committee on the Elimination of Racial Discrimination (CERD)** which was the first UN treaty body of independent experts to monitor and review the implementation of the Convention. The monitoring system consists of four procedures:

- **Reporting procedure:** All states parties are obliged to submit regular reports to the Committee on how the Convention is being implemented. The Committee examines each report and addresses its concerns and recommendations ("Concluding Observations") to the respective state party.
- **Early-warning procedure:** The Committee may respond to problems requiring immediate attention in order to prevent existing situations from escalating into conflicts, and prevent or limit serious violations of the Convention.
- **Inter-state complaints:** States parties may complain to the Committee about alleged violations of the Convention by another state party.
- **Individual complaints (right to petition):** The Committee may, under particular circumstances, consider communications by individuals or groups claiming that their rights under the Convention have been violated by a state party.

CERD also publishes its interpretation of the Convention's provisions (**"General Comments"**). In addition to a substantiation of the states parties' obligations and the implementation thereof, the Committee issued, amongst others, a recommendation on the Training of Law Enforcement Officials in the Protection of Human Rights (1993), on the Rights of Indigenous Peoples (1997), on Gender-Related Dimensions of Racial Discrimination (2000), on Discrimination against Roma (2000) and Non-Citizens (2004), or on the Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System (2005).

Since the manifestation of racism and xenophobia has been increasing in the last decades, the international community has strengthened its efforts to combat these phenomena. The mandate of the **Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and related Intolerance,** created by the then Commission on Human Rights, was again extended in 2008. In the discharge of his/her mandate, the Special Rapporteur transmits urgent appeals and communications to states, undertakes fact-finding visits and publishes country reports, and submits annual or thematic reports to the Human Rights Council and to the UN General Assembly.

The **Durban Declaration and Programme of Action (DDPA)**, adopted at the 2001 World Conference against Racism, was a firm commitment of the international community to prevent, combat and eradicate racism, racist

discrimination, xenophobia and related intolerance at all levels. Recognising that racism is a global concern, and that tackling it should be a universal effort, it addressed a wide range of issues, contained far-reaching recommendations and proposed concrete measures. In 2009 the Durban Review Conference reviewed progress and assessed the implementation of the Durban Declaration and Programme of Action of 2001, and identified further concrete measures and initiatives at all levels for combating and eliminating all manifestations of racism, racist discrimination, xenophobia and related intolerance, in order to foster the implementation of the DDPA and to address challenges and impediments hereto.

All **regional human rights instruments** (e.g. American Convention of Human Rights, African Charter on Human and Peoples' Rights, European Convention on Human Rights, Charter of Fundamental Rights of the European Union) include provisions against discrimination most of which are accessory, which means that they can only be claimed together with another right of the respective convention if a court trial is provided for. Protocol No. 12 to the European Convention on Human Rights, which entered into force in 2005, contains a general prohibition of discrimination (Article 1) affording a scope of protection which extends beyond the enjoyment of the rights and freedoms set forth in the Convention. In 1993 the Council of Europe established the **European Commission against Racism and Intolerance (ECRI)**, a body of independent experts to regularly monitor the situation and efforts taken against racism, racist discrimination, xenophobia, anti-Semitism and

intolerance in the Council of Europe member states. Another important monitoring instrument are anti-discrimination or anti-racism **ombudspersons**; these ombudspersons are usually established on national levels and play an important role in the documentation of discriminatory incidents, in informing about national and international provisions on non-discrimination and in pursuing possible remedies.

In 2010, the law enforcement agencies of the USA reported 6,628 hate crime incidents involving 7,699 victims. An analysis of the 6,624 single-bias incidents that involved 7,690 offenses, 8,199 victims, and 6,001 offenders revealed the following:
- 47.3% were motivated by racist bias.
- 20.0% resulted from religious bias.
- 19.3% were linked to sexual-orientation bias.
- 12.8% stemmed from ethnicity/national origin bias.
- 0.6% were motivated by disability bias.

(Source: Federal Bureau of Investigation. U.S. Department of Justice. 2011. *Uniform Crime Reports. Hate Crime Statistics 2010.*)

The gap between "law in the books" and "law in practice": Ratified conventions, declarations and plans of action are only one first step towards a real strategy of fighting racism and discrimination. Unless they are fully applied and implemented in practice, their impact is only limited. A strong political will is needed for an effective implementation, which unfortunately in reality often has to make way for other political interests. In this context, the role of **non-governmental and community-based**

"It is often easier to become outraged by injustice half a world away than by oppression and discrimination half a block from home."

Carl T. Rowan.

organisations campaigning, lobbying and realising projects is very important. Furthermore, they constantly put pressure on governments to comply with their national and international human rights obligations.

Discrimination among non-state actors: Another problem relating to the efficient protection against discrimination regards the prevention of discrimination among private persons. Usually, only discriminatory acts in the public sphere (by state authorities) and of those private individuals who act in public can be sanctioned by law, so very often discrimination among individuals in their "private sphere" cannot be sanctioned in the same way.

In recent years the European Union has introduced **Non-Discrimination Directives** concerning the private sector, such as the "Employment Equality Directive" which established a general framework for combating discrimination in the area of employment and occupation, and the "Racial Equality Directive" which prohibits discrimination on the grounds of ethnic origin in employment and in the access to goods and services. These directives extended the concept of equal treatment from the classical notion of equal treatment between women and men in order to provide a more comprehensive protection based on the needs of today's society. All European Union member states had to implement the directives

into national law. Violations of these non-discrimination rights can be claimed before civil courts, which is considered a milestone in the development of anti-discrimination legislation. Currently, a proposal to further extend protection from discrimination is being debated.

The international instruments and mechanisms mentioned are being increasingly used for monitoring the implementation of the principle of non-discrimination. The importance of **preventive measures and strategies** such as early-warning systems, preventive visiting mechanisms, urgent procedures, information and human rights education and training, however, has long been underestimated, thus neglecting the more effective response to discrimination and racism, as these strategies tackle the phenomena at their origins.

Education and training programmes:

Racism, xenophobia and related attitudes frequently appear in subtle and insidious forms, which often prove difficult to be addressed and identified. This can lead to the dangerous perception that racism is only perpetrated by others and is therefore someone else's responsibility. In order to successfully confront such opinions and beliefs, racist discrimination, racism and related intolerance have to be tackled by **strengthening a culture of human rights at all levels of society**. Racism, as a multi-faceted phenomenon, must be countered with a range of measures conducted at all levels including **human rights education and learning**, aiming at the promotion of respect for and appreciation of diversity in societies and effectively convey and incorpo-

rate human rights in society. In many countries training programmes for teachers exist in order to assist them in handling racist incidents at school. During the World Conference against Racism preparatory process, a lot of other interesting examples and ideas were reported. They include the efforts already going on in a number of African countries to combat racist prejudices in schoolbooks and curricula, or a European initiative of school networks drawing up a code of conduct, incorporating clear principles of non-discrimination into their educational objectives. In many countries school exchange programmes exist, encouraging students from different countries to share their culture and learn each other's languages. Many governments and NGOs include training programmes on cultural **diversity** and sensitivity in their material on human rights education, which foster understanding of the contribution of each culture and nation. In many countries **human rights trainings** with special focus on anti-racism and non-discrimination **for various professional groups** such as law-enforcement officers, members of the judiciary and teachers are carried out, aiming at awareness-raising and strengthening their role in the protection of human rights and in the fight against racism.

Human rights education at all levels and all ages is a key to changing attitudes and behaviour based on racism, xenophobia and related intolerance. It is important to develop and, where they already exist, support the implementation and continuation of educational curricula and resources against racism at all levels of formal as well as non-formal education in order to promote understanding and strengthen respect for human rights and fundamental freedoms for all.

The crucial role of the media: The media have an important influence on people's attitudes. They can play a positive role in countering racist stereotypes and contributing to the **promotion of equality, respect and human dignity**, and the values of diversity. Unfortunately, a lot of newspapers and radio and TV stations all over the world use derogatory language and promote negative stereotypes of vulnerable individuals or groups, particularly of migrants and refugees, and contribute to the spread of xenophobic and racist sentiments and behaviour among the public. Certain media even propagate racist discrimination and hatred. The power of the media could be seen e.g. in the case of "Radio Mille Collines" in Rwanda, which was used to incite Hutus to massacre Tutsis during the Civil War in 1994, not to forget the important role of the internet in disseminating information and opinions. The International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) obliges states parties to condemn all racist propaganda and organisations and to adopt measures to eradicate all incitement to racism and discrimination. To this end states shall, inter alia, declare an offence punishable by law all dissemination of racist ideas or incitement. In this regard, the European Commission against Racism and Intolerance (ECRI) recommends, inter alia, that the media should make every effort to avoid and combat all forms of racist and xenophobic language, and abstain from producing racist stereotypes in their reporting by e.g. the adoption of **codes of ethics** as well as self-regulatory measures by media professionals.

☺☞ *Trends*

  Freedom of Expression

What can WE do?

The real challenge is the prevention of discrimination, meaning to avert discriminatory acts before they take place. Therefore it is necessary to address at-

titudes, beliefs and consequent actions and behaviour. This very difficult task can only be achieved through institutionalised human rights education, information with a bottom-up approach and full participation of national authorities in cooperation with all relevant non-state actors.

In the event of observing discriminatory or racist actions it is important to develop moral courage to interfere if possible, forward the noticed incidents to competent institutions and authorities in order to get access to national or international remedies, such as courts, ombudspersons or expert bodies.

In general, each and every one of us can make a contribution towards promoting respect for human rights, preventing racist and discriminatory acts and implementing the principle of equality. The first and perhaps most effective step is to challenge our own attitudes and prejudices, making ourselves aware of those and try to avoid discriminatory behaviour in everyday life.

"Racism demeans both the hated and the hater, because racists, in denying full humanity to others, fail the humanity in themselves. Like tribalism, fundamentalism, homophobia and all the other shallow responses of one person to another, racism concentrates on WHAT you are, and ignores WHO you are. Racism sees only the label – not the person wearing it. Racism loves 'us' and hates 'them', without ever discovering the true identity of 'them'."

Timothy Findley.

GOOD TO KNOW

1. GOOD PRACTICES

Voluntary Codes of Conduct in the private sector: Many multinational companies have established voluntary codes of conduct obliging them as well as their partners to prevent human rights violations such as racist discrimination.

Anti-discrimination clauses in public procurement contracts: The Swedish government has introduced a law that requires a certificate from private companies contracting with public bodies, confirming that they do comply with all anti-discrimination laws and do promote equality. In case of violation of these non-discrimination provisions the contract can be terminated. Various cities have implemented this concept (e.g. London, Galway).

International Coalition of Cities against Racism: The International Coalition of Cities against Racism is an initiative launched by UNESCO in 2004 to establish a network of cities interested in sharing experiences in order to improve their policies to fight racism, discrimination, xenophobia and exclusion at the local level. In a "Ten-Point Plan of Action" the member cities commit themselves to promote and implement initiatives against racism in the various areas of competence of city authorities such as education, housing, employment and cultural activities.
Also regional coalitions are being created in Africa, the Arab Region, Asia and the Pacific, Europe, Latin America and the Caribbean, and North America with their respective Programmes of Action. For example, the African Coalition of Cities against Racism and Discrimination was launched in 2006 in Nairobi, Kenya.

Combating Racism within the European Football League: The Union of European Football Associations (UEFA) has issued a ten-point action plan listing a variety of measures which urge clubs to promote anti-racist campaigns amongst fans, players and officials. The plan includes measures such as publicly condemning racist chanting at matches, or disciplinary action against players shouting racist insults. The UEFA also supports the "FARE - Football against Racism in Europe Network" which supports and coordinates actions on the local and national level to combat racism and xenophobia in European football.

2. TRENDS

The relation between poverty and racism/xenophobia
A potential relation between poverty, on the one hand, and racism and xenophobia, on the other, can be considered in different ways. Do racism and xenophobia cause poverty? And furthermore, does poverty lead to active or passive forms of racism or xenophobia? Consistent answers to these questions do not exist; the interpretations of studies and observations vary. There is, however, a growing number of experts who confirm that there is a connection.
In many parts of the world poverty is a matter of ethnicity. According to the United States Department of Agriculture, African-American and Hispanic households face food insecurity and hunger rates up to three times higher than white households. Visible minority groups are confronted with neediness worldwide, which very often is the result of racism and discrimination (e.g. barriers to

equal access to occupation, education and housing), thus inequalities are being multiplied.

A very controversial issue is the debate on greater racist tendencies in poorer groups of society. Lower education is more prevalent within the poorer population. It seems that even though racism certainly exists in "upper classes with higher education" as well, poverty linked with less education may lead to a higher probability of racist attitudes. In many cases, this kind of racism is seen as an excluding behaviour in the struggle for better living conditions, blaming immigrants for precarious employment and housing situations.

☺☞ *Poverty*
   Minority Rights

Racism on the Internet
The internet has become a forum for over 2 billion users around the world. Digital communication technologies such as the Internet are important media for all actors in society, which are also used by racist, violent and terrorist organisations and groupings propagating racism, anti-Semitism, xenophobia and hatred, and disseminating racist contents and ideas. Racism on the Internet is a growing problem. While in 1995 there only existed one racist website, currently there are more than 10,000 websites promoting racist hatred and violence, anti-Semitism and xenophobia. The estimated number of unknown websites is significantly higher. (Source: Akdeniz, Yaman. 2009. *Racism on the Internet.*)

Combating online extremism presents enormous technological and legal difficulties. At the United Nations level, states parties to the International Convention on the Elimination of All Forms of Racial Discrimination (IC-ERD) shall declare an **offence punishable by law all dissemination of ideas based on racist superiority or hatred**, incitement to rac-

ist discrimination, as well as acts of violence or incitement to such acts against certain groups. At the regional level, the Additional Protocol to the Council of Europe Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, which entered into force in 2006, aims to harmonise criminal law in the fight against racism and xenophobia on the Internet and to improve international co-operation in this area. Measures to be taken at national level include establishing as criminal offences the dissemination of racist and xenophobic material through computer systems, threat or insult motivated by racism and xenophobia, and the denial, gross minimisation, approval or justification of genocide or crimes against humanity. The adoption and implementation of these standards will hopefully lead to further developments in the field.

☺☞ *Freedom of Expression*

Islamophobia: The aftermath of 11 September 2001
In the week following the 11 September 2001 attacks, there were 540 reported attacks on Arab-Americans and at least 200 on Sikhs (Indian descent) on U.S. territory, compared with 600 reported attacks on Arab-Americans throughout the year 2000. (Source: Amnesty International. 2001. *Crisis Response Guide.*)

In Europe, there was a disturbing increase in racist attacks and abuses against members of minority communities, particularly against British Muslims, after the bomb attacks in London in 2005.

In relation to these facts, the following article is to be seen as an illustrative personalised example and a starting point for discussion:
"Seema is 18, fresh out of high school. Born in Bangladesh, she has spent nearly half her life in this country, in Woodside, Queens. She's small, serious and, as the eldest of three chil-

dren in an immigrant family, she is, by her own admission, also a worrywart. Every move she makes, she said, she worries about how it will affect her family […]. Seema's English is all Queens, but a hint of Bengali comes through. She is a United States citizen. But truth be told, she said, she can't really think of herself as an American. "Bengali first", she said, before offering her puzzlement on what makes an American […]. Questions about what makes an American have always hovered over girls like her. It's just that Sept. 11 and its aftermath have brought them into sharp relief. For weeks after the attacks, Muslim girls she knew took their head scarves off. (Seema is Muslim, but she doesn't cover.) Boys shaved their beards. Others were beaten up because they wore turbans; they weren't even Muslim. Her father, a restaurant worker, feared losing his job. Her mother was afraid to walk home from the subway in her loose-fitting salwar kameez suits. School could be worst of all. Once, when a teacher cheered the bombing of Afghanistan, Seema recalled raising her hand to say something about the fate of Afghan civilians; she was laughed at by classmates. Another teacher said something about how John Walker Lindh, the alleged Taliban sympathizer from California, had fallen under the spell of Islam. Seema cringed. "Islam is not a witch, or some kind of a magic spell," she said."

(Source: Somini Sengupta. *Bearing the weight of the world, but on such narrow shoulders. Excerpts from an interview of a US journalist with a young Bangladeshi woman with US citizenship. New York Times, 7 July 2002.*)
☺☞ *Minority Rights*
      Religious Freedoms

Discussion questions
- Which rights have been violated in this story?
- What could those who are victims do to regain those rights?

- What questions did you ask yourself after 11 September 2001?
- Do you think that the events of 9/11 justify restrictions of civil rights?
- Who decides on the scope and limitations of human rights? Who determines the scope and restrictions of minority rights?

3. CHRONOLOGY

1926 League of Nations Convention to Suppress the Slave Trade and Slavery

1945 Charter of the United Nations, Art. 1 (3)

1948 Universal Declaration of Human Rights, Art. 1 and 2

1948 Convention on the Prevention and Punishment of the Crime of Genocide

1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Art. 14

1951 Convention relating to the Status of Refugees

1960 UN Declaration on the Granting of Independence to Colonial Countries and Peoples

1960 UNESCO Convention against Discrimination in Education

1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

1966 International Covenant on Civil and Political Rights (ICCPR), Art. 2 (1)

1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), Art. 2 (2)

1967 Protocol relating to the Status of Refugees

1969 American Convention on Human Rights, Art. 1

1973 International Covenant on the Suppression and Punishment of the Crime of Apartheid

1978 UNESCO Declaration on Race and Racial Prejudice

1978 First World Conference to Combat Racism and Racial Discrimination (Geneva)

1979 Convention on the Elimination of All Forms of Discrimination against Women

1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief

1981 African (Banjul) Charter on Human and People's Rights, Art. 2

1983 Second World Conference to Combat Racism and Racial Discrimination (Geneva)

1989 ILO Indigenous and Tribal Peoples Convention

1989 Convention on the Rights of the Child (CRC), Art. 2

1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICPMW)

1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

1993 European Commission against Racism and Intolerance (ECRI)

1993 United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and related Intolerance

1998 Rome Statute establishing the International Criminal Court (ICC)

1998 European Monitoring Centre for Racism and Xenophobia (EUMC)

1999 Treaty of Amsterdam (establishing the European Community's competence to combat racist discrimination)

2000 Charter of Fundamental Rights of the European Union, Art. 21

2000 Protocol No. 12 to the ECHR (establishing a general prohibition of discrimination)

2001 Third World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance (Durban): Declaration and Programme of Action

2001 UN Special Rapporteur on the Rights of Indigenous Peoples

2004/2005 Anti-discrimination laws for the private sector in 25 member states of the European Community

2004 International Coalition of Cities against Racism

2006 Convention on the Rights of Persons with Disabilities (CRPD)

2007 UN Declaration on the Rights of Indigenous Peoples

2007 European Union Agency for Fundamental Rights (FRA)

2009 Durban Review Conference (Geneva)

"Injustice anywhere is a threat to justice everywhere."

Martin Luther King Jr.

SELECTED ACTIVITIES

ACTIVITY I: ALL HUMAN BEINGS ARE BORN EQUAL

Part I: Introduction

Talking about discrimination may enlighten people about origins and mechanisms of discrimination, but it can never be as impressive and instructive as feeling the emotions as a victim of discrimination. Thus, this activity allows the participants to identify discrimination and to experience it on their own.

Part II: General Information

Type of activity: Self-reflection
Aims and objectives: Giving participants the opportunity to find out about discrimination both intellectually and emotionally
Target group: Young adults, adults
Group size: 15-20
Time: 45 minutes
Skills involved: Honesty

Part III: Specific Information on the Activity

Instruction:
The participants gather along at a baseline, for emphasising that everybody is born equal. Enough space must be provided in front and behind the line. The trainer reads out loud various questions dealing with potential discrimination grounds. Depending on the answer to the questions, every participant makes a step forward or back, according to the trainer's instructions. Having read all discrimination grounds the group will be pulled apart. The trainer should ask the participants to pause to reflect on the various positions before gathering the group back together.

Feedback:
Gather in a circle and ask the participants to sum up what they felt and thought during the activity.
Methodological hints:
Due to the number of questions affecting the private sphere and the obvious positioning in front of the others, for this activity it is necessary that the participants highly trust each others. Therefore it is indispensable that the trainer creates an atmosphere of trust and confidence among the group.

Question catalogue:
(+ means one step forward; – means one step back)
Ethnicity:
+   Whose mother tongue is the language of the majority (in your country)?
–   Whose family had to leave their home country and flee?
–   Who is member of an ethnic group constituting a minority in the respective state?

Education/Occupation:
+   Who can rely on financial security given by his/her family?
+   Who has a final school degree like secondary school leaving certificate?
+   Who received higher or university education?
–   Who had to repeat a year at school?
+   Who lives in a family with a lot of books?
+   Who has learned at least two of foreign languages?
–   Who had to rely on social welfare, scholarship or unemployment benefit?
–   Who is son/daughter of a working class family?

Sex:
+   Who is male?
–   Who is female?
–   Who has got children?

Religion:
+   Who belongs to the religious majority group in this country?
–   Who does not belong to the religious majority?
–   Who has no religious denomination?

Disability, Illness, Violence:
–   Who has an alcohol or drug related problem in his/her family?
–   Who has a permanent illness or disability?
–   Who is orphan or half-orphan or was adopted?
–   Who has experienced violence in his/her family?
–   Who lived in an orphanage or foster home for some time?
–   Who has a criminal record?

Age:
+   Who is younger than 45?
–   Who is older than 45?
–   Who is taking care of a relative at home?

Sexual Orientation:
–   Who is homosexual or bisexual or transsexual?
+   Who lives in a heterosexual relationship?

ACTIVITY II: "CULTURAL GLASSES"

Part I: Introduction
Behaviour patterns and rituals of other cultures are usually evaluated on grounds of own experiences. These kinds of assumptions very often lead to false interpretations of the unknown and facilitate the development of prejudices. The following activity aims at revealing such mechanisms and to encourage rethinking preconceived opinions and stereotype thinking.

Part II: General Information
Type of activity: Role play
Aims and objectives: Recognise own prejudices, reconsider preconceived opinions
Target Group: Adolescents, adults
Group size: Up to 25
Time: 90 minutes
Material: A bowl of peanuts
Preparation: Handout with the description of the culture on the Island of Albatross
Skills involved: Having an open mind about different cultures

Part III: Specific Information on the Activity
Instruction:
The participants are visiting the Island of Albatross. As they do not understand the islander's language they have to draw their conclusions regarding their culture solely from the islander's behaviour patterns and rituals.
Ask for two volunteers to play the islanders (one woman and one man). After a short preparation time during which they are separated from the rest of the group and can make themselves familiar with the culture of Albatross Island, they are rejoining the rest of the group and perform three short scenes.
Welcome: Both islanders are slowly passing the chairs arranged in a circle, and make sure that both feet of the rest of the group are touching the floor. The woman is always behind the man. The male islander only touches the male visitors, whereas the female islander touches both, men and women.
Eating: The islanders are sitting down for eating, the man on a chair and the woman kneels besides him on the floor. She offers him a bowl of peanuts and only eats after he has finished eating.
Energy absorption: The man places his hand on the woman's neck while she is bending forward to touch the floor three times with her forehead.

Then the volunteers take their seats.

Feedback:

Ask the participants what kind of impressions and assumptions they got from these three short scenes about the culture and the gender relations on the Island of Albatross. After that read out loud the text about the culture of Albatross. Then discuss again, which of the islander's behaviour patterns lead to the observers' (wrong) assumptions and why.

Handout: The culture of Albatross Island

The people living on Albatross Island are very peaceful and friendly. They especially worship the earth-goddess; they keep contact to her by trying to always having both feet on the floor and sitting on the earth. Due to this belief peanuts are holy food on the Island of Albatross.

Women enjoy high respect on the Island because they can give birth just like the earth-goddess. Due to that fact they are given special privileges: They can sit directly on the earth while men have to sit on chairs. In order to protect the women men have to walk always in front of them. For the same reason men have to test the food before women eat it. Men can only get in contact with the earth-goddess by touching a woman's neck while she is carrying out a ritual. Through this gesture a part of the absorbed energy is getting passed over to the man. Despite of that a man is never allowed to touch a woman without her permission.

Part IV: Follow-Up

Following the discussion on the role play and the feedback the participants are asked to think of similar situations they have experienced or witnessed in everyday life and of their own "cultural glasses" having lead to misjudgements.

Related Rights/further areas of exploration:

Freedom of religion, minority rights

(Source: Adapted from: Ulrich, Susanne. 2001. *Achtung (+) Toleranz. Wege demokratischer Konfliktregelung. Praxishandbuch für die politische Bildung.*)

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RIGHT
TO HEALTH

»*Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services […].*«

Article 25, Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORY

Maryam is 36 years old and the mother of six children. She grew up in a village far from the urban centres. She stopped schooling after the second grade. Her parents were poor and the school was a four-kilometre walk from her home village. Her father believed that educating a girl was a waste of time and effort since girls are destined for marriage and not for earning a livelihood.

When she was 12, Maryam was circumcised according to the local custom. At 16, she was married to a man in his early fifties. Her father gained a substantial sum in the *bride wealth* paid by the groom. The very next year she gave birth to a boy. The child was stillborn. The regional clinic was 10 kilometres from the village and did not attend deliveries. Maryam's husband often beat her during pregnancy and she believed that the baby was born dead because of these beatings. However, her family and many in the village put the blame for the stillbirth on Maryam.

Maryam had no desire to have sex with her husband. She was afraid of him and feared pregnancy. Her husband considered it his right to have sex with her and regularly forced himself on her. Maryam did not want to get pregnant again but had little choice. She visited the local herbalist and took herbal mixtures and wore amulets that bore no result. She rarely had time to go to the health clinic and when she did go because her children were sick, she could not bring herself to speak of contraception with the nurse. The nurse, although she seemed to understand Maryam's local language, preferred to speak in the dominant language spoken in the capital and among the educated class. The nurse intimidated Maryam.

Her life was a long saga of violence, poverty and want. Maryam struggled to keep body and soul together throughout her several pregnancies and raising her children. She cultivated a small farm plot to feed her children because her husband never gave her enough money. She approached her parents and even the visiting missionary. They all told her to obey her husband and reminded her that her duty was to obey him and the family.

One day her husband accused Maryam of 'keeping company' with another man. He claimed he had seen her laughing and chatting with a local villager on market day. When she answered back, he hit her repeatedly, knocking her to the ground, calling her a whore and vowing to avenge his dishonour. Maryam was badly injured; she thought she had fractured ribs. For weeks she could not move out of the house. She did not have any money to go to the health centre for treatment nor was there any way to get there. No one in the village helped her although some of the people thought that her husband had gone too far. A wife is the husband's affair. Unable to go to the market to trade or take care of her garden, Maryam and her children nearly starved.

Maryam felt that there would be future violence. She feared for her life and that of her children. In a dream she saw her own death and she knew that she had to leave. As soon as she could walk, she took her two youngest children and left the village. She now lives in another village, a refugee in her own country, living in fear of being found by her husband and taken back home.

(Source: Adapted from: World Health Organization. 2001. *Transforming Health Systems: Gender and Rights in Reproductive Health.*)

Discussion questions

Look at the discussion points listed below from the perspective of the definition of health as stated in the 1946 World Health Organization (WHO) constitution: *"[…] a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."*

1. When did Maryam's problems begin?
2. How was she treated by the "figures of authority" (father, husband, nurse and missionary)? Why?
3. What impact did poverty have on Maryam's life and that of her children? Do you think that Maryam and her husband were equally poor?
4. How would you rank each group (men, women and children) in Maryam's community as far as their status and power are concerned? Explain.
5. What information would Maryam need to change the circumstances of her life and that of her children?
6. Although there is a health centre in the region, how useful was it to Maryam? Explain.
7. Look at the chart below: Examples of the links between health and human rights are given. Which links relate directly to the issues presented in the story of Maryam?

Examples of the links between **Health** and **Human Rights**

Torture · Slavery · Violence against women and children · Harmful traditional practices · Human rights violations resulting in ill-health · Right to health · Right to education · Right to food and nutrition · Freedom from discrimination · Reducing vulnerability to ill-health through human rights · Health & Human Rights · Promotion or violation of human rights through health development · Right to participation · Freedom from discrimination · Right to information · Right to privacy

NEED TO KNOW ☺!?

1. THE HUMAN RIGHT TO HEALTH IN A BROADER CONTEXT

The human right to health presents a vast and complex set of inter-linking issues because health and well-being are intrinsically connected to all stages and aspects of life. Specific rights relating to health are found in the international human rights documents. Essentially, all human rights are interdependent and interrelated, thus making human rights realisation as well as human rights neglect or violation relevant to a number of human rights rather than to a single isolated right. This interconnectedness becomes evident when one considers that human well being (i.e. health) requires the satisfaction of all human needs, both physiological, such as the need for air, water, food and sex, and social and psychological, such as the need for love and belonging to friends, family and community.

Human rights have to do with the obligations of states to contribute to meeting those needs and to enabling groups and individuals to live in dignity. Following World War II, the United Nations Charter made it clear that member states had obligations with respect to human rights. The human right to health was made explicit in the 1948 Universal Declaration of Human Rights (UDHR), Article 25 which states that *"Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services […]"*.

A broad and visionary definition of health is set out in the preamble of the constitution of the World Health Organization (WHO): *"[…] a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."* This holistic view of health underscores the fact that much of the policy that determines health is made outside the conventional health sector and affects the social determinants of health.

The WHO places increased importance on operationalising human rights principles in its work and focuses in three main areas: supporting governments in adopting and implementing a human rights based approach to health development, strengthening WHO's capacity to integrate a human rights-based approach in the WHO's work, and advancing the right to health in international law and development processes. The organisation has adopted a position paper on health and human rights activities within WHO to mainstream human rights into its work and to ensure that human rights can raise their status as a key ingredient in national public health systems.

Health and Human Security

The increasing number of armed conflicts and emergencies and the enormous number of refugees seeking protection from war and natural disasters place the human right to life at the centre of the right to health. Organisations, such as the International Committee of the Red Cross, Physicians for Human Rights, Médecins sans Frontières and Médecins du Monde mobilise health professionals to apply a human rights framework to assure the right to health in emergencies and other situations of human insecurity. Violence is a major public health problem and a serious impediment to the re-

alisation of the right to health. Each year, millions of people die as a result of injuries due to violence. Others survive but live with disabilities, both physical and psychological. Violence is preventable. It is the result of complex social and environmental factors. Experience of collective violence, which happens during civil and international wars in a country, is reported to make the use of violence within those states more common.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

Health and Human Rights

Important links exist between health and human rights. Areas of intersection include: violence, torture, slavery, discrimination, water, food, housing and traditional practices, to name a few.

The UDHR commitment to the human right to health as part of the right to an adequate standard of living was made more explicit in **Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)** of 1966. This treaty was adopted at the same time as the International Covenant on Civil and Political Rights (ICCPR). The separation through the Covenants into two categories was symptomatic of Cold War tensions during which the Eastern countries prioritised the human rights in the ICESCR while the Western countries championed civil and political rights as the centre of human rights concerns. To date, the ICCPR has been ratified by 167 countries and the ICESCR by 160.

The text of Article 12 of the ICESCR is the bedrock of the right to health and it reads:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
   a. the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
   b. the improvement of all aspects of environmental and industrial hygiene;
   c. the prevention, treatment and control of epidemic, endemic, occupational and other diseases;
   d. the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

There are a number of regional human rights treaties that further defined the right to health, including Article 11 of the European Social Charter of 1961, which was revised in 1996, Article 10 of the Addition Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights

"It is my aspiration that health will finally be seen not as a blessing to be wished for, but as a human right to be fought for."

Kofi Annan.

of 1988, and Article 16 of the African Charter on Human and Peoples' Rights of 1981.

Governments approach their obligations under Article 12 of the ICESCR in different ways, and the body in charge of monitoring the application of the Covenant sought to clarify states' obligations by its **General Comment No. 14**, an interpretative text adopted in May 2000. This General Comment stresses how the realisation of the human right to health relies on the realisation of other human rights, including the rights to life, food, housing, work, education, participation, enjoyment of the benefits of scientific progress and its application, freedom to seek, receive and impart information of all kinds, non-discrimination, prohibition of torture and freedom of association, assembly and movement.

Availability, Accessibility, Acceptability and Quality

The General Comment also sets out four criteria by which to evaluate the right to health:

Availability includes the functioning of public health and health-care facilities, goods and services, as well as programmes, which have to be available in sufficient quantity.

Accessibility of facilities, goods and services for health requires non-discrimination, physical accessibility, affordability and the adequate information.

Acceptability requires that all health facilities, goods and services must be respectful of medical ethics and culturally appropriate, sensitive to gender and life-cycle requirements, as well as designed to respect confidentiality and improve health and the health status of those concerned.

Quality demands that health facilities, goods and services must be scientifically and medically appropriate and of good quality.

Non-Discrimination

Discrimination because of sex, ethnicity, age, social origin, religion, physical or mental disability, health status, sexual identity, nationality, civil, political or other status can impair the enjoyment of the right to health. Particularly important in this regard are the UDHR, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) of 1965 and the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979, all of which refer to access to health and medical care without discrimination. Articles 10, 12 and 14 of the CEDAW affirm **women's equal rights to access of health care**, including family planning, appropriate services for reproductive health care and pregnancy and family health care services.

☺☞ *Non-Discrimination*
Human Rights of Women

The **Beijing Declaration and Platform for Action** (1995), the content of which was confirmed by the Beijing-plus-ten-meeting in 2005, brings into focus the holistic view of health and the need to include women's full participation in society as follows: *"Women's health involves their emotional, social and physical well-being and is determined by the social, political and economic context of their lives, as well as by biology. To attain optimal health, equality, including the sharing of family responsibilities, development and peace are necessary conditions."* These principles are mainstreamed throughout the UN system and through the

> *"Man is the cure for man."*
> **Traditional Wolof saying.**

efforts of non-governmental organisations (NGOs). Women, children, people with disabilities and indigenous and tribal peoples are among the vulnerable and marginalised groups that suffer health problems due to discrimination. An example of elaboration of the right to health as has occurred in the case of women illustrates the increased emphasis on the obligation of governments to aid in the full realisation of the right to health.

☺☞ *Human Rights of Women*
Human Rights of the Child
Non-Discrimination
Minority Rights

The Right to Enjoy the Benefits of Scientific Progress

The AIDS pandemic has revealed the urgency of making drugs and scientific knowledge available to people in developing countries. Limited access to anti-retroviral therapies has raised awareness that in order to realise the highest attainable standard of health, people throughout the world need to have the opportunity to make use of scientific knowledge relevant to health and to pursue scientific inquiry freely. For long, governments have recognised in Article 15 of the ICESCR the right *"to enjoy the benefits of scientific progress and its applications"* and their obligation to conserve, develop and diffuse science and scientific research. At the same time, Article 15 also protects the interests of authors of scientific, literary or artistic production. The **right to benefit from life-saving drugs** is thwarted by intellectual property rights that protect the patent rights of drug companies. The policies of certain countries, like South Africa, India, Brazil and Thailand to overcome obstacles of patent protection led to a decision of the Doha Ministerial Conference in 2001. The members of the World Trade Organization (WTO) agreed that the rules protecting such patents *"[…] should be interpreted and implemented in*

a manner supportive of WTO members' rights to protect public health and, in particular, to promote access to medicines for all". Furthermore, it made specific reference to the right of each state *"[…] to determine what constitutes a national emergency or other circumstance of extreme urgency [allowing for compulsory licenses]; it is thus understood that a public health crises, including those relating to HIV/ AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstance of extreme urgency."*
(Source: WTO. 2001. *Doha Declaration on the TRIPS Agreement and Public Health.*)

Globalisation and the Human Right to Health

Since the 1970s the world economy has changed dramatically due to globalisation, which has had direct and indirect impacts on health. Some results led to positive changes such as: an increase in employment opportunities, sharing of scientific knowledge, and an increased potential for delivery of a high standard of health throughout the world, enabled by partnerships between governments, civil society and corporations. However, negative consequences have also been numerous as trade liberalisation, investment in countries with low labour standards and marketing of new products worldwide have in some cases, due to government failure or lack of regulation, produced unequal benefits among and within countries, and thus brought about negative health impacts. The ability of governments to mitigate the possibly negative consequences of the increasing flow of goods, money, services, people, culture and knowledge across national borders has not been able to keep up with this movement. At the same time, multinational companies have been able to escape accountability. For example, according to the World Health Organization's Task Force on Health and Economics, harmful substances, such as

tobacco, are freely traded without adequate protection of the health of populations.

Challenging of trade laws and practices on the basis of human rights law has been motivated in large part by concerns about the right to health. An example of increased awareness of the need for better regulation has occurred regarding pharmaceutical licenses. Through the Doha Declaration (2001) on TRIPS and public health already referred to in the previous section, the members of the WTO accepted that governments could grant compulsory licenses to manufacture drugs in case of emergencies (Article 5), that aid should be provided to countries with no manufacturing capacity to obtain pharmaceuticals (Article 6), and that developed countries should assist developing countries to obtain transfer of technology and knowledge in the area of pharmaceuticals (Article 7).

A decision of the WTO General Council in August 2003, to be replaced by an amendment of the TRIPS agreement agreed in 2005 allows countries to give **compulsory licences** for the production of patented drugs to be exported in particular to least developed countries with little or no manufacturing capacity. In this way, public health needs are given priority over patent rights. However, there are concerns that these achievements might again be limited through so-called TRIPS-plus rules contained in bilateral and regional trade agreements, which are creating new challenges to the right to health and the right to life.

> *"Human beings are at the center of concerns for sustainable development."*
>
> **Rio Declaration on Environment and Development.** 1992.

Health and the Environment

The right to a healthy environment, as stated in UN General Assembly resolution 45/94 of 14 December 1990, calls for people to have a right *"[…] to live in an environment adequate for their health and well-being"*. This right has been recognised in 90 national constitutions, including most national constitutions enacted since the Rio Conference on Environment and Development (1992). The Earth Summit in Rio de Janeiro and the plan adopted as Agenda 21 (1992) created a single policy framework that brought together social, economic and environmental concerns as interdependent pillars of sustainable development. Safe and clean water and air and adequate supplies of nutritional food are all related to a healthy environment and the realisation of the right to health. The World Summit on Sustainable Development (WSSD) in Johannesburg in 2002 reviewed the implementation of Agenda 21. In the Johannesburg Plan of Implementation, a strong commitment was expressed to improve worldwide health information systems and health literacy, to reduce the prevalence of HIV/AIDS, to reduce toxic elements in the air and water and to integrate health concerns with eradication of poverty.

Nevertheless, a quarter of all diseases worldwide, from diarrhoea to infections and cancer, are caused by environmental pollution. With more than one-third of diseases attributable to environmental causes, children carry a disproportionate amount of the burden. Environmental risks play a role in more than 80% of diseases regularly reported to the World Health Organization. Developing regions are affected particularly by communicable diseases and injuries, while in the developed world cardiovascular diseases and cancer are more prominent. Public and preventive strategies for reducing and removing the environmental risks to health would be a cost-effective way

to contribute to public health in all communities. Interventions such as phasing out leaded gasoline (a cause for mental retardation among children in various regions) demonstrate that success is possible, but important initiatives such as Millennium Development Goal 7 of halving the proportion of people with sustainable access to safe drinking water and sanitation by 2015 have still a long way to go.
(Source: WHO. 2006. *Preventing Disease Through Healthy Environments: Towards an estimate of the environmental burden of disease.*)

Several human rights documents make a link between health and environment, such as the African Charter on Human and Peoples' Rights (in its Article 24) and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (in its Article 11). Case law of human rights bodies confirms this link. In a communication lodged with the African Commission on Human and Peoples' Rights in 1996, for example, several NGOs alleged that the military government of Nigeria had been directly involved in oil production through the State oil company and Shell Petroleum and that these operations caused environmental degradation and health problems resulting from the contamination of the environment among the Ogoni People. In October 2001, the African Commission found the Federal Republic of Nigeria in violation of seven articles of the African Charter on Human and Peoples' Rights, including the right to health. In a decision of the Inter-American Court of Human Rights of 2007 (the case of the Saramaka people vs. Suriname), the Court held Suriname responsible for human rights violations, including the right to health, caused by environmental degradation resulting from logging and gold-mining.

☺☞ *Minority Rights*

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

The 1993 Vienna Declaration makes it clear that differences should be acknowledged, but not in ways that deny the universality of human rights. The Committee on Economic, Social and Cultural Rights's General Comment No. 14 on the Right to Health builds on this awareness by requiring that health facilities, goods and services must be **culturally appropriate**. One cultural aspect of the human right to health is the overemphasis on the biomedical system of health and therefore on the understanding of how to realise the human right to health. However, in many places in the world, **traditional medicine (TM)** dominates health care practice. In Africa, up to 80% of the population uses TM to help meet their health care needs. In Asia (in China in particular), Latin America, and among the indigenous people of Australia and the Americas, TM is used by more than 40%. The WHO defines TM as therapies that *"[…] involve use of herbal medicines, animal parts and/or minerals; and non-medication therapies […], manual therapies and spiritual therapies".* The practice of TM is closely tied to the right to culture, laws protecting intellectual property, the right to land and the right to sustainable development. Recognising the widespread use and benefits of TM and the importance of economically and culturally appropriate therapies, the WHO had developed a **Traditional Medicine Strategy** (2002-2005) to help ensure the rational use of TM throughout the developing world.

In other instances, the right to health may be neglected or violated because of unequal power relations based on gender, age, religion, ethnicity, etc. which exist within groups and are considered fundamentally bound to culture.

Again, the basic principle of non-discrimination applies. **Female genital mutilation (FGM**) is a practice that has a wide distribution over much of Africa and parts of the Mediterranean and Middle East. The practice, although often falsely ascribed to the practice of religion, has a history going back over 2000 years. The practice may severely impair the physical and psychological well-being of girls and women.

According to a joint statement by the WHO, UNICEF and UN Population Fund from February 1996 it is *"unacceptable that the international community remain passive in the name of a distorted vision of multiculturalism. Human behaviours and culture values, however senseless or destructive they may appear from a personal and cultural standpoint of others, have meaning and fulfil a function for those who practice them. However, culture is not static but it is in constant flux, adapting and reforming"*. In 2008, the three organisations updated their statement, which provided new evidence about the practice and emphasised the human rights and legal aspects. In the same year, WHO's World Health Assembly passed a resolution on the elimination of FMG which focused on the importance of concerted action in the sectors of health, education, finance, justice and women's affairs.

☺☞ *Human Rights of Women*

4. IMPLEMENTATION AND MONITORING

Respecting, Protecting and Fulfilling the Human Right to Health

Government obligations towards assuring that the members of society enjoy the highest attainable standard of health require a range of commitments. The obligation to **respect the human right to health** means that the state cannot interfere with or violate the right. An example would be refusing to provide health care to certain groups, such as ethnic minorities or prisoners, and arbitrarily denying health care as in the case of not allowing women to be cared for by male doctors and not providing female doctors. **Protecting the right to health** means that the state must prevent non-state actors from interfering in any way with the enjoyment of the human right. An example would be preventing a corporation from dumping toxic waste into a water supply. If the violation occurs, the state must provide the people with some form of redress. This also means that the state is obliged to adopt necessary and adequate legislation, such as laws regulating and monitoring toxic waste management. **Fulfilling the right to health** means that the state must be proactive in providing access to health care. For example, a sufficient number of health clinics should be established to serve a population and these clinics should provide services according to the means of the population they serve. The state should publicise location, services, and requirements of the clinic. This cannot be assured where health care is relegated only to the private sector.

Limitations of the Human Right to Health

Some human rights are so essential that they can never be restricted. These include freedom from torture and slavery and freedom of thought. Other human rights can be restricted when the public good takes precedence over the individual right. Article 4 ICESCR allows for limitations only to the extent that they are determined by law and only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society. Protecting the right to health in terms of public health has been used by the state as a reason to place restrictions on other human rights. It is often in an effort to prevent the spread of infectious diseases that limits have

been placed on other freedoms. Inhibiting the freedom of movement, setting up quarantines and isolating people are measures that have been taken to prevent the spread of serious communicable diseases such as Ebola, AIDS, typhoid and tuberculosis. These measures have been excessive at times. In order to prevent human rights abuses being committed in the name of public health, restrictive action must be taken by the government only as a final resort. **The Siracusa Principles** on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights of 1984 provide guidance in this respect and describe the narrowly defined framework under which restrictions may be imposed. Any restriction must be

- provided for and carried out in accordance with the law;
- in the interest of a legitimate objective of general interest;
- strictly necessary in a democratic society to achieve the objective;
- the least intrusive and restrictive means available to reach the same objective;
- not drafted or imposed arbitrarily, i.e. in an unreasonable or otherwise discriminatory manner.

Monitoring Mechanisms

Ensuring that governments comply with their obligations to respect, protect and fulfil the right to health requires mechanisms at both national and international levels. At the national level, government commissions, ombudspersons and NGOs can participate in a formal review process once the country has ratified the treaty guaranteeing the right to health. Each party to the human rights treaty must submit a report to a treaty-monitoring body, e.g. the **Committee on Economic, Social and Cultural Rights**. At the time of the review, **NGOs** also submit reports which are often referred to as *"shadow reports"*. These shadow reports offer the view of civil society and may not be in agreement with the government's report. All submitted information is taken into account when the treaty body prepares Concluding Comments and Observations. Although there is no way of enforcing compliance, this report becomes part of the public record and in this respect, the country may not wish to be blamed for human rights abuses for that can have, among other consequences, a direct impact on relations with other countries. Once the **Optional Protocol to the International Covenant on Economic, Social and Cultural Rights**, which was adopted in 2008, will enter into force, an individual complaints mechanism will also encompass the right to health and allow for individual cases to be decided by the Committee on Economic, Social and Cultural Rights. The **UN Special Rapporteur** on the right of everyone to enjoyment of the highest attainable standard of physical and mental health, established by the (then) Commission on Human Rights in 2002 and carried over to the UN Human Rights Council, compiles information and conducts a dialogue with governments and interested parties, reports regularly on the status of the right to health, including laws, policies, good practices and obstacles and makes the necessary recommendations. To this end, the Rapporteur undertakes country visits and reacts to alleged violations of the right to health.

GOOD TO KNOW

1. GOOD PRACTICES

HIV/AIDS Prevention

Success stories in Cambodia, Uganda, Senegal, Thailand, urban Zambia and high-income countries show that comprehensive prevention approaches are effective. Evidence supports that:

- Behavioural change requires locally appropriate, targeted information, training in negotiating and decision-making skills, social and legal support, access to means of prevention (condoms and clean needles) and motivation to change.
- No single prevention approach can lead to wide-spread behavioural change in a population. Prevention programmes on a national scale need to focus on multiple components developed with close input from the target population.
- General population prevention programmes need to focus especially on the young.
- Partnerships are essential for success. Multiple programmes that seek out multiple populations need to have multiple partners including those infected with HIV/AIDS.
- Political leadership is essential to an effective response.

Citizens' Juries and Public Health Policy

Citizens' Juries (CJ) are a new model for making public health policy decisions. Models in the UK, Germany, Scandinavia and the US involve 12 to 16 ordinary citizens, broadly representative of the population, to scrutinise information given to them, question expert witnesses, discuss, deliberate and publish their findings. The commissioning authorities must respond within a given time. In the UK, extensive pilot studies suggest that the CJs are better at tackling complex issues and arriving at solid findings than polls, focus groups and public meetings. It is clear that ordinary citizens are willing to become directly involved in decision-making and that they have strong and consistent views on the kind of public health they want for themselves and their families.

The Oath of Malicounda

In the 1980's, a grassroots organisation in Senegal developed a problem-solving curriculum that involved the entire village learning about their human rights and applying this knowledge to their daily lives. The programme offered participants a chance to tackle problems such as health, hygiene, environmental issues, financial and material management skills. TOSTAN started a programme in Malicounda, a village of 3,000 inhabitants, which is one of a number of Bambara villages still practicing infibulation, one of the most complete and bru-

"To succeed in abolishing the practice of FGM will demand fundamental attitudinal shifts in the way that society perceives the human rights of women."

Efua Dorkenoo. Cutting the Rose.

tal forms of female circumcision. After great public discussion, including a street theatre performance that focused on problems of infection, dangerous childbirth and sexual pain caused by infibulation, the entire village took an oath promising to end the practice of female circumcision. This became known as the *"Oath of Malicounda"*. Two village elders then set out to spread the word to other villages that this practice needed to stop. By February 1998, thirteen villages had taken the Oath. Fifteen more villages put an end to the practice in June that same year. The movement gained international attention. On 13 January 1999, the National Assembly of Senegal passed a law prohibiting female genital mutilation. Legal action alone would not have been enough to abolish the practice. The power lay in the social control enacted by the villages and the demonstration of public will through taking the *"Oath of Malicounda"*. TOSTAN training emphasised the links between the right to health and other human rights.

Memory Books
In many countries, memory books have become an important way of opening channels of communication within families about HIV/AIDS and, in particular, to help HIV-positive mothers tell their children about the state of their infection. Terminally ill parents and their children work together to compile a memory book which is often an album containing photos, anecdotes, and other family memorabilia. In Uganda, the use of memory books was pioneered by The AIDS Support Organisation (TASO) in the early 1990s. Since 1998, the National Association of Women Living with AIDS has promoted this approach on a wider scale, with help from PLAN Uganda. The Association had found out that HIV-infected mothers have great difficulty communicating with their children about their ill health; the memory books were good ways for the women to introduce the idea of HIV/AIDS into their children's lives and discuss its impact. The book serves as a reminder to the children of their roots

"When the friendly plants heard what the animals had decided against mankind, they planned a countermove of their on. Each tree, shrub, herb, grass, and moss agreed to furnish a cure for one of the diseases named by the animals and insects. Thereafter, when the Cherokee Indians visited their Shaman about their ailments and if the medicine man was in doubt, he communed with the spirits of the plants. They always suggested a proper remedy for mankind's diseases. That was the beginning of medicine among the Cherokee tribe a long, long time ago."

Cherokee. The Orgin of Medicine.

so they do not lose their sense of belonging. The book also promotes HIV/AIDS prevention because children witness and understand the ordeal the parent is going through and do not want to suffer the same fate.

Attention to the most vulnerable members of society

Everywhere in the world, drug users and prisoners are among the most vulnerable members of society. In the context of HIV/AIDS and other serious conditions, the right to health is scarcely implemented among this population because their status as criminals or the criminalisation of drug addiction results in a lack of access to information, education and basic health and social services. In the 1980s, the United Kingdom and the Netherlands conceptualised a model known as Harm Reduction. Since then, it has been replicated and adapted to local use throughout the world. This strategy is dedicated to reducing harm to drug users, both individuals and communities. A spectrum of practices ranges from safe use to managed use and abstinence. Although the harm reduction paradigm may involve the decriminalisation of some drugs previously designated illicit, as in the Netherlands, it at least requires a change in attitude towards drugs by non-users to the extent that human rights norms guide the treatment of drug users whether they are incarcerated or free in society. Strong evidence shows that communities implementing harm reduction policies have fewer incidences of HIV/AIDS and other blood transmitted infections among IV drug users than communities not using this approach. Countries that have introduced measures such as safe injection facilities, clean needle exchange and education and rehabilitation are also signatories of drug control treaties and have not deemed harm reduction to come into conflict with other international treaties.

The Montreal Declaration on Intellectual Disabilities

After many years of discussing the needs of people with intellectual disabilities, the Montreal PAHO/WHO Conference on Intellectual Disabilities made an important declaration on 6 October 2004 that promises a paradigmatic change in the way states and international organisations define handicapped persons' rights. The fact that they are first of all human beings, rather than individuals with handicaps, must be central to all policies. The Declaration calls on the international community to be fully aware of the distinct task of ensuring that people with intellectual disabilities exercise their full rights as citizens. The focus is on the fundamental qualities of: equality, non-discrimination and auto-determination. Turning away from a purely biomedical model, the Declaration acknowledges *"[…] the importance of a human rights approach to health, well-being and disability"*. Although it is not legally binding, the Declaration is the only document that serves as a guide and sets the standard in dealing with the rights of people with intellectual disabilities and, therefore, will be the most important reference in this field.

SARS

The SARS epidemic began in November 2002 and was considered controlled by July 2003. During that time 8,400 people were reported infected and over 900 were dead. The response strategies of the countries most seriously affected – China, Hong Kong, Vietnam, Taiwan and Canada – brought out the various human rights implications and underscored the need for vigilance in order to protect all human rights while ensuring the right to health. Issues that arose during the epidemic included: the significance of freedom of the press, states' obligations to international security, and the individual right to health and jus-

tifications for quarantine. WHO cited Vietnam for its success during the 45 day outbreak during which 65 were infected and 5 died. The holistic nature of the right to health is evident in the areas that were identified as directly responsible for Vietnam's successful handling of the situation:

• a comprehensive and well-functioning national public health network,
• rigorous treatment, surveillance and isolation of infected individuals,
• effective work with WHO and other partners,
• early public acknowledgement of the outbreak,
• transparency in daily information given to the public through mass media and electronic communication,
• excellent co-operation among all local and national agencies and institutions.

2. TRENDS

Strategies for Integrating Human Rights and Health Development

A human rights approach to health can provide a framework that holds countries and the international community accountable for what has been done and what needs to be done for the health of people. The extent to which human rights have been integrated in the creation of policies, analysis of social and physical health conditions and delivery of health indicates a positive movement towards the realisation of the human right to health. The following list indicates current trends:

Areas where experiences exist in linking health and human rights both in the practice of governments and their partners and in scholarly literature:
• Reproductive and sexual rights
• HIV/AIDS
• Torture (prevention and treatment)
• Violence against women
• Contagious diseases

Areas where policies and programmes have begun to reflect an awareness of the value of linking health and human rights:
• Rights of indigenous peoples
• Bioethical and human rights implications of genetic modification
• Maternal and child health
• Rights of persons with disabilities
• Specific trade agreements and their impact on the right to health
• Post-disaster rehabilitation
• Poverty alleviation

Areas where very little research and even less application has been based on the integration of health and human rights. The gap is particularly noticeable in:
• Occupational health
• Chronic illness
• Nutrition
• Environment (air, water, fisheries, etc.)

"Information and statistics are a powerful tool for creating a culture of accountability and for realizing human rights."

Human Development Report. 2000.

3. STATISTICS

Public Expenditure on Education, Health and Military Expenditure (in % of GDP):			
Country	Education (2007)	Health (2007)	Military expenditure (2010)
Australia	4.7	6.0	-
Austria	5.4	7.7	0.9
Burkina Faso	4.6	3.4	1.5
China	-	1.9	2.0
Cuba	11.9	9.9	-
Georgia	2.7	1.5	3.9
Germany	4.4 (2006)	8.0	1.4
India	3.2 (2006)	1.1	2.4
Mali	3.8	2.9	1.9
Sweden	6.7	7.4	1.2
United Kingdom	5.6	6.9	2.7
United States	5.5	7.1	4.8
Zimbabwe	-	4.1	1.3
(Sources: UNDP. 2010. *Human Development Report 2010.;* World Bank, *World Development Indicators*, available at http://data.worldbank.org/indicator.)			

Health Expenditure (2009)			
Country	Total (public and private, % of GDP)	Public (% of total health expenditure)	Per Capita (PPP US$)
Australia	8.5	65.4	3,867
Austria	11.0	74.5	5,037
Burkina Faso	6.4	61.7	38
China	4.6	50.1	177
Cuba	11.8	93.1	707
Georgia	10.1	28.7	256
Germany	11.3	75.7	4,629
India	4.2	32.8	45
Mali	5.6	47.9	38
Sweden	9.9	78.6	4,252
United Kingdom	9.3	83.6	3,285
United States	16.2	48.6	7,410
Zimbabwe	-	-	-
(Source: World Bank, *World Development Indicators*, available at http://data.worldbank.org/indicator.)			

Life Expectancy at Birth (2010)	
Country	Life Expectancy (total population)
Australia	81.9
Austria	80.4
Burkina Faso	53.7
China	73.5
Cuba	79.0
Georgia	72.0
Germany	80.2
India	64.4
Mali	49.2
Sweden	81.3
United Kingdom	79.8
United States	79.6
Zimbabwe	47.0
(Source: UNDP. 2010. *Human Development Report 2010.*)	

Maternal Mortality (per 100.000 live births, 2010)	
Country	Maternal Mortality Ratio
Australia	4
Austria	4
Burkina Faso	700
China	45
Cuba	45
Georgia	66
Germany	4
India	450
Mali	970
Sweden	3
United Kingdom	11
United States	20
Zimbabwe	880
(Source: UNDP. 2010. *Human Development Report 2010.*)	

4. CHRONOLOGY

1946 Constitution of the World Health Organization (WHO)

1961 European Social Charter (revised 1996)

1975 Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind

1975 Declaration on the Rights of Disabled Persons

1966 International Covenant on Economic, Social and Cultural Rights

1978 Alma Ata Declaration on Primary Health Care

1981 African Charter on Human and Peoples' Rights

1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights

1991 Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care

1991 United Nations Principles for Older Persons

1992 United Nations Conference on Environment and Development (UNCED)

1993 Declaration on the Elimination of Violence Against Women

1994 International Conference on Population and Development (ICPD)

1995 Fourth World Conference on Women (FWCW)

1997 Universal Declaration on the Human Genome and Human Rights (UNESCO)

1998 Guiding Principles on Internal Displacement

2000 General Comment No. 14 of the UN Committee on Economic and Social and Cultural Rights on the right to health

2001 Doha Declaration on the TRIPS Agreement and Public Health

2002 World Summit on Sustainable Development

| 2002 | UN Special Rapporteur on the right of everyone to enjoyment of the highest attainable standard of physical and mental health |
| 2002 | International Declaration on Human Genetic Data (UNESCO) |

| 2006 | United Nations Convention on the Rights of Persons with Disabilities |
| 2008 | Optional Protocol to the International Covenant on Economic, Social and Cultural Rights |

SELECTED ACTIVITIES

ACTIVITY I: IMAGING A "STATE OF COMPLETE PHYSICAL, MENTAL AND SOCIAL WELL-BEING"

1

Part I: Introduction
For many people, the concept of health is not fully enough developed to include the broad needs of society as well as the state of the individual. This activity allows the participants to recognise the various elements that make up a state of optimal health and to share ideas with other members of the group in order to create a composite concept.

Part II: General Information
Type of activity: Brainstorming session and group reflection
Aims and objectives: Becoming aware of the broad scope of health as more than the "absence of disease"; initiating participants into self-consciousness of the human right to health; creating the links between health and other fundamental needs; making connections between fundamental needs and human rights
Target group: Young adults, adults

Group size: 10-30
Time: 120 minutes
Materials: Large sheets of paper, markers and tape to fix sheets to the walls; a copy of the Universal Declaration of Human Rights (UDHR)
Skills involved: Verbal communication, participatory analysis

Part III: Specific Information on the Activity
Instruction:
The facilitator reads the WHO definition of "health". The Preamble of the WHO Constitution defines health as a *"[…] state of complete physical, mental, and social well-being, and not merely the absence of disease".* The facilitator then asks: What elements and conditions are needed to realise this broad state of health in your community? The facilitator makes certain everyone understands the statement and the question. If the group is slow in getting started, the facilitator may ask the group to give quick responses following the circle order in which they are seated. All ideas are recorded on large sheets of paper, large enough for all to see them clearly. No idea is to be exclud-

ed. Once the group has exhausted their ideas, someone will read all the ideas as they have been recorded. The papers are put on the wall for all to see. At this point, the facilitator asks the individual persons to explain their thoughts since everyone listed an element. The participants may ask each other about the listed topics. (This takes approximately one hour.)

Brainstorming rules:

All participants including the facilitator sit with chairs arranged in a circle or in a circle on the ground. This practice fosters a sense of equality among all. The activity involves quick thinking as the input from participants feeds the ideas and thought processes of the group. The facilitator needs to maintain order by doing the following:

1. All participants will call out their ideas; however, they need to allow the recorder to write the ideas as they are stated.
2. During the rewriting stage the participants must listen carefully as the reporter for each group presents the new list using human rights language.

Step 1:

The facilitator distributes copies of the Universal Declaration of Human Rights (UDHR) or another thematically arranged source. S/he explains that all the needs for health that have been listed on the sheets are human rights. For example, in the broadest sense, the right to life, Article 3 of the UDHR, supports the human right to health.

Step 2:

The facilitator instructs the participants to split up into groups of 4-6. In these groups, they will take the lists they have generated and find the corresponding human rights. Each group will choose a reporter to present the group's findings to the general group. During the period of small group work, the facilitator visits each group and observes and offers assistance when asked. (Allow 30 minutes.)

Step 3:

The facilitator reconvenes the large group. The group reporters present their findings. Someone records the new list of human rights that support and ensure the right to health on new sheets of paper that are attached to the wall for all to see. The group may ask questions throughout this session. These lists will remain on the wall for future reference. (Allow 30 minutes.)

Step 4:

In order to evaluate the session, the facilitator asks the participants to say what they have learned from the session and also to suggest how the exercise could be improved.

Methodological hints:

- This exercise is one of empowerment. The facilitator needs to encourage participants to use their own ideas, be able to think critically and do their own research. S/he must not play the "expert" who has all the answers.
- In both the brainstorming and reflective parts of the session, all participants should speak. If one or several persons dominate the group discussion, the facilitator should suggest that no one should speak more than once until all others have been heard.
- Emphasise the "common sense" quality of human rights by telling the participants that the UDHR is the encoding of ideas concerning human dignity that all peoples hold to be true.

ACTIVITY II: ACCESS TO MEDICATION

Part I: Introduction

Unrestrained access to medication is not secured for all suffering or sick people worldwide. In Africa, for example, millions of human beings die because they cannot afford the life prolonging or pain-relieving medica-

ments the great pharmaceutical companies provide. For this reason and because of NGO pressure some governments have started to import cheaper generic medical products from other countries. The pharmaceutical industries judge this a violation of their property rights.

Part II: General information
Type of activity: Simulation
Aims and objectives: Understanding the complexity of human rights; balancing opposing requirements
Target group: Young adults, adults
Group size: 15 to 40 max.
Time: 120-180 minutes
Materials: Flipchart, markers, tape
Skills involved: Communication skills, empathy

Part III: Specific information on the Activity
Instruction:
The facilitator gives background information on the following situation: The government of an African state gave in to the lobbying and pressure of civil society and started to hand out and sell cheap generic medicaments imported from other countries. Some pharmaceutical companies see a violation of their patents and file suits against the government and some NGOs.

The participants split up in four groups each of which represents one party in the trial. The facilitator then informs each group on the position in the trial and gives about 20 minutes time to prepare for the trial by finding arguments and framing positions. Each group designates a speaker who will later on present the arguments.

Following roles have to be met in the moot court:

- The **judge** ponders the arguments of the three litigants and renders a judgment.

- The **representative of the pharmaceutical industry** is interested in increasing sales and will not abstain from their patent rights in favour of the sick.
- **Government representative**: The government hands out and sells cheap generic medicaments imported from abroad only because of NGOs' pressure but basically shares the position of the pharmaceutical companies.
- The **NGO representative** has successfully urged the government to hand out generic medicaments for free or at a very low price.

While the groups prepare their arguments the facilitators should prepare the room for the trial. Afterwards the groups take their places, the judge opens the trial and asks each group to bring forward their positions and arguments. The judge sums up all arguments, ponders them and renders a judgment that should allow all litigants' positions.

Tips for variation:
Finding a consensus in the group: After all parties have brought forward their arguments in the plenary session the participants form working groups. In each working group there should be at least one member of each litigant plus a judge. The facilitator asks the groups to try to reach a consensus without neglecting the position of a single party. After 30 minutes group work each group presents their discussion process and their possible solution in the plenary. The most important questions and solutions are written down on a flipchart. When all groups have presented a discussion on the process of decision-making should round up the activity.

Related rights/further areas of exploration:
Globalisation, discrimination, poverty
(Source: Adapted from: Council of Europe. 2002. *COMPASS. A Manual for Human Rights Education with Young People.*)

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ADDITIONAL INFORMATION

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Ethical Globalization Initiative: www.realizingrights.org

Food and Agriculture Organization of the United Nations (FAO): www.fao.org

François-Xavier Bagnoud Center for Health and Human Rights: www.hsph.harvard.edu/fxbcenter

Health Statistics and Health Information System: www.who.int/healthinfo/en

International Federation of Health and Human Rights Organisations: www.ifhhro.org/

International Harm Reduction Association: www.ihra.net

Médecins sans Frontières (MSF): www.msf.org

Mental Disability Rights International: www.disabilityrightsintl.org

Michael Kirby Centre for Public Health and Human Rights: www.med.monash.edu.au/michael-kirby

Montreal Declaration on Intellectual Disabilities: www.declarationmontreal.com

People's Health Movement: www.phmovement.org

Physicians for Human Rights: www.physiciansforhumanrights.org

UNAIDS: www.unaids.org

United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: www2.ohchr.org/english/issues/health/right

World Bank, World Development Indicators: http://data.worldbank.org/indicator

World Health Organization (WHO), Health and Human Rights: www.who.int/hhr/en/

World Medical Association: www.wma.net/en/10home/index.html

HUMAN RIGHTS OF WOMEN

LOOKING AT HUMAN RIGHTS WITH
GENDER SENSITIVE EYES

EMPOWERMENT OF WOMEN

»*The advancement of women and the achievement of equality between
women and men are a matter of human rights and a condition for social
justice and should not be seen in isolation as a women's issue.*«

Beijing Declaration and Platform for Action. 1995.

ILLUSTRATION STORY

Real Life Case: The Story of Selvi T.

Selvi is 22 and pregnant with her fifth child. Her husband started his attacks when she was pregnant with their first child. *"That first time, he hit me, he kicked the baby in my belly and he threw me off the roof"*, she said. *"The baby survived but I think [the child] has a mental illness."* Since then, the violence has increased in frequency and severity and now even affects their children. Selvi's husband controls every aspect of her life and is extremely jealous. She reported: *"He rapes me all the time, and he checks my fluids 'down there' to check that I didn't have sex [with another man]."*

In 2008 Selvi finally went to the police after her husband had *"broken her skull and arm"*. The police brought her husband to the station, gave the couple some food and sent them home, telling her *"There's no problem, we spoke to him, you're back together."* The second time Selvi went to the police station, they brought her to the hospital as she was bleeding from her head where he had hit her with a rock. Nevertheless, they told her she should reconcile with her spouse.

At this point in 2009 Selvi's husband locked her in a room and beat her every day. When she escaped and went to the police a third time, they called the husband and he apologised. The police sent her home again. In 2010 Selvi went to the police a fourth time when her husband brought friends home late at night and "offered" Selvi to them. To escape, she jumped off the roof and ran to the police station. Her husband told the police she was lying. They believed him. *"Just go back with your husband and stay there"*, she was told.

Selvi secretly went to the family court but told the prosecutor she was too afraid to make a formal complaint. The case being that serious the prosecutor independently started a procedure to secure a protection order for Selvi. The court ordered Selvi's husband to stay away from her and pay her maintenance. But the order was not enforced. He made no maintenance payments, never moved out and still beat her. The police never checked up on her after the order had been issued.

At one point Selvi moved into a shelter. But not even the shelter provided security from her husband who turned up one day after the police had revealed the shelter's location. A woman working at the shelter told Selvi: *"Just talk to your husband, he is here, crying."* When she did, he stabbed a fork into her forearm, resulting in a scar that Selvi displayed in the interview. He took her home.

The abuse continued when Human Rights Watch spoke to Selvi in June 2010. Her husband lives with her, rarely works, gambles, does not pay the bills and frequently beats her and the children. She is too afraid to send the children to a government dormitory and too terrified to escape. She cannot get prenatal care – assistance that is urgent since the abuse involves kicks to her abdomen – because her state health insurance card was among the civil documents her husband had burnt on one occasion.

A municipal women's group is aware of Selvi's situation and provides assistance, but she sees no way out for herself or her children.

(Source: Human Rights Watch. 2011. *He loves you, he beats you.*)

Discussion questions

1. What are the main issues raised by this case for human rights of women?
2. How can justice be done if access to courts and the proper conduct of trials are at risk because of the victim's sex?

3. Are laws and regulations enough to guarantee equal opportunities for all human beings? What else can ensure equal treatment of women and men?
4. How can similar cases be prevented? Specify which mechanisms on local, regional or international levels can be used.

NEED TO KNOW

1. HUMAN RIGHTS OF WOMEN

Women have had to fight for their recognition as full human beings and their basic human rights for a long time, and unfortunately the fight is not over yet. Although women's situation has improved in many ways almost globally, societal factors still provide obstacles for the full and immediate implementation of human rights for women all over the world. The 20th century has brought many improvements, but also many setbacks, and even in times of peace and progress women and their human rights were not given special attention nor did anybody for a long time object to such policy. Nevertheless, in all periods of history heroines can be found who fought for their rights and the rights of other women, with arms or with words. Eleanor Roosevelt, for example, insisted that *"all human beings are equal"* should be used instead of "all men are brothers" in Article 1 of the Universal Declaration of Human Rights (UDHR) when it was drafted in 1948. This semantic change made it clear that human rights belong to every human being, no matter whether female or male, and introduced equality as one of the fundamental principles into the international human rights protection discourse and regime.

The **principle of equality** as formally expressed in law, without differentiation between women and men, often implies hidden discrimination against women. Due to the different positions and roles that society traditionally attaches to women and men, *de iure* equality often results in *de facto* discrimination. This situation has forced women's human rights activists to promote the differentiation between **formal and substantive equality**.

In many contexts, formal equality has not helped people in disadvantaged situations. The notion has to move towards a substantive definition of equality taking into account plurality, difference, disadvantage and discrimination. As Dairian Shanti emphasised in her article "Equality and the Structures of Discrimination", *"Neutrality does not allow for*

> *"Translating the power of numbers into the power of action for women, by women, and in partnership with men, is what the next millennium will be about."*
>
> **Azza Karam.** 1998/2005.

sensitivity to disadvantages that may prevent some people from benefiting from equal treatment. Hence the focus must move to an emphasis on 'equal outcomes' or 'equal benefits'." Genuine equality between women and men can only be achieved if both formal and substantive equality are fully realised.

Gender and the Widespread Misconception of Human Rights of Women

Gender is a concept that does not only address women and their human rights, but is rather a more complex one which includes all sexes: men, women as well as transgender persons. It was first used in the 1970s and defined by Susan Moller Okin *"[…] as the deeply entrenched institutionalization of sexual difference that permeates our society",* but further evolved due to dynamic political, social and economic transformations throughout the world. In 1998, Article 7 of the Rome Statute of the International Criminal Court defined gender as the *"two sexes, male and female, within the context of society […]"* after state representatives had discussed the content of the concept of gender intensively, some of them opposing its extension to sexual orientation.

Yet, it is very common to find women defined as a specific group instead of accepting them as half of the population of the world, of each country, of every indigenous people and of many communities. This conception is reflected in the documents in which women appear in a paragraph or in a chapter together with **vulnerable groups**, such as indigenous peoples, aged persons, people with different abilities and children. What connects these vulnerable groups is that they all have suffered and are still suffering from discrimination and have not been able to and still do not fully enjoy their basic rights.

☺☞ *Non-Discrimination*

Gender, however, is a useful category of analysis that helps us understand how human beings assume different responsibilities, roles and positions in society. Introducing a gender analysis in the human rights theory and practice makes us especially sensitive to the differences between women and men in society and the specific ways in which women's human rights are violated.

It is evident that gender-sensitive thinking should be promoted to attain the same rights for everybody, regardless of sex, colour of skin, ethnicity and religion.

Human Security and Women

Human security and the status of women are closely connected, as conflicts tend to worsen gender inequalities and differences. Refugees and internally displaced people, most of whom are women, the elderly and children, need to be given particular attention and assured special protection. Domestic and other forms of violence threaten the human security of women.

Human security is also about ensuring equal access to education, social services and employment for everybody in times of peace as well. Women are very often denied full access to these services and the full enjoyment of these rights. Therefore, women and children in particular can benefit from a human rights approach to human security, which proves that human security cannot be achieved unless human rights are fully respected. Thus, the eradication of any form of discrimination, particularly against women and children, should constitute a priority on the human security agenda.

Of particular relevance for human security is also the situation of women in armed conflict and their protection.
☺☞ *Human Rights in Armed Conflicts*

2. DEFINITION AND DESCRIPTION OF THE ISSUE

A Look Back in History

An important historic event, the **French Revolution,** marks the beginning of female efforts to be recognised as equal human beings in a world dominated by men. This era constitutes not only the start of the movement for civil and political rights of women, but it also paved the way for the first women's movement for liberation and equality. One of the most famous proponents of the movement was Olympe de Gouges, who wrote the **Declaration of the Rights of the Woman and Female Citizen**. She and many of her female fellows paid on the guillotine for their commitment to women's rights.

Great Britain, too, looks back on a long and strong tradition of the female struggle for equal rights. It is often even called the "motherland of feminism". As early as the 1830s, British women started to demand the right to vote. For more than 80 years they fought with changing methods and eventually succeeded in 1918, when they were given the right to vote, starting from the age of 30. Other prioritised areas of action of these early feminists included access to education, the right of married women to own property, and the right to hold public office.

The **International Council of Women** was founded as early as 1888 and still exists today. It has its seat in Paris and actively participates in the process of ensuring women's rights through international meetings, regional, sub-regional and national seminars and workshops, an intensive project development programme in cooperation with international agencies, resolutions drawn up and adopted in the General Assembly, cooperation at all levels with other non-governmental organisations, and three-year plans of action in each of its five Standing Committees.

The first intergovernmental body dealing with women's human rights was the **Inter-American Commission on Women** (CIM), created in 1928 for the Latin American Region. This body was responsible for drafting the **Inter-American Convention on the Nationality of Women**, adopted by the Organization of American States (OAS) in 1933. This treaty sparked a debate on how the region was developing a body of law that would deal with human rights.

From the beginnings of the **United Nations**, in 1945, women tried to participate within the organisation and to make their presence felt in the content and implementation of human rights instruments and mechanisms.

The **Commission on the Status of Women** (CSW) was created in 1946 with the mandate of promoting women's rights all over the world. Its first Chair was Bodil Boegstrup of

"Woman is born free and enjoys equal rights with man in every respect"

Article 1 of the Declaration of the Rights of the Woman and Female Citizen. 1789.

Belgium. CSW promoted the explicit inclusion of women's rights into the UDHR and makes recommendations to the UN Economic and Social Council (ECOSOC) on urgent problems requiring immediate attention in the field of women's rights.

Although women equally contributed to the evolution of the international political, economic and social system from the very beginning, the attention drawn to women's issues was minimal. Decades of gender blindness in human rights documents made people blind to this fact, too. The fundamental rights of more than half of humanity were forgotten, which inevitably leads to the conclusion that there cannot be gender neutrality in international or national laws while societies across the world are still not gender neutral, and continue to discriminate against women.

It was only in the 1970s that the inequality in many areas of daily life, poverty among women and the discrimination against girl children led the United Nations to decide to launch the **United Nations Decade for Women: Equality, Development and Peace** from 1976 to 1985. In 1979, the Decade culminated in the adoption of the **Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).** This document is the most important human rights instrument for the protection and promotion of women's rights and the first document which explicitly recognises women as full human beings. CEDAW contains civil and political rights as well as economic, social and cultural rights, uniting human rights which, for example, in the International Covenants are divided into two categories.

The Convention regulates issues related to the public as well as to the private lives of women.

Several articles deal with the role of women in the family and society, the need to share responsibilities within the family, and the urgency to implement changes in social and cultural systems that attribute a subordinate position to women. Only through such elementary changes can the recognition of the human rights of women be brought about on the global level. As of May 2012, 187 states have ratified the Convention. Numerous Islamic states have made partly far reaching **reservations** to the CEDAW obligations. The CEDAW Committee puts particular emphasis on the withdrawal of the reservations which prevent the full enjoyment of the rights of women contained in the Convention.

Discrimination against women is defined by Article 1 of the Convention as *"any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."*

CEDAW obliges its states parties to:
- embody the principle of equality of men and women in their national constitutions or other appropriate legislation;
- ensure the practical realisation of the principle of equality;
- adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- establish legal protection of the rights of women on an equal basis with men;
- refrain from engaging in any act or

practice of discrimination against women and ensure that public authorities and institutions act in conformity with this obligation;

- take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- repeal all national penal provisions which constitute discrimination against women;
- ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men;
- modify the social and cultural patterns of conduct of men and women;
- achieve the elimination of prejudices and customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women;
- ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases;
- take all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women;
- ensure to women the rights to vote in all elections and public referenda, to be eligible for election in all of them;
- grant women equal rights with men to acquire, change or retain their nationality;
- ensure to women equal rights with men in the field of education.

On 6 October 1999, the General Assembly by consensus adopted the **Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women** and called on all states parties to the Convention to become party to the new instrument, too. By ratifying the Optional Protocol, a state recognises the competence of the **Committee on the Elimination of Discrimination against Women** – the body that monitors states parties' compliance with the Convention – to receive and consider **complaints** from individuals or groups within its jurisdiction.

The Protocol contains two procedures:
- The **communications procedure** allows individual women, or groups of women, to submit claims of violations of rights protected under the Convention to the Committee. The Protocol establishes that in order for individual communications to be admitted for consideration by the Committee a number of criteria must be met, for example that domestic remedies must have been exhausted.
- The protocol also created an **inquiry procedure** enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights. In either case, states must be party to the Convention and the Protocol. The Protocol includes an "opt-out clause", allowing states to declare upon ratification or accession that they do not accept the inquiry procedure. Article 17 of the Protocol explicitly provides that no reservations may be made to its terms.

The Optional Protocol entered into force on 22 December 2000. By May 2012, 104 states have ratified the Optional Protocol.

The **World Conference on Human Rights** held in Vienna in June 1993 gathered thousands of activists and experts in human rights. The **Vienna Declaration and Programme of Action,** adopted as a result of the Conference, placed emphasis on the promotion and protection of the human rights of women and girls in general and on the prevention of violence against women. It stated that the human rights of women and of girl children are an inalienable, integral and indivisible part of universal human rights. It also declared that the full and equal participation of women in political, civil, economic, social and cultural life at the national, regional and international levels and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.

As part of its mandate, the Commission on the Status of Women (CSW) organised four major **global conferences** with the aim of mainstreaming women's rights as human rights: Mexico (1975), Copenhagen (1980), Nairobi (1985) and Beijing (1995). A Plan of Action was launched after each of the main conferences, containing a set of measures and policies that states should take into consideration for achieving equality between women and men. Additionally, the progress of commitments, primarily made by governments at the 1995 Beijing World Conference on Women was assessed every five years. In the 15-year review of the implementation of the **Beijing Declaration and Platform for Action** (March 2010), the CSW placed emphasis on sharing experiences and good practices and on taking account of the Millennium Development Goals.

The Beijing Platform for Action is especially important as it constitutes the most complete programme on human rights of women with a global diagnosis of the situation of women and an examination of policies, strategies and measures for the promotion of women's rights all over the world. The following **twelve critical areas of concern** are given special attention: poverty, education, health, violence, armed conflict, economy, decision making, institutional mechanisms, human rights, media, environment, girl children, and institutional and financial arrangements. Some of these areas will be specified below.

Women and Poverty

In order to understand the different impact of poverty on women and on men, it is necessary to look at the division of most of the world's labour markets on the basis of gender. Very often women work in the household, fulfilling their duties in caring for the children, the sick and elderly, doing the chores without receiving pay and almost everywhere without proper insurance of their own, although their contributions are socially and economically necessary and should be highly valued.

The division of labour based on gender is one of the **structural dimensions of poverty** that affects women. The biological function of maternity is another structural dimension, which is understood as a social function of parenthood and social responsibility.

☺☞ *Right to Work*
  Freedom from Poverty

Facts and Figures
- The economic growth increases with female labour participation.
- Women on average earn 17 % less than men.
- Although women perform 66 % of the

world's work and produce 50% of the food, they earn only 10% of the income and own only 1% of the property.

- In some regions, women even provide 70% of agricultural labour and produce more than 90% of the food.

Poverty is also created through unequal payment for equal work and denied or restricted access to education or public and social services or to inheritance rights and ownership of land. Poverty, in its political dimension, shows the **inequality** of members of our societies, and poses significant obstacles in gaining access to their civil, political, economic, social and cultural human rights. It also decreases access to information and possibilities for participation in public organisations and decision-making. In the context of migration, poverty also leads to an increase of trafficking in women, especially in Latin America, Asia, Africa and Eastern Europe.

Women and Health

Health involves emotional, social and physical well-being. It is determined by the social, political and economic context of women's lives, as well as by biology. The fact that women give birth to children gives special relevance to reproductive health and sexual health. Equal relations between men and women in matters of sexual relations and reproduction require mutual respect, consent and shared responsibility. Implicit in this are the right of men and women to be informed of and to have access to safe, effective, affordable and acceptable methods of **fertility regulation** of their choice, and the right of access to appropriate **health care services** that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. The reality is different: Discrimination on the basis of sex leads to many health hazards for women, including physical and sexual violence, sexually-transmitted diseases (STDs), HIV/AIDS, malaria and chronic obstructive pulmonary disease due to cooking over open fires. Mortality rates during pregnancy and childbirth remain high in countries of the global south, as the WHO shows in a global overview. Apart from the UN system the issue is also on the agenda of local or regional organisations: A campaign, for example, for the adoption of an Inter-American Convention on Sexual Rights

"When I was visiting Nigeria, I explained my own personal history. Everybody remembers my birthday is June 13th but this is not exact. I have to check, I still don't know when exactly [I was born]. At the time when I was born, in Korea, because of the high rate of mortality, parents would not register births. Just let us see whether this boy or this girl may live. Sometimes you had to wait one year or six months. […] So my birthday was registered later, much later. My father just waited […] so don't believe my passport's birthday. "

Ban Ki-moon. 2011.

"Some women say they won't have their daughters purified when the social worker is around. They humour her until she leaves and once she is gone they come and ask me to circumcise their girls. I have her mother, her aunt or neighbour hold her while I cut her."

Village midwife Om Mohammed, Egypt. 2012.

and Reproductive Rights was launched and is endorsed by a regional alliance of Latin American organisations.

Customs and traditions also form a source of danger to girl children and teenage girls. The persistent tradition of **female genital mutilation (FGM)**, a fundamental violation of women's human rights, refers to several types of deeply-rooted traditional cutting operations performed on women and girls. Often part of fertility or coming-of-age rituals, FGM is sometimes justified as a way to ensure chastity and genital "purity". It is estimated that more than 130 million girls and women alive today have undergone FGM, mainly in Africa and some Middle Eastern countries, and two million girls a year are at risk of mutilation. Cases of FGM have been reported in Asian countries such as India, Indonesia, Malaysia and Sri Lanka, and it is thought to be performed among some indigenous groups in Central and South America. In spite of national laws against FGM, it is also being practiced among migrant communities in Europe, North America and Australia.

Without any perceived medical necessity, FGM subjects girls and women to huge pain, health risks and possibly life-threatening consequences. Apart from numerous international (such as Amnesty International) and local NGOs (such as Egypt's Cairo Coalition Against FGM), the United Nations, too, have frequently addressed the issue: in 2005 with a UNICEF statistical exploration on FGM, in 2008 by publishing an inter-agency statement on the elimination of female genital mutilation and in 2010 by fostering a global strategy to stop health-care providers from performing FGM. The UNICEF findings are still valid: FGM prevalence rates are slowly declining in some countries, attitudes towards FGM are slowly changing as more women oppose its continuation. Since in the meantime in some countries the Arab Spring has brought about parliaments and/or governments with Islamist participation that tend to take benevolent attitudes in regard to FGM, the fighters against FGM should keep in mind the following recommendations: **Strategies to end FGM** as a social behaviour must be accompanied by holistic, community-based education and awareness-raising, programmes must be country-specific and adapted to reflect regional, ethnic and socio-economic variances, and detailed segregation of data by socio-economic variables can significantly enhance and strengthen advocacy efforts at the country level.

The case of **Egypt** shows the necessity of these strategies in course of action: Although female genital mutilation has been forbidden and punishable by fine or imprisonment as early as 1959 (a ban that has been upheld by several decrees and high court decisions, the latest one in 2008), the 2005 UNICEF study showed that Egypt is still among the countries with the highest (90%) FGM prevalence in the world. Apart from pro-FGM attitudes of a

majority of women in both rural and urban settings and an increasing political discussion with strong Muslim Brotherhood and Salafi factions, virtual impunity is one of the main obstacles to reducing FGM in Egypt. *"If we tell a police officer in the local station, we will be reporting to an officer who believes in it"*, a local anti-FGM activist explains.

A pandemic that seriously endangers women is **HIV/AIDS**. Although the new infections worldwide peaked in 1997 and the number of new infections has declined since, the percentage of women living with HIV has continuously risen in the last decades. Globally, women represent half of all people living with HIV: In the Caribbean, North Africa and the Middle East the percentage is about 50%, in Sub-Saharan Africa it is 59% whereas the infection rates in Europe are about 27% and North America shows the lowest rate worldwide with 21%.

However, the UNAIDS World AIDS Day Report 2011 showed some encouraging trends in the fight against AIDS: The proportion of women living with HIV has remained stable and new infections in general have decreased in 33 countries, 22 of them in Sub-Saharan Africa (the region most affected by the AIDS epidemic), due to changes in sexual behaviour, rising age of first sexual contact and increased antiretroviral treatment of pregnant women. The report gives a carefully positive outlook that the goal of eradicating new infections among children by 2015 might be reached if efforts are intensified in four areas of action: preventing HIV infection of women of reproductive age by stopping sexual and drug-related transmission and integrating prevention efforts in prenatal care, enabling access to women's family-planning services, and guaranteeing regular HIV testing and counselling for pregnant women as well as access to antiretroviral drugs for pregnant women living with HIV and their newborns. In this respect, South Africa can serve as an example of good practice: In 2010, the country provided an estimated 95% of eligible women with antiretroviral medication to prevent new HIV infections among children meaning that the provision rate almost doubled in only three years. This achievement reflects political commitment, strong civil society engagement, decentralised service delivery and empowerment by nurses.

Also in 2011, the UN Security Council in its Resolution 1983 stated that women and girls are particularly affected by HIV and that the disproportionate burden of HIV and AIDS on women is one of the persistent obstacles and challenges to gender equality and empowerment of women. Within its mandate of peace

"States should strike a better balance between border control and their obligation to protect people who are holders of rights, namely asylum seekers and presumed victims of trafficking. […] Protective obligations toward victims of human rights violations should be seen as an integral part of a 'healthy' migration policy."

Maria Grazia Giammarinaro. 2012.

maintaining the Security Council urged member states and other relevant stakeholders to support the development and strengthening of capacities of national health systems and civil society networks in order to provide sustainable assistance to women living with or affected by HIV in conflict and post-conflict situations.

☺☞ *Right to Health*

Women and Violence

In many societies women and girls are subject to physical, sexual and psychological violence which cuts across the lines of income, class and culture, in both public and private life. Women are often victims of rape, sexual abuse, sexual harassment or intimidation. Sexual slavery, dowry crimes, honour killings, forced pregnancy, enforced prostitution, sterilisation and forced abortion, prenatal sex selection, female infanticide and female genital mutilation are also acts of violence committed against women.

Facts and Figures
- At a minimum, one out of three women worldwide has been abused in any form in her lifetime. Therefore, sexualised violence against women and girls is a problem of pandemic proportions. Furthermore, women and girls usually know the abuser. Violence against women and girls is among the most pervasive human rights violations. It devastates lives, fractures communities and stalls development.
- Violence against women creates enormous economic costs. In the US it is estimated that the costs of intimate partner violence exceed 5.8 billion dollars per year: US$ 4.1 billion are for direct medical and health care services, while productivity losses account for nearly US$ 1.8 billion. Violence against women decreases the economic development of each nation; it impoverishes individuals, families and communities.
- The United Nations Population Fund estimates the number of "honour killing" victims as high as about 5000 women per year. In some societies the chastity of women is seen as family affair so that rape victims, women suspected of engaging in premarital sex and women accused of adultery are murdered by their relatives.

All such acts of violence violate and impair or nullify women's enjoyment of human rights and fundamental freedoms. Hence it was of utmost importance that the **Declaration on the Elimination of Violence against Women** was adopted by the United Nations General Assembly by consensus in 1993 as a tool for preventing violence against women. According to Article 2 of the Declaration, violence against women shall be understood to encompass, but not be limited to:

- *physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;*
- *physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;*

- *physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.*

Moreover, a **Special Rapporteur on Violence against Women** was established in 1994.

Besides the UN system with its continuously increasing efforts, some regional organisations have committed themselves to the prevention, or even to the eradication, of violence against women. The Inter-American system of human rights, for example, provides for the protection of women by way of the **Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women** of Belém do Pará of 1994. By May 2012, 32 of 35 independent states of the Americas had ratified the Convention, which is one of the most significant landmarks in the history of drawing attention to women within the human rights system. This Convention was developed by the Inter-American Commission of Women in a five-year process and constitutes an important political and legal framework. It lays the basis for a coherent strategy to tackle the problem of violence, making it obligatory for states to implement public strategies for the prevention of violence and assistance for victims.

In the framework of the **African Commission on Human and Peoples' Rights**, the **Protocol to the African Charter on Human and Peoples' Rights on Rights of Women in Africa** (Maputo Protocol) was elaborated and adopted by the member states of the **African Union (AU)** in 2003, and subsequently entered into force in 2005. By May 2012 30 of 53 member states of the African Union have ratified this Protocol.

Within the main conventions of the Council of Europe (CoE) there are two conventions in the field of women's rights: the **European Convention of Human Rights** (ECHR) and **the European Social Charter** and their respective protocols. Although women's rights are not explicitly discussed in the ECHR, Article 14 prohibits any distinction based on grounds of sex (or other grounds). Additional Protocol No. 7 to the Convention added equality of spouses with regard to their rights and responsibilities in marriage to the rights protected, and in Protocol No. 12 discrimination by any public authority based on any ground such as sex is set out as a general prohibition. Specific rights for women are defined in the European Social Charter such as equal remuneration, protection of mothers, protection of working women and the social and economic protection of women and children. The right to equal opportunities and treatment with regard to employment without discrimination based on sex is defined in the 1988 Additional Protocol.

Women and Armed Conflict

Women often become the first victims of violence during war and armed conflict. In her essay "The Second Front: the Logic of Sexual Violence", Ruth Seifert states that in many cases it is a military strategy to target women in order to destroy the enemy. As shown above, sexual violence against women is a crime with a pandemic dimension. But in contrast to intimate partner violence, where the violence is a form of male dominance over women, sexual violence in times of war is a kind of communication between men which runs over the bodies of women. **Women and girls are targeted as a tactic of war** to humiliate, dominate, instil fear in, punish, disperse and/or forcibly relocate members of a community or ethnic group. Rape and other sexual violence can even constitute genocide when committed with the intent to destroy a group in whole or in part, as found by the International Criminal Tribunal for Rwanda (ICTR) in its

"It is now more dangerous to be a woman than to be a soldier in modern conflict."

Maj. Gen. Patrick Cammaert. 2008.

decision concerning Jean-Paul Akayesu. The fact that "ethnic cleansing" is a **strategy of war** and rape is not a side-effect but one of its methods has been among the conclusions to be drawn also from the war in Bosnia in the early 1990s. Starting with the tribunals on Rwanda and the former Yugoslavia, these crimes are targeted and no longer remain in the shadow of impunity. The Statute of the International Criminal Court of 1998 for the first time in history explicitly spells out crimes such as rape, forced pregnancy and forced prostitution as crimes against humanity and provides for a system of individualised responsibility that aims at bringing justice to victims and rightful punishment to the perpetrators.

Facts and Figures
- At the International Criminal Tribunal for the Former Yugoslavia, 18 decisions resulting in convictions were related to sexual violence while UN officials estimate that rape victims may amount to as many as 60.000. The number of convictions by other courts is still lower: eight by the International Criminal Tribunal for Rwanda, and six by the Special Court for Sierra Leone.

Women rarely play an active role in the decisions leading to armed conflicts, instead they usually work to preserve social order in the midst of conflicts and give their best to ensure a life as normal as possible. Furthermore, women *"often bear a disproportionate share of war's consequences"*, as the International Center for Research on Women in its information bulletin on post-conflict reconstruction stated. Many women are left behind as widows facing the exorbitant burden of supporting their families while sometimes having to deal themselves with a trauma caused by being exposed to violence, especially sexual violence, during the conflict. These factors must all be taken into increased consideration, especially in future peace-keeping missions so that women can be provided with as much assistance as possible in dealing with their special needs.

A paradigm shift in **post-conflict reconstruction** was brought about by UN Security Council Resolution 1325 (2000) which was the first legal document by the Council requiring parties to a conflict to respect women's rights and support their participation in peace negotiations and post-conflict reconstruction, and which was followed up by Resolutions 1888, 1889 and 1894 (2009). The Resolutions stressed the need to adopt a gender perspective in armed conflict as well as in institutional conflict management, peace-keeping and post-conflict reconstruction, to train staff on women's rights and to equally involve women into peace and security maintaining processes, especially on decision-makers level. Several states have meanwhile established national action plans on the implementation of the Resolutions, and civil society initiatives work on the same goal. When it comes to practice, however, the UN hardly keeps pace with its own goals: No woman has been appointed chief or lead peace mediator in UN-sponsored peace talks yet, but in some talks sponsored by the AU or other institutions women have joined a team of mediators. A recent positive case is the role of Graça Machel as

"The phenomenon of biopiracy through which Western corporations are stealing centuries of collective knowledge and innovation carried out by Third World women is now reaching epidemic proportions. Such "biopiracy" is now being justified as a new "partnership" between agribusiness and Third World women. For us, theft cannot be the basis of partnership"

Vandana Shiva. 1998.

one of the three mediators for the Kenya crisis in 2008. Women's participation in peace negotiations remains ad hoc, not systematic – it averages less than 8 % of the 11 peace processes for which such information is available. Fewer than 3 % of signatories to peace agreements are women. Addressing, among others, these insufficiencies, the UN General Assembly additionally backed the Security Council Resolutions with its Resolution 66/132 in 2011.

🙂☞ *Human Rights in Armed Conflict*

Women and Natural Resources 🙂‼️

As Vandana Shiva indicates in "Monocultures, Monopolies, Myths and the Masculinisation of Agriculture", women in India play an important role when it comes to preserving knowledge about natural resources and the environment: *"Women farmers have been the seed keepers and seed breeders over millennia."* This is not only true for India, but for the whole world. Through their management and use of natural resources women provide their families and communities with sustenance. Therefore, the recent trend of "land grabbing" – large-scale land acquisitions by domestic and transnational companies, governments, and individuals following the 2007-2008 world food price crisis – sees women and their children as the first victims in many regions of the global south.

The deterioration of natural resources has negative effects on the health, well-being and quality of life of the population as a whole, but especially affects women. Moreover, their knowledge, skills and experience are rarely taken into consideration by decision-makers who are mostly male. The **Rio + 20 United Nations Conference on Sustainable Development** therefore set a focus on gender equality being fundamental to a sustainable future, discussing strategies and programmes for gender equality and sustainable development and highlighting women's empowerment in so-called green economies. UN Women Executive Director Michelle Bachelet called for robust policies and strong commitments that fully reflect the central role of women in sustainable development and in bringing real change in people's lives by way of women's full participation in the sustainable development agenda.

The Girl Child 🙂‼️

In many countries, the girl child faces discrimination from the earliest stages of life, through childhood and into adulthood. Due to harmful attitudes and practices, such as prenatal sex selection, female infanticide, female genital mutilation, preference of sons, early marriage, sexual exploitation, and practices related to health as well as to food allocation, fewer girls than boys reach adulthood in some areas of the world. In societies that prefer a son to a daughter, prenatal sex selection and female infanticide are widespread practices that have meanwhile led to a demographic overhang of the male

sex already striking the lives of more than one generation. Due to lack of protective laws or failure to enforce such laws, girls are more vulnerable to all kinds of violence, particularly sexual violence. In many regions, girls face discrimination in access to education and specialised training.

The tradition of child marriages also leads to health problems for girl children. Marriage before the age of 18 is a reality for many young women. According to UNICEF's estimates, over 64 million women aged 20 to 24 years were married or in union before the age of 18. Mostly common in Asia, early marriage inevitably leads to early maternity and causes *"a maternal mortality five times higher among girls aged 10 to 14 than among women aged 20 to 24"*, the NGO Committee on UNICEF stated in its documentation on girl child health issues.

☺☞ *Right to Education*
       Right to Health

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

The concept of universality is of central importance to human rights, but especially indispensable when it comes to women's rights. Cultural diversity is far too often used as an excuse or an impediment to the full implementation of the human rights of women. The document adopted during the 1993 World Conference on Human Rights in Vienna is an essential achievement for women as it underlines that *"all human rights are universal, indivisible and interdependent and interrelated. […] While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political,* *economic and cultural systems, to promote and protect all human rights and fundamental freedoms."*

Despite the widely shared concept of universality, many areas of women's daily lives are still sources of controversy. In some religions and traditions women do not enjoy the same treatment as men. The denial of equal access to education and employment opportunities as well as overt **exclusion** from political decision-making is considered normal. In some extreme cases, these policies and perceptions even pose a threat to the personal security and the right to life of women.

In 2002, a young Nigerian woman was sentenced to death by **stoning** by a Shari'a law court. According to Amnesty International Australia, the crime Amina Lawal had allegedly committed was giving birth to a child out of wedlock. This verdict caused an international outcry and questioned the compatibility of some cultural and religious practices with the universality of human rights. Regrettably, more recent incidents such as the case of Sakineh Ashtiani in Iran whose **execution** was postponed several times and in the end transformed to a ten-years sentence after a wave of international protest in 2010 and 2011 or the 2012 case of a Mali couple sentenced to 100 **whippings** for the crime of giving birth to a child while not being married show that little progress has been made in reconciling religion or tradition and women's rights.

☺☞ *Prohibition of Torture*
       Religious Freedoms

Another religious practice affecting the daily lives of women can still be found in India where *Sati,* the Hindu tradition of a widow's self-immolation on her deceased husband's funeral pyre, was forbidden by the British government as early as 1829, but still occurs,

as shown by the latest documented cases in 2006 and 2008. While *Sati*, traditionally seen as the highly respected act of a woman's total devotion to her husband, is still prevalent but rather rare in modern India, there is a shocking increase in the death toll among (mostly young) women whose husbands are well and alive. The so-called "**dowry-deaths**", sometimes also referred to as "bride-killings", in many cases occur after a longer period of harassment and torture by the groom's relatives in order to press the bride's family to pay a higher dowry than formerly agreed upon. They include cases of women who are murdered but also of, presumably forced, suicide by self-immolation, poisoning or hanging. Although NGO and government as well as international initiatives have been fighting dowry killings in India and neighbouring countries for decades, the Indian crime statistics report thousands of cases annually and increasing numbers since the 1990s.

Today, the **political participation of women** is considered much more important than ever as women can best further their own concerns. In the last 50 years more and more women were given the right to vote, to run for and hold public offices. According to the former UN Development Fund for Women (UNIFEM) more and more women are seeking to transform politics, and women's groups are focusing on efforts to increase women's representation on the ballot to reinvigorate political accountability. Today, there are more women in government than ever before. The proportion of female parliamentarians at the national level has increased by 8% in the decade from 1998 to 2008, to the current global average of 18.4%, compared to an increase of just 1% in the two decades after 1975. Yet, around the world, gender equality in democratic governance continues to be extremely limited. Women are outnumbered 4 to 1 in legislatures around the world.

At mid-year 2009, only 17 heads of state or government were women. Even if the present accelerated rate of increase in women's representation continues as compared to previous decades, we are still a long way from reaching the "parity zone" of 40–60%. According to UN Women estimations, countries with "first past the post" electoral systems without any type of quota arrangements will not reach the 40% threshold of women in public office until near to the end of this century.

The last years have also seen strong female participation in democratic and social movements and revolutions as well as almost immediate set-backs. During the Iranian **Green Revolution** of 2009 and 2010 and the **Arab Spring** of 2011 TV stations worldwide broadcast pictures of women in the front line, demonstrating and fighting for democracy and participation, giving an idea of what gender equality and participation might look like in Islamic societies. Since the revolutions, however, ended up in continued repression, civil war or democratic elections won by Islamist parties women's political participation seems to be postponed again.

☺☞ *Right to Democracy*

Since the fall of communism, women in post-communist countries have earned about one third less than their male colleagues for the same job with the same qualifications. Within the European Union, Article 141 of the Treaty establishing the European Community demands equal pay for equal work for men and women with the same qualifications. In reality, however, many EU member states are still far from fully achieving **equal pay for equal work for men and women.** Moreover, awareness is growing for the fact that being a woman might not always be a stand-alone ground for discrimination. For example, in many fields, a woman is more likely to lose her job than a man when growing old, or in

many European societies a migrant or Muslim woman will have more difficulties finding an adequate job than a migrant or Muslim man or a woman belonging to the majority population. The European Union Agency for Fundamental Rights describes **multiple discrimination** as situations where discrimination takes place on the basis of more than one protected ground and focuses on the practices of national legislations and equality bodies, but so far this everyday problem for many women is not fully reflected in European anti-discrimination law.

☺☞ *Right to Work*

4. IMPLEMENTATION AND MONITORING

The full implementation of human rights of women requires special efforts to reinterpret a number of international human rights instruments and to develop new mechanisms for assuring gender equality.

Regarding the **implementation of human rights of women**, there are different approaches to be followed not only by governments but also by civil society:

- The primary one is the dissemination of women's human rights instruments and mechanisms through **human rights education** in the formal as well as the informal education system. There is no way women can exercise their human rights if they do not know what these rights are.
- Another step is **to encourage women to monitor the performance of their states** to find out if they fulfill their duties as contained in the human rights instruments that they have ratified. If state obligations are not properly fulfilled, NGOs can prepare alternative or "shadow" reports to the specific Committee. Women should be encouraged to prepare alternative reports to the CEDAW Committee, which monitors the compliance of states parties with their obligations under the CEDAW and to other treaty bodies. Shadow reports allow members of civil society to hold their governments accountable for the obligations and commitments they have made at the international level. Furthermore, they contribute to raising awareness about the CEDAW reporting process in the country.

- In countries where the **Optional Protocol to CEDAW** has not been ratified yet, campaigns should be organised to lobby for its rapid ratification. A ratification of this Optional Protocol means that the ratifying state recognises the competence of the Committee on the Elimination of Discrimination against Women to **receive and consider complaints from individuals or groups** within the respective state's jurisdiction. In the case of gross and systematic violations, the Committee may decide to start an **investigation**, if this possibility has not been excluded by the respective state when ratifying the protocol.

- An important step towards the full implementation of women's rights instruments is the **training of women advocates in the use of human rights mechanisms.** At present, very few women know about international human rights instruments and even fewer realise the proper steps to invoke them.

The World Conference on Human Rights held in Vienna in June 1993 supported the creation of a new mechanism, a **Special Rapporteur on Violence against Women** which was set up in 1994. In 2009, Rashida Manjoo from South Africa took over the position from Yakin Ertürk from Turkey. As part of her duties, she visits countries and examines the level of violence against women, and also issues recommendations to bring practice in

conformity with international legal norms in the field of human rights of women.

In spite of significant improvements in the field of human rights of women in the past 30 years, the rise of ultra-conservative thought and fundamentalism in many societies has meant an enormous setback for the human rights of women. Therefore it is of utmost importance that the urgent call to fully implement all human rights of women for all women be maintained at all costs.

GOOD TO KNOW

1. GOOD PRACTICES

Human Rights from a Gender Perspective
The process of **interpretation** of international human rights instruments in a more gender-sensitive way has been started. One of the best examples is the adoption of **General Comment No. 28** by the United Nations Human Rights Committee in March 2000. By interpreting Article 3 of the International Covenant on Civil and Political Rights (ICCPR) on the equal right of men and women to enjoy all civil and political rights, the Committee reviewed all the Articles of the Covenant through a gender sensitive lens. In 1992, **CLADEM,** the Latin American and Caribbean Committee for the Defence of Women's Rights, had already launched a campaign including organisations from all over the world which resulted in the drafting of the Universal Declaration of Human Rights (UDHR) with a **gender perspective**. Now, this Declaration is used as a "shadow" declaration for teaching purposes. The aim is to encourage women not only to learn about human rights, but also to include in this framework their own experiences, needs and wishes, expressed in their own language.

Training for Women's Rights
The **People's Movement for Human Rights Learning (PDHRE)** made an important contribution to the advancement of women's rights with its pioneering "**Passport to Dignity"** and the video series "**Women hold up the Sky".** The Passport to Dignity with its global survey of the 12 main areas of concern of the Beijing Declaration and Platform for Action relates legal obligations with the reality in many countries, based on expert reports as well as first-hand accounts by women affected. Another manual, "**Between their Stories and our Realities**", was produced with the support of the Vienna Institute for Development and Cooperation and the Austrian Foreign Ministry Department for Development Cooperation in 1999 to commemorate the 20th anniversary of CEDAW, and is an integral part of the aforementioned video series "Women hold up the Sky". With this contribution, the People's Movement for Human Rights Learning provided valuable material for training future generations of women's rights activists.

"At this juncture I would like to pay tribute to the women of the Women's Caucus for Gender Justice who have taken the experiences of women in war, identified strategies for dealing with violations and, overcoming intense opposition from many representatives at the International Criminal Court negotiations, managed to ensure that rape, sexual slavery, forced pregnancy and other forms of gender-based and sexual violence are included in the statute of the ICC."

Mary Robinson, UN High Commissioner for Human Rights. 2000.

Digital Media to support Women's and Girls' Rights

Despite of the world-wide existing digital gap, more women than ever, especially young and educated women, have access to electronic media and the World Wide Web. An increasing number of these women do not limit themselves to just consuming digital content but also actively seize the participation opportunities offered by Web 2.0 technologies and applications. A good practice of how to overcome the one-way communication and use digital media for societal commitment is the **World Youth Award** that encourages young people to use digital media to take action for the UN Millennium Development Goals: Half of the winners in all categories were projects initialised or implemented by women, with a strong focus on education, information and participation. In 2011, two of the three winners in the "Power 2 Women" category explicitly addressed violence against women: "Harrassmap" from Egypt implemented an SMS system for reporting incidences of sexual harassment, and "Bell Bajao!", a multimedia campaign to directly address men in the context of violence, previously a severe taboo in India, and to help men take ownership of interventions to effectively end domestic violence. The third winner, "Girls Only Radio Station", founded in Egypt in 2008, describes itself as a an electronic magazine including topics such as self-defence and rehabilitation after sexual abuse as well as political awareness for women in many fields, and challenges the prevailing deeply entrenched culture of discriminating women.

2. TRENDS

In the past two decades, women's NGOs have become actively involved in a number of human rights and humanitarian law issues. Women realised that without an organised caucus women's concerns would not be appropriately defended and promoted. In 1998, a group of women took part in the Rome conference drafting the **Statute of the International Criminal Court (ICC)** to make sure that the human rights of women would be seriously considered and incorporated by the drafters. Judging from the Rome Statute, which entered into force on 1 July 2002, they succeeded: International humanitarian law reached a new landmark with the Rome Statute, especially with regard to the inclusion of crimes of sexualised violence. The atrocities

on the territory of the Former Yugoslavia and in Rwanda have also shown that the protection of women and their human rights need to be part of the mandate of an International Criminal Court.

For the first time in history the Rome Statute explicitly mentions a variety of crimes punishable under the Statute which are mostly committed against women. For example, Article 7 (1) declares that *"[…] rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity […]"* constitute crimes against humanity. Moreover, explicit attention is given to victims and witnesses. Article 68 of the Statute states that *"[…] the safety, physical and psychological well-being, dignity and privacy of victims and witnesses"* shall be ensured and that the trial chamber may give the order to *"[…] conduct any part of the proceedings in camera or allow the presentation of evidence by electronic or other special means. In particular, such measures shall be implemented in the case of a victim of sexual violence or a child who is a victim or a witness."* These protective measures are also a result of the experiences made during the trials held at the ICTY and the ICTR.

As of May 2012, 121 states across the world have ratified the Rome Statute.

Women's movements have succeeded in promoting the human rights of women also on the national level. In **Uganda**, for instance, women's legislators lobbied for a new land bill which would enable women to inherit land from their late husbands. Custom had forbidden this for a long time. Finally, they succeeded and many women now learn that they have a right to the land which they need in order to support themselves. This success encouraged Ugandan women to take on further issues related to and important for women, such as the Domestic Relations Bill which aims at outlawing domestic violence and traditions like polygamy.

The international community's pledge to eliminate gender disparities at all levels of education by 2015 is part of the **Millennium Development Goals (MDGs)**. The aim of the Millennium Development Goals is to encourage development by improving social and economic conditions in the world's poorest countries. They derive from earlier international development targets and were officially established following the Millennium Summit in 2000, where all world leaders present adopted the United Nations Millennium Declaration, from which the eight goals were derived. All goals explicitly and implicitly refer to the living conditions of women and men; two of them, goals 3 and 5, at women's issues exclusively:

- **Goal 3: Promote gender equality and empower women:** Being the official source of data to monitor advancement towards the goals, the UNESCO Institute for Statistics (UIS) releases the most recent facts and figures in the Global Education Digests. The 2010 edition of the digest focuses on gender and shows the overall trend that only one out of three countries has reached parity in both primary and secondary education. Regions with a majority of countries risking not to achieve the goals by 2015 are Sub-Saharan Africa, Latin America, Arab States, East Asia and the Pacific region.
- **Goal 5: Improve maternal health:** According to the 2012 UN Interagency maternal mortality estimates, both the global number of maternal deaths and the maternal mortality ratio fell by one third since 1990. Although there has been significant progress in all developing regions, the average annual percentage decline globally still fell short of the MDG target. The

estimated 1.7% annual rate of decline in Sub-Saharan Africa, where levels of mortality are highest, is slower than in any other region.

Launched in 2008, the **UNiTE to End Violence against Women** campaign is a multi-year effort aimed at preventing and eliminating violence against women and girls in all parts of the world. UNiTE calls on governments, civil society, women's organisations, young people, the private sector, the media and the entire UN system to join forces in addressing the global pandemic of violence against women and girls.

By 2015, UNiTE aims to achieve the following five goals in all countries:

- adopt and enforce national laws to address and punish all forms of violence against women and girls;
- adopt and implement multi-sectoral national action plans;
- strengthen data collection on the prevalence of violence against women and girls;
- increase public awareness and social mobilisation; and
- address sexual violence in conflict.

In 2010, the United Nations bundled their competences and efforts in women and gender issues by creating **UN Women**, the **United Nations Entity for Gender Equality and the Empowerment of Women**. In doing so, UN member states took an historic step in accelerating the process of reaching the organisation's goals regarding gender equality and the empowerment of women. The foundation of UN Women came about as part of the UN reform agenda, bringing together resources and mandates for greater impact. It merges and builds on the important work of four previously distinct institutions of the UN system, which focused exclusively on gender equality and women's empowerment: the Division for the Advancement of Women (DAW), the International Research and Training Institute for the Advancement of Women (INSTRAW), the Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI) and the United Nations Development Fund for Women (UNIFEM). The main functions of UN Women are:

- to support inter-governmental bodies, such as the Commission on the Status of Women, in their formulation of policies, global standards and norms;
- to help member states to implement these standards, standing ready to provide suitable technical and financial support to those countries that request it, and to forge effective partnerships with civil society; and
- to hold the UN system accountable for its own commitments on gender equality, including regular monitoring of system-wide progress.

One of the latest documents to enforce and mainstream gender issues in legislation and administration as well as within the United Nations themselves is UN General Assembly Resolution 66/132 to follow-up to the Fourth World Conference on Women, the full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly adopted in 2011.

"Within the existing patriarchal order CEDAW is an extraordinary revolutionary document, unique in its perception of women as full human beings."

Shulamith Koenig. 2009.

3. CHRONOLOGY

1789 Declaration of the Rights of the Woman and the Female Citizen (Olympe de Gouges)

1888 Foundation of the International Council of Women

1921 International Convention for the Suppression of the Traffic in Women and Children and amending Protocol

1950 Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (entry into force: 1951, ratifications by March 2012: 82)

1953 Convention on the Political Rights of Women (entry into force: 1954, ratifications by May 2012: 122)

1957 Convention on the Nationality of Married Women (entry into force: 1958, ratifications by May 2012: 74)

1962 Convention on Consent to Marriage, Minimum Age of Marriage and Registration of Marriages (entry into force: 1964, ratifications by May 2012: 55)

1967 Declaration on the Elimination of All Forms of Discrimination against Women

1975 First United Nations World Conference on Women (Mexico City)

1976 Start of the UN Decade for Women: Equality, Development and Peace

1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (entry into force: 1981, ratifications by May 2012: 187)

1980 Second UN World Conference on Women (Copenhagen)

1985 Third UN World Conference on Women (Nairobi): Adoption of the Nairobi Forward-Looking Strategies for the Advancement of Women to the Year 2000

1994 Establishment of Special Rapporteur on Violence against Women

1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women of Belém do Pará (entry into force: 1995)

1995 Fourth UN World Conference on Women (Beijing)

1998 Rome Statute of the International Criminal Court (entry into force: 2002, ratifications by May 2012: 121)

1999 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (entry into force: 2000, ratifications by May 2012: 104)

2000 UN Security Council Resolution S/RES/1325 (2000) on Women and Peace and Security

2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (entry into force: 2003, ratifications by May 2012: 147)

2000 23rd Special Session of the General Assembly on "Women 2000: Gender Equality, Development and Peace for the 21st Century"

2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

2005 Beijing + 10: Ten-year Review and Appraisal of the Beijing Declaration and Platform for Action and the Outcome Document of the Twenty-Third Special Session of the General Assembly

2008 UN Security Council Resolution S/RES/1820 (2008) on Women and Peace and Security

2009 UN Security Council Resolution S/RES/1888 (2009) on Women and Peace and Security

2009 UN Security Council Resolution S/RES/1889 (2009) on Women and Peace and Security

2009 UN Security Council Resolution S/RES/1894 (2009) on the Protection of Civilians in Armed Conflicts

2010 UN Security Council Resolution S/RES/1620 (2010) on Women and Peace and Security

2010 Beijing + 15: Fifteen-year Review and Appraisal of the Beijing Platform for Action

2010 Foundation of UN Women (United Nations Entity for Gender Equality and the Empowerment of Women) by the United Nations General Assembly

2011 UN General Assembly Resolution A/RES/66/132 on the follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly

SELECTED ACTIVITIES

ACTIVITY I: PARAPHRASING THE CEDAW

Part I: Introduction

This activity aims at improving the understanding of the CEDAW and is especially meant for non-lawyers who are not familiar with legal terminology.

Part II: General Information

Type of activity: Exercise

Aims and objectives: Raising awareness about women's rights; becoming familiar with legal terminology; working out different viewpoints on women's rights; discussing legal instruments dealing with women's rights.

Target group: Young adults and adults

Group size: 20-25; small group work and full group discussion

Time: approx. 60 minutes

Material: Copies of the CEDAW, paper, pencils

Skills involved: Understanding and paraphrasing legal terminology, communicating, co-operating, and assessing different points of view.

Part III: Specific Information on the Activity
Instructions:
After having given an introduction to the CEDAW, ask the participants to split into groups of 4 or 5. Each of the groups will be assigned a part of the CEDAW to translate it into *non-legal*, everyday language. It is also possible to assign the same article or articles to each group, which makes detailed discussion more interesting as different people might perceive certain wordings differently.

Give the groups 30 minutes time to work, then call them back to the plenary. Each working group presents its "translation" to the full group. Leave time to discuss and clarify questions. Then have the group look at the situation in their home country/countries. A discussion of all or some of the following questions can be useful in assessing what has to be changed:

- Does your society set women's rights apart from human rights? How is this segregation done: By law? By custom?
- Is the segregation outspoken? Is it a "fact of life" that no one really talks about?
- Does it affect all women? If not, which women are most affected?
- Describe particular examples of gender segregation.
- How do women respond to segregation?
- Are there human rights that men enjoy as a matter of course while women have to make special effort to have them acknowledged?
- Are there areas of life where women are expected to act through the intermediary of men? What are the obstacles to women's autonomy?
- What does the constitution of your country say about women's rights? Are there disparities between reality and the constitution?
- Are you aware of any lawsuit currently in process regarding women's human rights? What is the issue? Which rights are affected?

Practical hints:
Working in small groups of 4 or 5 allows more intensive discussions and gives silent or timid participants a better chance of becoming involved. Nevertheless, the results of the group work should always be presented and discussed in front of everyone in order to ensure the same level of knowledge for all participants.

Suggestions for variations:
The activity can be carried out with any legal document according to the interests of the participants and the topics of the course.

Part IV: Follow-up
A suitable follow-up could be to organise a women's rights campaign.

Related rights/further areas of exploration:
Human rights in general, minority rights, non-discrimination.

**ACTIVITY II:
THE PATH TO EQUALIA**

Part I: Introduction
It's a long and winding road to equality… participants help travellers to find their way amidst various obstacles by drawing a fantasy map of the path to Equalia, a country where true gender equality exists. Equalia in present exists only in people's imagination but their map shows the way to the future.

Part II: General Information
Type of activity: Group work, imagination and drawing
*Aims and objective*s: Developing understanding and appreciation of the goals of equality and gender balance; developing imagination and creativity to envision the future; promoting justice and respect
Target group: Young adults and adults

Group size: 10-30; work in small groups and full group discussion

Time: approx. 90 minutes

Material: Sheets of paper and pencils for the brainstorm, flipchart paper, marker pens of different colours, a hiking map or any other sort of map that shows physical features, such as mountains, valleys, rivers, forests, villages, bridges, etc.

Preparation: Familiarise yourself with the map and the symbols used

Skills involved: Analysing, discussing and group decisions, creative skills/drawing

Part III: Specific Information on the Activity
Instructions:

- Explain that in this activity participants will be drawing a fantasy map of how to travel to Equalia, a country where there is true gender equality.

- Ask participants to remember folk tales or other stories that use the metaphor of a person going on a journey to present moral ideals. Figure out some common metaphors – the way a dark forest, for instance, may be used as a metaphor for evil or a red apple to represent temptation. The traveller may show moral strength swimming across a fast flowing river or humility helping another person.

- Briefly review what a map looks like. Point out the ways that contours are drawn, the shading for mountains and rivers and the symbols that are used for forests, moorland, buildings, power cables, etc.

- Ask people to get into small groups of 3 to 5 people. Hand out the sheets of paper and pens and give them about 15 minutes to make 3 short brainstorms on what they imagine Equalia might look like, which obstacles they might encounter on the path to Equalia and how they would overcome the obstacles.

- Now hand out the flipchart paper and the markers. Ask each group to make their own fantasy map to represent the landscapes of the present and the future together with a path that runs between the two. They should make up their own symbols for the geographical features and for the obstacles and facilities that lie along the path.

- Give the groups 40 minutes to draw their maps. Remind them to make a key for the symbols they have used.

- Come into plenary and ask people to present their maps.

Feedback:

Start with a discussion about the way the different groups worked together and how they made decisions about what to represent and about the way they drew the map. Then go on to talk about what Equalia in reality might look like and about the obstacles:

- Did people enjoy the activity? What did they enjoy?

- Which of the 3 questions was the easiest to brainstorm? Which was the hardest? Why?

- What were the main features of Equalia?

- What are the main obstacles which prevent their present society from being the ideal Equalia?

- If you had to rate your country amongst all the countries of the world for equal opportunities for both men and women, how would you rate it on a scale of 1 to 10? 1 is very unequal, 10 is almost ideal equality.

- What needs to change in order to build a society where there is gender equality?

- What is the role of education for empowerment and human rights?

- Are policies of positive discrimination justified as short term measures to boost gender equality?

- Which other groups are discriminated against in your society? How is this manifested? Which human rights are being violated?

- How can disadvantaged groups be empowered to claim their rights?

Part IV: Follow-up
Look at your own school, club or workplace policies about equal opportunities in relation to gender and discuss how the policies are implemented and whether or not any changes or extra efforts need to be made in order to bring your institution to the status of Equalia. ***Related rights/further areas of exploration:*** Human rights in general, minority rights, non-discrimination.
(Source: Rui Gomes et al. (eds.). 2002. *COMPASS. A manual on human rights education with young people.*)

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Economic Commission for Latin America and the Caribbean: www.eclac.org

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International Council of Women: www.icw-cif.info

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RULE OF LAW
AND FAIR TRIAL

THE RULE OF LAW IN DEMOCRATIC SOCIETIES

FAIR TRIAL – CORE ELEMENT OF THE RULE OF LAW

THE ELEMENTS OF A FAIR TRIAL

»*The rule of law is more than the formal use of legal instruments, it is also the Rule of Justice and of Protection for all members of society against excessive governmental power.*«

International Commission of Jurists. 1986.

ILLUSTRATION STORY

On February 9, 2011, S. is scheduled to stand trial for her alleged involvement in a 1998 explosion in Istanbul's Spice Bazaar that killed seven people and injured more than 100. It is the third attempt to convict her for carrying out a lethal bombing, despite substantial evidence that there was no bombing and that the explosion was the result of a gas leak.

In 1998, S., then 27, had been working on a street art project in Istanbul when she was arrested. A 19-year-old youth, Ö., was also arrested. The case against them was based on the repeatedly contested claim that the explosion was caused by a bombing and on an allegation of S.' guilt made by Ö. during interrogation. Ö. later retracted his allegation in court, saying he had been coerced into making the accusation under torture by police. S. also alleges she was severely tortured in police custody.

Police reports initially discounted a bombing and suggested the explosion was caused by a gas leakage. While the prosecutor who indicted S. and Ö. labeled the explosion a bombing, this was later refuted by three separate reports from experts in different university departments. Autopsy reports did not find any evidence that the deaths were caused by a bombing.

When Ö. was acquitted on all charges, which the Court of Cassation upheld, the original trial court ruled that his statement was inadmissible as evidence against S. No other evidence, testimonial or forensic, was ever offered to establish any link between S. and the explosion.

A written statement purportedly made by Ö.'s aunt in which she allegedly identified S. as having visited her home was shown to have been fabricated when it became clear in court that his aunt spoke only Kurdish, not Turkish, and she testified that the police had forced her to sign a paper whose contents she did not know. In court, both Ö. and his aunt stated that they had never even met S.

"The trial of S. is a perversion of the criminal justice system and abuse of due process", said Emma Sinclair-Webb, Turkey researcher at Human Rights Watch, who will attend the trial. *"The pursuit of this case for 12 years violates the most basic requirements for a fair trial. These baseless charges should be dropped once and for all."*

Well-founded concerns persist in Turkey about politically motivated prosecutions, Human Rights Watch said. Prosecutors and judges have pursued unwarranted cases against journalists and editors, human rights defenders, individuals participating in demonstrations, and those engaged in legal pro-Kurdish political activity.

S. is a sociologist who has campaigned and written extensively on human rights issues in Turkey, including issues of gender, lesbian, gay, bisexual, and transgender rights as well as Kurdish and other minority rights. Her trial is one of the most striking instances of this pattern of unfair trials that appear politically motivated, Human Rights Watch said.

(Source: Human Rights Watch. 2011. *Turkey: Activist's Trial a Travesty of Justice.*)

Discussion questions

1. What do you think are the reasons for S.' prosecution?
2. Which rights have been violated?
3. What can be done to prevent similar situations from occurring again?
4. Which international protection systems can be used in such cases?

NEED TO KNOW

1. INTRODUCTION

Imagine yourself sitting in a courtroom without any idea why. You get even more confused when the judge starts to read out the charge – the crime you are accused of has never been considered illegal before, as it is not laid down in the present legislation. Nobody answers your questions, you feel absolutely unable to defend yourself, but a legal counsel is not available. Even worse, when the hearing of the witnesses opens, you find out that at least one of them speaks a language you do not understand and there is no interpreter. During the trial, you learn from the judge that this is the second hearing and the first has taken place without your presence. The longer the trial goes on, the clearer it becomes that everybody is convinced of your guilt, and that the only real question is what the punishment should be.

This example shows what happens when the guarantees of a **fair trial** are violated. The right to fair trial, which is also called "fair administration of justice", is one of the cornerstones of a democratic society abiding by the "**rule of law**".

The Rule of Law

The rule of law cuts across various policy fields and comprises political, constitutional, and legal as well as human rights aspects. Any democratic society needs to ensure respect for the rule of law. This is essential for the effective protection of human rights.

☺☞ *Right to Democracy*

Although the rule of law is a cornerstone of a democratic society, there is no complete consensus on all its elements. However, it is commonly accepted that citizens are only protected against arbitrary acts of public authorities, if their rights are laid down in law. This law has to be **publicly known, equally applied and effectively enforced**. It is thus evident that the execution of state power must be based on laws that were made according to the constitution and with the aim of safeguarding freedom, justice and legal certainty.

In 1993 the **UN World Conference on Human Rights in Vienna** reaffirmed the inseparable link between the principle of the rule of law and the protection and promotion of human rights. It recognised that the absence of the rule of law is one of the major obstacles to the implementation of human rights. The rule of law provides the foundation for the just management of relations between and among people, and it constitutes an essential pillar of the democratic process. The rule of law also ensures **accountability** and provides a mechanism for control of those in power.

"For the United Nations, the rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to

the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."
(Source: United Nations. 2004. *The Rule of Law and Transnational Justice in Conflict and Post-Conflict Societies.*)

**Historical Development
of the Rule of Law**
The roots of the principle of the rule of law can be traced back to Greek philosophers like Aristotle, who showed the advantages of the rule of law over the rule by discretion. A further step can be recognised in medieval England where, in 1066, a central administration was established by William the Conqueror. Although the king embodied the central executive, legislative and juridical power, he himself did not stand above the law – it was the law that had made him king. Consequently, the common law courts and the parliament, together with the nobility, strengthened their influence in the national system, building the first parliamentary monarchy in Europe. The cornerstones in the development of the rule of law were the *Magna Carta Libertatum* (1215), granting certain civil and political rights to the nobility, and the *Habeas Corpus Act* (1679), which gave people in custody the undeniable right to be informed why their liberty was restricted.

In Europe, the principle of the rule of law gained importance in the civil revolutions throughout the 17th and 18th century. Today, the rule of law is a core principle of national and regional institutions across the world.

**Rule of Law, Fair Trial
and Human Security**
Human security is rooted in the rule of law and fair trial and cannot be realised without these fundamental principles. Rule of law and fair trial contribute directly to the security of the person and guarantee that no one is prosecuted and arrested arbitrarily and that everyone is provided with a fair court hearing presided by an independent and impartial judge. Fairness in court proceedings is constituent to justice and assures the confidence of the citizens in a law-based and impartial jurisdiction.

Furthermore, a strong judicial system performs not only a corrective but also a strong preventive function; it can help curtail crime rates and corruption, thus contributing to freedom from fear. In post-conflict situations it is especially important to re-establish the rule of law and the right to fair trial in order to enhance human security through legal certainty, the unbiased administration of justice and good governance. These are key means by which citizens can regain confidence and trust in the state and its authorities.

With regard to economic growth and development, a favourable investment climate also strongly depends on a well functioning administrative and judicial system. Hence, economic progress and social welfare, which assure social and economic security and directly contribute to freedom from want, are also dependent on the rule of law and fair trial.

"[…] support for human rights and the rule of law actually works to improve human security. Societies that respect the rule of law do not provide the executive a blanket authority even in dealing with exceptional situations. They embrace the vital roles of the judiciary and the legislature in ensuring governments take a balanced and lawful approach to complex issues of national interest."

Louise Arbour, UN High Commissioner for Human Rights. 2004.

2. DEFINITION AND DESCRIPTION OF A FAIR TRIAL

Fair Trial as a Core Element of the Rule of Law

The **rule of law** means, in the first place, the existence and the effective enforcement of publicly known and non-discriminatory laws. For this purpose, the state has to establish institutions that safeguard the legal system, including courts, prosecutors and police. These institutions are themselves bound by human rights guarantees, as laid down in the univer-sal and regional treaties for the protection of human rights, such as the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights, the American Convention on Human Rights and the African Charter on Human and Peoples' Rights.

The right to a **fair trial** relates to the administration of justice in both civil and criminal contexts. At the outset, it is important to understand that the proper administration of justice has two aspects: the institutional (e.g. independence and impartiality of the tribunal) and the procedural (e.g. fairness of the hearing). The principle of fair trial upholds a series of individual rights ensuring due process of law from the moment of suspicion to the enforcement of the judgment.

Minimum Standards of the Rights of the Accused:

1. All persons shall be equal before courts and tribunals and are entitled to the minimum guarantees of a fair trial in **full equality**.
2. Everyone charged with a criminal offence has the **right to be informed promptly** and in detail in a language which she/he understands of the nature and cause **of the charge** against her/him.
3. Everyone charged with a criminal offence has the **right to be presumed innocent until proven guilty** according to law.
4. The **tribunal** shall be **competent, independent, impartial, and established by law**.
5. Everyone shall be entitled to a **fair and public hearing**; thus, the general public can be excluded only in specified cases.

6. Everyone has the right to be tried **without undue delay**.

7. Everyone has the right to be **tried in her/his presence**. The accused has the right to defend herself/himself in person or through **legal assistance** of his own choosing; if she/he does not have legal assistance she/he shall be informed of this right; in any case where the interests of justice so require the accused shall be assigned legal assistance without payment by her/him if she/he does not have sufficient means to pay for it.

8. The accused has the right to **examine**, or have examined, the **witnesses** against her/him and to obtain the attendance and examination of witnesses on her/his behalf. The accused has the **right not to be compelled to testify against herself/himself or to confess guilt**.

9. The accused has the right to have the free assistance of an **interpreter** if she/he cannot understand or speak the language used in court.

10. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed (*"nullum crimen, nulla poena sine lege"*). Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed.

11. Everyone has the right to free access to effective and fair judicial **remedies**. Everyone convicted of a crime shall have the right to his conviction and sentence being **reviewed by a higher tribunal** according to law.

(Source: Extracted from the main UN Human Rights instruments.)

The international provisions on the right to a fair trial (for example Article 14 of the ICCPR which has been specified and interpreted by the Human Rights Committee in its General Comment No. 32 in 2007) apply to all courts and tribunals, no matter if ordinary or specialised. In many countries, there are **military or special courts** which try civilians. Quite often, the reason for the establishment of such courts is to enable exceptional procedures to be applied which do not comply with regular standards of justice. While the Covenant does not prohibit such categories of courts, its provisions clearly indicate that the trying of civilians by such courts should be exceptional and take place under conditions which fully comply with the ICCPR's guarantees.

Equality before the Law and before the Court

The guarantee of equality is one of the general principles of the rule of law. It prohibits discriminatory laws and includes the right to **equal access to the courts** and **equal treatment by the courts**.

Its most important practical aspect is the **equality of arms**, comprising the idea that each party should have an equal opportunity to present its case and that neither party should enjoy any substantial advantage over their opponent.

The other aspect of equal treatment by the courts is that every accused person is entitled to be treated equally to other accused persons, without discrimination on any grounds. However, in this context it should be kept in mind

that equal treatment does not mean identical treatment. It means that where the objective facts are similar, the treatment by the administrative and judicial system must be similar, but where the facts found are different, the equality principle requires different treatment. ☺☞ *Non-Discrimination*

Independence and Impartiality ☺‼?

One of the basic elements of a functioning rule of law system is the role of **independent and impartial courts** in the legal system. According to the principle of the separation of powers, the judicial power has to be completely separate from the legislative and executive powers. This means that the judiciary as an institution as well as the individual judges must be able to exercise their professional responsibilities without being influenced.

The **independence of judges** is one of the pillars of an independent judiciary. If judges can be removed at any time by the government or other authorities, their institutional independence is not secured. Furthermore, if either the courts or the judges themselves are under the control or influence of non-judicial entities, a fair trial cannot be ensured. Such control which contravenes the principle of judicial independence might be exerted by special conditions of payment of judges, the right of the Minister of Justice to issue directives to courts, threats of transfer of judges to other posts should their decisions not conform to expectations or instructions, etc.

Furthermore, court decisions may not be overruled by a non-judicial authority, except in the case of constitutionally recognised amnesties, usually granted by the Head of State.

The fair trial norms do not require any specific structure for judicial benches, which may comprise professional judges only, combined panels of professional and lay judges, or other combinations of these. However, there are international standards on the independence of the judiciary, which also include provisions for the appointment of judges. No international human rights instrument requires a trial by a jury. However, where a country has instituted a jury system, the requirements of independence and impartiality apply to the jury members as well.

"The military commissions set up by Presidents Bush and Obama at Guantanamo do not meet international standards for fairness and must be abandoned.

Military commissions have been specifically crafted to enable the U.S. authorities to circumvent protections that defendants would enjoy in a civilian courtroom. The fact that they have undergone multiple statutory and procedural revisions suggests that they fall short of the "regularly constituted court" standard required by Common Article 3 of the Geneva Conventions.

Amnesty International has long called for any Guantanamo detainee whom the USA intends to prosecute to be promptly charged and brought to fair criminal trial in an independent and impartial tribunal applying fair trial standards, such as a U.S. federal court. […]"

(Source: Amnesty International. 2011. *Military Commissions*.)

Public Hearing ☺‼?

In order to foster confidence in the administration of justice and ensure a fair hearing of the parties, proceedings should be open to the general public. According to the principle that **justice should not only be done but should be seen to be done**, the public has the right to know how justice is done and which decisions have been taken. A public hearing requires oral hearings on the merits of the case, which have

to be held in a place which can be attended by the public and the press. In this respect, the time and the venue of the oral hearings have to be made publicly known by the courts. The principle of publicity must be fully respected, unless there is a legitimate reason requiring the exclusion of the public.

The reasons for **restrictions** are provided in the international instruments, e.g. Article 14 of the ICCPR, according to which the press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

However, even in cases in which the public is excluded from the trial, any **judgment** rendered in a criminal case or in a suit at law **must be made public** (except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children).

Right to be Presumed Innocent

The right to be presumed innocent means that everyone who has been charged with a criminal offence has the right to be presumed innocent and shall be treated as innocent until and unless she or he has been proven guilty according to the law in a fair trial. This principle applies from the moment of suspicion and ends when a conviction is confirmed after a final appeal. Thus, in criminal cases the prosecution has to prove an accused person's guilt and if there is a reasonable doubt, the accused must not be found guilty.

The right to be presumed innocent requires that judges and juries refrain from prejudging any case. This also applies to all other public officials who are part of the procedure. The presumption of innocence also needs to be respected by professional and citizen journalists.

The **right to remain silent** and the **right not to be compelled to testify against oneself or to confess guilt** also fall within the principle of the right to be presumed innocent. The right to remain silent requires also that silence shall not be taken into consideration in the determination of guilt or innocence. The right not to be compelled to testify against oneself or confess guilt implies the prohibition of applying any form of pressure.

Right to be Tried without Undue Delay

The period relevant for the right to be tried without undue delay includes not only the time until the trial begins but the total length of the proceedings, including a possible appeal to a higher tribunal, up to the Supreme Court or any other final judicial authority.

What constitutes a reasonable length of time may differ according to the nature of the case in dispute. The assessment of what may be considered undue delay depends on the circumstances of the case, such as its complexity, the conduct of the parties, what is at stake for the applicant and the handling by the authorities. Furthermore, it should be taken into account that in criminal law the right to have a fair trial without undue delay is a right of the victims, too, the underlying principle of which is well expressed in the phrase: *"Justice delayed is justice denied."*

Right to Adequate Defence and Right to be Tried in One's Presence

Everyone charged with a criminal offence shall have the right *"to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it"* (Article 14 (3) (d) of the ICCPR).

Contents of the right to defence and the right to be tried in one's presence:
- the right to defend oneself in person;
- the right to choose one's own counsel;
- the right to be informed of the right to counsel;
- the right to be tried in one's presence; and
- the right to receive free legal assistance.

Depending on the severity of the possible punishment, the state is not obliged to assign a legal counsel in every case. For instance, the UN Human Rights Committee has held that any person charged with a crime punishable by death must have assigned a counsel. However, a person accused of speeding would not necessarily be entitled to have counsel appointed at the expense of the state. According to the Inter-American Court of Human Rights, counsel must be provided if it is necessary to ensure a fair hearing.

When assigning the counsel, it should be taken into consideration that the accused has the right to an experienced, competent and effective defence counsel. Every person also has the right to confidential consultations with her/his lawyer.

Although there is a right to be tried in one's presence, in exceptional cases trials in absentia can be held provided that there are justified reasons and the rights of defence are strictly observed. The defence lawyer can never be excluded from the proceedings.

Right to Call and to Examine or Have the Witnesses Examined

According to the principle of equality of arms, the defence and the prosecution must have **procedural equality**. This provision is designed to guarantee the accused the same legal powers of obtaining the attendance of witnesses and of examining or cross-examining any witness who is available to the prosecution. It ensures that the defence has the opportunity to question witnesses who will give evidence and to challenge evidence against the accused.

There are some limitations on the examination of prosecution witnesses. They come into force on the basis of the conduct of the accused, if the witness reasonably fears reprisal or if the witness becomes unavailable.

Right to Free Assistance of an Interpreter

Every person who does not understand or speak the language used in court has the right to have free assistance of an interpreter, including the translation of documents. The right to an interpreter applies equally to nationals and non-nationals not sufficiently proficient in the language of the court. The right to an interpreter can be claimed by the suspect or by the accused at the moment of interrogation by the police, by an investigating judge or during the trial. During the proceedings the interpreter translates orally to the accused and to the court.

Access to Effective and Fair Judicial Remedies

The fair trial norms list a number of elements comprising the fair administration of justice. To some extent these elements may be seen as describing the general characteristics of judicial institutions and outlining the broad parameters by which the fairness of a proceeding can ultimately be judged. However, before arriving at the point where such evaluations can be made, an individual must have been provided with the opportunity to have his or her case heard.

One important point at issue in cases alleging a violation of the right of access to court is that the state cannot restrict or eliminate **judicial review** in certain fields or for certain individuals.

Judgments in civil and criminal proceedings need to be appealable. This means that higher authority courts with the competence to review and overrule the decision of first instance courts have to be institutionalised at the national level, therefore contributing to the prevention of arbitrariness.

The Principle of *"nulla poena sine lege"*

The Latin phrase *"nulla poena sine lege"* simply means that no one can be found guilty for acts which were not forbidden by law when they were committed, even if the law has changed since then. Accordingly, a higher penalty than that applicable at the time of the criminal offence cannot be imposed. This so-called **non-retroactivity** of the law ensures that a person living in compliance with the law does not run the risk of suddenly being punished for originally lawful acts. Therefore, the application of the principle of non-retroactivity is indispensable for legal certainty.

The "Radbruch Formula"

In the so-called *"Mauerschützenfälle"* (the cases of the shooters at the wall dividing Germany in two) the question was raised whether East German border guards who had received the order to shoot persons trying to cross the border could be punished for manslaughter after the fall of the Berlin wall, although their acts had not been prohibited but rather required by the law of the German Democratic Republic. By applying the so-called "Radbruch Formula", according to which in the case of a conflict between positive law and substantive justice the principle of legal certainty has to be disregarded, the Federal Court of Justice of Germany in a landmark decision affirmed the punishability of the perpetrators, which was upheld by the German Federal Constitutional Court.

The "Radbruch Formula" reflects the shift in rule of law paradigms: In the context of the Nuremburg Laws it had to be realised at the latest, that positive law had been used to justify even the most terrible human rights violations and that a state under the rule of law has to protect human rights in any situation.

Right to Bail

Most legal orders foresee a right to bail, i.e. to be set free against a financial security while waiting for the court proceedings to start. When provided for in the laws of a state, the right to bail must not be denied and not implemented in an arbitrary way, although the judge usually has discretionary powers in making his decision.

Special Provisions for Children and Juveniles

Some international human rights treaties, like the ICCPR, the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and the American Convention on Human Rights, make special reference to **children** and **juveniles**. For example, Article 14 of the ICCPR provides that in the case of juveniles, the procedure shall take account of their age and the desirability of promoting their rehabilitation. This means that states should draft legislation concerning relevant matters such as the minimum age at which a juvenile may be charged with a criminal offence, the maximum age at which a person is still considered to be a juvenile, the existence of special courts and procedures, the laws governing procedures against juveniles and how all these special arrangements

for juveniles take account of "*the desirability of promoting their rehabilitation*". For countries which have not abolished the death penalty, Article 6 of the ICCPR provides that sentence of death shall not be imposed for crimes committed by persons below 18 years of age.
☺☞ *Human Rights of the Child*

Executions of Juveniles since 1990
"*The use of the death penalty for crimes committed by people younger than 18 is prohibited under international human rights law, yet some countries still execute child offenders. Such executions are few compared to the total number of executions in the world. Their significance goes beyond their number and calls into question the commitment of the execut-ing states to respect international law. Since 1990 Amnesty International has documented 87 executions of child offenders in 9 countries: China, the Democratic Republic of Congo, Iran, Nigeria, Pakistan, Saudi Arabia, Sudan, the USA and Yemen. Several of these countries have changed their laws to exclude the practice. Executions of child offenders represent a tiny fraction of the total of executions worldwide recorded by Amnesty International each year. The USA and Iran have each executed more child offenders than the other eight countries combined and Iran has now exceeded the USA's total since 1990 of 19 child executions.*"
(Source: Amnesty International. *Executions of Juveniles since 1990.*)

Recorded executions of child offenders since 1990:			
Year	Recorded executions of child offenders	Total recorded executions worldwide	Countries carrying out executions of child offenders (numbers of reported executions are shown in parentheses)
1990	2	2029	Iran (1), USA (1)
1991	0	2086	--
1992	6	1708	Iran (3), Pakistan (1), Saudi Arabia (1), USA (1)
1993	5	1831	USA (4), Yemen (1)
1994	0	2331	--
1995	1	3276	Iran (1)
1996	0	4272	--
1997	2	2607	Nigeria (1), Pakistan (1)
1998	3	2258	USA (3)
1999	2	1813	Iran (1), USA (1)
2000	6	1457	Congo (Democratic Republic) (1), Iran (1), USA (4)
2001	3	3048	Iran (1), Pakistan (1), USA (1)
2002	3	1526	USA (3)
2003	2	1146	China (1), USA (1)
2004	4	3797	China (1), Iran (3)
2005	10	2148	Iran (8), Sudan (2)
2006	5	1591	Iran (4), Pakistan (1)
2007	14	1252	Iran (11), Saudi Arabia (2), Yemen (1)
2008	8	2390	Iran (8)
2009	7	714, excluding China	Iran (5), Saudi Arabia (2)
2010	1	527, excluding China	Iran (1)
2011	3	not available	Iran (3)

(Source: Amnesty International. *Executions of Juveniles since 1990.* Available at: www.amnesty.org/en/death-penalty/executions-of-child-offenders-since-1990.)

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

The principle of the rule of law is generally recognised. However, considerable cultural differences can be found when comparing the **interpretation of the content of the rule of law in different countries**. The most obvious distinction is the one between the American and the Asian understanding of the rule of law. American lawyers tend to attribute to the rule of law the specific characteristics of their legal system, such as the trial by jury, expansive rights of the defenders and a very clear division of powers, whereas Asian lawyers stress the importance of the regular and efficient application of the law without necessarily subordinating governmental powers to it. This narrower conception, better characterised as *rule by law* than *rule of law*, is closely connected to Asian models of democracy.

☺☞ *Right to Democracy*

In the enjoyment of civil and political rights, distinctions on the basis of sex are prohibited by Article 2 and Article 3 of the ICCPR. However, in some regions, the **Shariah** – the Islamic codification of law – limits the **rights of women to a fair trial**, as they do not have the right to access to a court on an equal footing with men.

In many countries of the world, the rule of law still rules women out
"The past century has seen a transformation in women's legal rights, with countries in every region expanding the scope of women's legal entitlements. Nevertheless, for most of the world's women the laws that exist on paper do not always translate into equality and justice. In many contexts, in rich and poor countries alike, the infrastructure of justice – the police, the courts and the judiciary – is failing women, which manifests itself in poor services and hostile attitudes from the very people whose duty it is to fulfil women's rights. As a result, although equality between women and men is guaranteed in the constitutions of 139 countries and territories, inadequate laws and loopholes in legislative frameworks, poor enforcement and vast implementation gaps make these guarantees hollow promises, having little impact on the day-to-day lives of women. […] Well-functioning legal and justice systems can provide a vital mechanism for women to achieve their rights. Laws and justice systems shape society, by providing accountability, by stopping the abuse of power and by creating new norms about what is acceptable. The courts have been a critical site of accountability for individual women to claim rights, and in rare cases, to affect wider change for all women through strategic litigation."
(Source: UN Women. 2011. *2011-2012 Progress of the World's Women. In Pursuit of Justice.*)

☺☞ *Human Rights of Women*

Some of the most severe problems which **countries in transition to democracy** face are directly linked to governmental and legal systems characterised by widespread corruption and to poor functioning of the national judicial systems. The establishment of a well-functioning rule of law regime is essential to democracy, but takes time and requires financial resources. Furthermore, it is difficult to achieve judicial independence without a tradition of **respect for democratic values**

and civil liberties. However, in a world of economic globalisation, the international demand for stability, accountability and transparency, which can be guaranteed only by a regime respecting the rule of law, continues to grow.

Violations of the right to a fair trial do not only take place in countries in transition. Contrary to fundamental human rights guarantees, 171 foreign nationals are held detained (12 of which since January 2002) at the detention facility at the US Naval Base at **Guantánamo Bay** in Cuba without being formally charged with a crime. Since 2002, out of 779 detainees only one person was convicted by a US civil court. In its 2011 Report on the Guantánamo detention facility, Amnesty International stated that *"from day one, the USA failed to recognize the applicability of human rights law to the Guantánamo detentions. As we approach 11 January 2012, day 3,653 in the life of this notorious prison camp, the USA is still failing to address the detentions within a human rights framework. The now long-stated goal to close the Guantánamo detention facility will remain elusive – or achieved only at the cost of relocating the violations – unless the US government – all three branches of it – addresses the detentions as an issue that squarely falls within the USA's international human rights obligations."* (Source: Amnesty International. 2011. *USA. Guantánamo: A Decade of Damage to Human Rights.*)
☺☞ *Prohibition of Torture*

4. IMPLEMENTATION AND MONITORING

Implementation

The protection of human rights starts at the domestic level. Thus, the implementation of the rule of law depends on the willingness of a state to establish a system guaranteeing the rule of law and fair court proceedings. States must both establish and maintain the **institutional infrastructure** necessary for the good administration of justice and promulgate and implement laws and regulations guaranteeing fair and just proceedings.

The concept of the rule of law is very closely linked to the idea of **democracy**, and **civil and political liberties**, and its implementation depends on the realisation of these values. Various case studies from transitional countries show that the establishment of the rule of law fails if political leaders are unwilling to comply with basic democratic principles, thus enabling corruption and criminal organisational structures.

As a general rule, strengthening the rule of law is one of the most effective ways to fight corruption, prevent newly elected Heads of State from falling into authoritarian habits and foster respect for human rights through a functioning system of checks and balances. But how can all these concepts be implemented in reality?

"[…] it is a simple imperative of ensuring that the mechanisms of the rule of law are functioning with full authority and effect, nationally and internationally, so that claims can be heard and redressed, based upon the provisions of law and the requirements of justice."

Sérgio Vieira de Mello,
UN High Commissioner for Human Rights. 2003.

Basically, three steps are necessary: Firstly, the existing **law** has to be revised and new legal areas codified. Secondly, the **institutions** guaranteeing good administration of justice need to be strengthened, e.g. by guaranteeing judicial independence, implementing regular trainings of judges, etc. Lastly, **law enforcement** and respect for the law have to be increased. Ensuring respect for and implementation of **human rights** is a fundamental principle during the whole implementation process.

Specific **advisory bodies** like the Council of Europe's Venice Commission have been established to strengthen the rule of law. Professional associations of judges assist or monitor the performance of governments.

Monitoring

In most countries, basic human rights provisions are enshrined in the constitution. The constitution usually also provides for possibilities to have alleged human rights violations examined by domestic **courts**. On the international level, human rights treaties have been concluded to protect human rights. Once a state becomes a party to such a treaty, it is obliged to guarantee and implement the provisions at the domestic level.

In order to monitor the implementation of the human rights provisions, human rights treaties like the UN Covenant on Civil and Political Rights (ICCPR) provide for a supervisory mechanism. This mechanism consists of a **reporting system** whereby states parties are obliged to report at regular intervals to an international monitoring body on how they have implemented the treaty provisions. With regard to the implementation of the states' obligations under the ICCPR, the **UN Human Rights Committee** comments on the states parties' reports and makes suggestions and recommendations for improving the implementation of

the human rights obligations. In addition, the Committee issues **General Comments** on the interpretation of the ICCPR, such as General Comment No. 13 of 1984 on Equality before the Courts and the Right to a Fair and Public Hearing by an Independent Court established by Law (Article 14 of the ICCPR), which was replaced by General Comment No. 32 on Article 14: Right to Equality before Courts and Tribunals and to a Fair Trial in 2007.

Some of the human rights treaties also provide for **complaints mechanisms**. After having exhausted the domestic remedies, an individual may lodge a "communication" on an alleged violation of human rights which are guaranteed by that treaty. Such a possibility exists, for example, under the Optional Protocol of the UN Covenant on Civil and Political Rights, the European Convention on Human Rights (Article 34), the American Convention on Human Rights (Article 44) and the African Charter on Human Rights and Peoples' Rights (Article 55). Under these treaties individuals can submit their complaint to the UN Committee on Human Rights or the European Court of Human Rights, the Inter-American Commission on Human Rights or the African Commission on Human and Peoples' Rights. These treaty bodies may examine the complaint, and in the case of a violation of the respective human rights treaty, recommend to the state concerned to take the necessary steps to change its practice or the law and to provide redress for the victim. States parties are obliged to comply with the judgments of the European Court of Human Rights, the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights in any case to which they are parties.

As part of its thematic procedures, the UN Human Rights Commission established **Special Rapporteurs** on **extra-judicial, summary or**

arbitrary executions (1982), on **torture and other cruel, inhuman or degrading treatment or punishment** (1985), on the **independence of judges and lawyers** (1994), on **violence against women, its causes and consequences** (1994), on the **situation of human rights defenders** (2000), and on the **promotion and protection of human rights while countering terrorism** (2005). In 1991 a **Working Group** on **arbitrary detention** was established.

GOOD TO KNOW

1. GOOD PRACTICES

Office for Democratic Institutions and Human Rights (ODIHR) – OSCE

The mandate of ODIHR is to "*[…] ensure full respect for human rights and fundamental freedoms, to **abide by the rule of law**, to promote principles of democracy and […] to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society.*"
In the field of rule of law, ODIHR is engaged in a variety of technical assistance projects to foster the development of the rule of law. ODIHR carries out programmes in the areas of fair trial, criminal justice and the rule of law; further it provides lawyers, judges, prosecutors, government officials and the civil society with assistance and training. Through legal reform and legislative review projects, the office assists states in bringing domestic laws in line with OSCE commitments and other international standards. In this context, ODIHR mainly operates in Eastern and South-Eastern Europe, as well as in Central Asia and the Caucasus.

Strengthening the Independence of the Judiciary and Respect for the Right to a Fair Trial
In its **Resolution on the Respect and the Strengthening of the Independence of the Judiciary** adopted in 1996, the African Commission on Human and Peoples' Rights, recognising the need for African countries to have a strong and independent judiciary enjoying the confidence of the people for sustainable democracy and development, called upon African countries to take legislative measures to safeguard the independence of the judiciary; provide the judiciary with sufficient resources to fulfil its function; provide judges with decent living and working conditions to enable them maintain their independence; and to refrain from taking any action which may threaten directly or indirectly the independence and the security of judges and magistrates. Furthermore, it urged African judges to organise nationally and regionally, periodic meetings in order to exchange experience and evaluate efforts undertaken to bring about an efficient and independent judiciary. In 2011, the Commission adopted **the Principles and Guidelines on the Right to a Fair Trial and**

"Injustice anywhere is a threat to justice everywhere."

Martin Luther King Jr.

Legal Assistance in Africa, dealing with general principles applicable to all legal proceedings (e.g. fair and public hearing, independent and impartial tribunal, etc.), judicial training, the right to an effective remedy, access to lawyers and legal services, legal aid and legal assistance, the right of civilians not to be tried by military courts, provisions applicable to arrest and detention, etc. According to this instrument, the principles and guidelines provided should become generally known to everyone in Africa and be promoted and protected by civil society organisations, judges, lawyers, prosecutors, academics and their professional associations.

Asia Pacific Judicial Reform Forum

The Asia Pacific Judicial Reform Forum (AP-JRF) is a network aiming at supporting Asia Pacific jurisdictions committed to advancing judicial reform by sharing knowledge on judicial reforms, supporting human rights based justice reforms, developing practical tools for successful judicial reform and supporting country level implementation. The network consists of 49 superior courts and justice sector agencies from the countries which have committed to the APJRF.

2. TRENDS

International Tribunals

In response to mass atrocities, international tribunals such as the **International Criminal Tribunal for the former Yugoslavia (ICTY)** or the **International Criminal Tribunal for Rwanda (ICTR)** have been established as ad hoc courts by the United Nations to deal with war crimes, crimes against humanity and genocide and call to account those responsible. Established to try crimes committed in a specific conflict and during a specified time, the ad hoc tribunals work towards the com-

pletion of their mandate. The ICTY, for example, focuses on the prosecution and trial of the most senior leaders, and refers other cases to national courts in the former Yugoslavia, including assisting the national courts to handle war crimes cases.

The Rome Statute which was adopted by the international community in 1998 entered into force in 2002 and established the **International Criminal Court (ICC)**. It is a permanent institution with the power to exercise its jurisdiction over persons for the most serious crimes of concern to the international community as a whole, i.e. the crime of genocide, crimes against humanity, war crimes and the crime of aggression. The Court's jurisdiction is complementary to national criminal jurisdictions. To date, 121 countries are states parties to the Rome Statute.

Like the ICTY and the ICTR, **mixed courts or tribunals ("hybrid bodies")** are established for a certain amount of time to deal with particular situations. The mandate of these bodies is to sanction serious violations of international humanitarian and human rights law committed by individuals and help reestablishing the rule of law. Hybrid courts combine aspects of international law and national law and are mixed in their composition. This model has been used for setting up courts for Sierra Leone, East Timor, Kosovo, Cambodia, and Lebanon. The **Special Court for Sierra Leone**, for example, is mandated to try those responsible for serious violations of international humanitarian law and Sierra Leonean law committed on its territory, and was set up jointly by the Government of Sierra Leone and the United Nations.

Mediation and Arbitration

States are engaging more actively in **alternative dispute resolution procedures** (mediation and arbitration) to relieve courts and shorten court procedures but also with the

aim of creating "win-win situations" for the parties by finding mutually acceptable solutions. While court proceedings aim at the prosecution of legal claims, mediation also takes into consideration the needs and interests of the individuals and thus brings better results in matters such as business, family or neighbourhood relations.

Mediation is a method of dispute settlement by the parties with the guidance and facilitation of a third party. **Arbitration** is the settlement of a dispute through a decision of an arbitrator, which is binding upon the parties. Many countries provide for mandatory mediation at the pre-trial stage. The necessity of a court trial arises only if mediation does not lead to a solution. In the US and Australia, for example, so-called "settlement weeks" take place periodically, within which all court-connected cases are mediated. And indeed, a large number of cases are settled successfully. Yet, one could argue that the parties are denied access to court as the alternative to time- and money-intensive court proceedings may impose a certain pressure on the parties to find a solution.

(Re-)Establishing the Rule of Law in Post-Conflict and Post-Crisis Societies

Recent years have seen an increased focus by the United Nations, other international organisations, as well as the international community on the issue of (re-)establishing the rule of law in post-conflict societies. This increased focus on the rule of law has also led to the development of certain principles for the establishment of the rule of law in post-conflict societies:

- providing rule of law assistance that is appropriate to the particular country concerned, and building upon local practice;
- public consultation, participation and debate when planning rule of law reforms;
- establishment of independent national human rights commissions;
- inclusion of appropriate justice and rule of law elements in peacekeeping mandates;
- providing sufficient human and financial resources in the UN to plan the rule of law components of peace operations.

In order to overcome gaps in past and present post-conflict strategies, the Commission of Human Security proposes a comprehensive human security approach which consists of five human security clusters. One of them is "*governance and empowerment*" which pursues as one of its top priorities the establishment of institutions that protect people and uphold the rule of law.

"Justice is an indispensable ingredient of the process of national reconciliation. It is essential to the restoration of peaceful and normal relations between people who have lived under a reign of terror. It breaks the cycle of violence, hatred and extra-judicial retribution. Thus peace and justice go hand in hand."

Antonio Cassese, former ICTY President.

"For the United Nations, the rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."

(Source: United Nations. 2004. *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies.*)

3. CHRONOLOGY

1948 Universal Declaration of Human Rights, Art. 6, 7, 8, 9, 10, 11

1948 American Declaration of the Rights and Duties of Man, Art. I, II, XVII, XVIII, XXVI

1949 Geneva Convention (III) relative to the Treatment of Prisoners of War, Art. 3(d), 17, 82, 83, 84, 85, 86, 87, 88

1949 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Art. 3(d), 33, 64, 65, 66, 67, 70, 71, 72, 73, 74, 75, 76

1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 5, 6, 7, 13

1965 International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5(a), 6

1966 International Covenant on Civil and Political Rights, Art. 9, 10, 14, 15, 16, 26

1969 American Convention on Human Rights, Art. 8, 9

1977 Additional Protocol I to the Geneva Conventions, Art. 44(4), 75

1977 Additional Protocol II to the Geneva Conventions, Art. 6

1979 Convention on the Elimination of All Forms of Discrimination against Women, Art. 15

1981 African Charter on Human and Peoples' Rights (Banjul Charter), Art. 7, 26

1982 UN Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions

1984 Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, Art. 15

1984 Protocol No. 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 1, 2, 3, 4

1984 General Comment No. 13 on Equality before the Courts and the Right to a Fair and Public Hearing by an Independent Court established by Law (Article 14 of the ICCPR)

1985 UN Basic Principles on the Independence of the Judiciary

1985 UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

1985 UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

1989 Convention on the Rights of the Child, Art. 37, 40

1990 UN Basic Principles on the Role of Lawyers

1990 UN Guidelines on the Role of Prosecutors

1991 UN Working Group on Arbitrary Detention

1993 Statute of the International Criminal Tribunal for the former Yugoslavia

1994 Statute of the International Criminal Tribunal for Rwanda

1994 UN Special Rapporteur on the Independence of Judges and Lawyers

1994 UN Special Rapporteur on Violence against Women, its Causes and Consequences

1998 Rome Statute of the International Criminal Court

2000 UN Special Rapporteur on the Situation of Human Rights Defenders

2004 Arab Charter on Human Rights, Art. 12, 13, 15, 16, 17, 19

2005 UN Special Rapporteur on the Promotion and Protection of Human Rights while countering Terrorism

2006 Convention on the Rights of Persons with Disabilities, Art. 5, 12, 13, 14

2007 General Comment No. 32 on Article 14: Right to Equality before Courts and Tribunals and to a Fair Trial

SELECTED ACTIVITIES

ACTIVITY I: TO BE HEARD OR NOT TO BE HEARD?

1

Part I: Introduction
Understanding the rules and procedures of a trial is crucial for the understanding of the judicial system and for the ability to stand up for one's rights.

Part II: General Information
Type of activity: Role-play

Aims and objectives: Experiencing a courtroom situation, identifying the notion of a fair and public trial, developing analytical and democratic skills

Target group: Young adults and adults

Group size: 15-20

Time: About 90 minutes

Preparation: Arrange the classroom as a courtroom. Place one table for the judge in the front and two others at right angles to it and facing each other, one for the accused and the defence, the other one for the prosecuting team.

Skills involved: Critical thinking and analytical skills, communicating, opinion building, empathetic skills.

Part III: Specific Information on the Activity
Instructions:

Explain that you are going to perform a courtroom situation in two different scenarios, one

without a defence and one with defending mechanisms. Explain the roles and let participants choose:

- One person falsely accused of an offence, such as stealing.
- A team of two or three persons leading the prosecution.
- A group of three or four persons bringing the charges and writing them up on the board/flip chart.
- A judge.

The accusers and the group bringing the charges have 10 minutes to prepare the accusatory statement.

Performance of the role-play:

In the first scenario, there are no defending attorneys and the accused cannot defend herself/himself. The other participants represent the audience in court. No one else in the class is allowed to voice an opinion. Ask the accusers to state their case to the judge and have the judge make a decision only on that basis.

After this, for a second scenario, appoint a new judge to give the final verdict of guilty or not guilty. Also appoint a defence team of two or three persons. Allow the defendant to speak and the defence team to make their statement. The audience may give opinions as well. Only now does the new judge have to reach a decision.

Feedback:

Bring the participants back together.

First ask those who participated in the role plays:

- How much were they able to influence the judge's decision and how realistic was the simulation?

Now move on and motivate the whole group to think about the process and purpose of the two role plays:

- What was different in the two scenarios and why?
- Did participants feel uncomfortable with the first scenario?

- Can scenarios like the first one happen in "real life"?

Practical hints:

Try not to explain the whole purpose of the role-plays before you start playing. The surprise value might have a greater impact on the participants and will not hinder the performance of the role-play itself. Be careful with the performance, especially in the first role-play, and interrupt if the accused starts feeling anxious or frightened. This does not mean that the role-play has failed but shows how realistic the simulation can be.

Tips for variation:

For the second scenario, you can appoint an impartial jury of three or four instead of the judge. In the feedback, discuss the difference between a jury and a judge.

Part IV: Follow-up

- Read out Article 10 of the Universal Declaration of Human Rights:

  "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

- Explain that in other words this means that if you go on trial, this should be done in public. A public hearing is one in which the defendant is present and the evidence is presented before him or her as well as his or her family and community. The people who try the accused should not let themselves be influenced by others. On the basis of the role-plays performed, discuss the fact that everybody must have a fair chance to state his or her case. This is valid for criminal cases as well as civil disputes, such as suing somebody.

- Discuss the definition used by the UN of what constitutes an independent and impartial tribunal: 'Independent' and 'impartial' means that the court should decide on

each case fairly on the basis of evidence and the rule of law, and should not favour either side of a case for political reasons.

Related Rights/further areas of exploration: Presumption of innocence, recognition as a person before the law, right to a competent defence, elements of democracy
(Source: Adapted from: United Nations Cyber-schoolbus. 2003. Available at: http://cyberschoolbus.un.org.)

ACTIVITY II: HOW CAN YOU DEFEND THOSE PEOPLE?

Part I: Introduction
This activity is based on real life cases and aims to identify prejudices and a corresponding notion of a fair trial.

Part II: General Information
Type of activity: Discussion
Aims and objectives: Identifying prejudices and limits of neutral observation; developing analytical and democratic skills
Target group: Young adults and adults
Group size: 15-20
Time: About 60 minutes
Material: Handouts (see below)
Preparation: Prepare a handout of the statement of defence attorney Gerry Spence (see below).
Skills involved: Critical thinking and analytical skills, opinion building, communication skills, expressing different opinions and points of view on an issue.

Part III: Specific Information on the Activity
Instructions:
Introduce the topic by asking the participants to imagine perpetrators of crimes they know (or show a video tape of one of them). You can list them on a board or flip chart if you like.
Now let participants imagine that they are de-fence attorneys for clients accused of notorious crimes.
Hand out the statement of defence attorney Gerry Spence, who described his response to the question frequently put to him, "*How can you defend those people?*"
Now start a discussion on the rights of perpetrators on the basis of this statement.
- Should everybody be considered innocent until proven guilty?
- If you are accused of a crime, should you always have the right to defend yourself?
- Should everybody be allowed to ask for legal help and get it free of charge if she/he cannot afford it?
- Should everybody be equal before the law?
If you wish, you can take down some arguments on a flip chart to sum up the discussion.

Handout:
Gerry Spence, defense attorney:
"*Well, do you think the defendant should have a trial before we hang him? If so, should it be a fair trial? If it is to be a fair trial, should the accused be provided with an attorney? If he is to be provided with an attorney, should the attorney be competent? Well, then, if the defense attorney knows that the defendant is guilty, should he try to lose the case? If not, should he do his best to make the prosecution prove its case beyond a reasonable doubt? And if he does his best, and the prosecution fails to prove the case beyond a reasonable doubt, and the jury acquits the guilty accused, who[m] do you blame? Do you blame the defense attorney who has done his job, or the prosecutor who has not?*"
(Source: Adapted from: *Harper's Magazine.* 1997.)

Feedback:
In a feedback round, ask participants to summarise the discussion:
- Why do you think attorneys defend criminals?

- Do you think that those attorneys are seen the same way as the criminals they defend and why?

Practical hints:

You can introduce the activity by showing a videotape or reading an article about notorious criminals. You can also refer to local and current circumstances and talk of people who have been condemned in a public debate after having committed a serious crime. If you do so, be aware of the emotions such a topic may arouse. Do not judge participants' opinions but clearly state that human rights are for all and that they cannot be derogated arbitrarily at any time.

Tips for variation:

Read out Article 11 of the UDHR:

"(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed."

Write it down on a flip-chart and explain its meaning and purpose. You should be considered innocent until proven guilty. If you are accused of a crime, you should always have the right to defend yourself. Nobody has the right to condemn you and punish you for something you have not done. The pesumption of innocence and the right to a defence are the two important principles articulated in this article. You can do the follow-up of the activity "To be heard or not be heard?" in connection with it.

Part IV: Follow-up

Read out Articles 6 and 8 of the UDHR:

Article 6: *"Everyone has the right to recognition everywhere as a person before the law."* Explain that this means that you should be legally protected in the same way everywhere and like everyone else. Definition: A person before the law is someone who is recognised by law as a person who is guaranteed the protection offered by the legal system and who is subject to the responsibilities required by it.

Article 8: *"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law."* This means that you should be allowed to ask for legal help when your human rights are not respected.

Related Rights/further areas of exploration:

Presumption of innocence, recognition as a person before the law, right to a competent defence, democracy.

(Source: Adapted from: Carleton College. *Correspondence Bias in Everyday Life.*)

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RELIGIOUS FREEDOMS

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

FREEDOM TO ADOPT AND
TO CHANGE ONE'S RELIGION OR BELIEF

FREEDOM TO MANIFEST THESE RIGHTS

»*Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.*«

Article 18, Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORY

On 6 January 2010, six Coptic Christians and a Muslim guard were shot in Egypt as the Christians left a church in Nag' Hammadi following Christmas Mass. The shots were fired from a passing car.

According to reports three men were arrested two days later, on 8 January, and charged with "premeditated murder, putting the life of citizens in danger, and damage to public and private property" on 9 January.

Even though the arrest is seen as a step in the right direction by Human Rights Watch (HRW), it is not enough. HRW argues that the routine in cases like this is to call on the families involved not to pursue criminal investigation but to settle these cases privately. Often compensation is paid to the families of the victims.

Sarah Leah Whitson, Middle East Director of HRW, called on the Egyptian government to implement "a serious campaign of respect for religious diversity and equal rights for all".

The shooting, the aftermath (demonstrations ending in the arrests of Muslims and Christians; arrests of activists paying their condolences to the families of the victims of the shooting) and the treatment of the case by the authorities highlight the precarious situation of Coptic Christians in Egypt. Copts are the victims of religious hatred and attacks on the grounds of their religious affiliation and practice. In its annual report for the year 2010 HRW accused Egypt of "widespread discrimination against Egyptian Christians, as well as official intolerance of heterodox Muslim sects".

(Source: Human Rights Watch. 2010. *Egypt: Free Activists Detained on Solidarity Visit*; Human Rights Watch. 2011. *World Report 2011.*)

Discussion questions

1. What do you think were the reasons for the treatment of Coptic Christians in Egypt?
2. Have you heard of comparable incidents in your country or region?
3. Which international human rights standards have been violated?
4. How can similar situations be prevented from occurring?
5. Which international institutions and procedures exist to address such cases?

NEED TO KNOW ☺!?

1. RELIGIOUS FREEDOMS: STILL A LONG WAY TO GO

Millions of people believe that there is something above humankind that guides us spiritually. For what you believe in you may be forced to deny it, to leave your family, be persecuted, imprisoned or even killed.

In the third century BC Buddhists were persecuted in India because they believed in the teachings of Buddha. From the ninth century AD onwards – Europe's "Dark Ages" – Muslims and other non-Christian believers were persecuted "in the name of God". Then, the war for the expansion of the Ottoman Empire and Islam terrified Europe. Jews were locked in ghettos not only by Christians but by Muslims even before. The extinction of the native inhabitants of Latin America also took place in the course of their Christianisation.

In the past and in the present, people have been threatened for their beliefs and convictions. The ability to believe in something and to manifest it is known and protected as **religious freedom**. It is not only a legal but also a moral issue. Religious beliefs strongly pervade one's private sphere because they touch personal convictions and the understanding of our world.

Faith is a major element to express one's cultural identity, which is why religious freedom is such a sensitive topic to address and seems to cause more difficulties than other human rights issues.

Another problem has hindered the regulation of religious freedom in international human rights law. Throughout the world, religion and belief are key elements of politics. Religious beliefs and freedom are often misused for political demands and claims to power, often resulting in misleading arguments when religion and politics are linked.

Adequate protection has become all the more pressing in recent years as religious intolerance and persecution are at the forefront of many tragic conflicts around the world involving problems of ethnicity, racism or group hatred. Persecution on religious grounds can be seen in current conflicts between believers and non-believers, between traditional and "new" religions, or between states with an official or dominant religion and individuals or communities not belonging to it.

> *"No man by nature is bound unto any particular church or sect, but everyone joins himself voluntarily to that society in which he believes he has found that profession and worship which is truly acceptable to God. The hope of salvation, as it was the only cause of his entrance into that communion, so it can be the only reason of his stay there […]. A church, then, is a society of members voluntarily uniting to that end."*

John Locke. *A Letter Concerning Toleration.* 1869.

"No peace between nations without peace between religions; no peace between religions without dialogue between religions. No dialogue between religions without search for the foundations of religions."

Hans Küng,
President Weltethos (Global Ethic Foundation).

At present, violations of religious freedoms are seen throughout the world. Systematic suppression of certain beliefs, however, is present in the following countries: in Burma all religious minorities are persecuted – in particular the Muslim Rohingya, but also Protestants and Buddhist monks; the North Korean government regards all religious beliefs and rites besides the Juche ideology as an affront against the personality cult around the Kim family and as a violation of the government's authority; in Egypt, we see discrimination against Copts, orthodox Christians, Bahai, Ahmadis, Koranists, Shia and Sufi Muslims as well as virulent anti-Semitism; in Eritrea, followers of Jehovah's Witnesses, Evangelical Christians and the Pentecostal Movement are particular targets of suppression; in Iran, there is discrimination against and persecution of the Bahai, Sufis, Muslim dissidents and Christians, in Iraq and Nigeria against Christians and in Pakistan against the Ahmadis. In China, Uighur Muslims in Xinjiang, Protestants, Falun Gong followers and Tibetan Buddhists are particularly affected. In Sudan, Christians are discriminated against, in Saudi-Arabia, Shiite Muslims and Ismailists. Finally, we see harsh discrimina-

tion against non-registered religious groups in Turkmenistan and Uzbekistan. Violations of religious freedom range from the Christian religious fundamentalism in the United States of America, to the intensification of religious extremism in Islam, as well as to new forms of anti-Semitism (i.e. fear and hatred of Jews/Judaism) in various countries, and, especially since the attacks on Washington and New York on September 11, 2001, to an increasing but often overlooked Islamophobia (i.e. fear and hatred of Muslims/Islam) in the United States and Europe.

There are, unfortunately, numerous other cases to exemplify the urgency of dealing with religious freedom especially when they are linked with extremism. This phenomenon will be discussed later.

Religious Freedom and Human Security

The freedom from fear is a key value of human security. This key value is immensely threatened by the violation of religious freedoms. If you cannot believe in whatever "God" or concept of the universe you like, personal freedom and security will remain out of reach. Threats to the freedom of thought, belief and conscience, belief and religion directly affect both individuals and groups in ensuring and developing personal integrity.

When discrimination and persecution on religious grounds are systematic or institutionalised, they may lead to tensions within communities or even international crises. The agents of insecurity can be individuals, groups, or even states. This omnipotent and ever-present menace to personal security on grounds of belief or religion calls for special protective measures. Human rights education and

learning are key to the respect for others' thoughts and religious beliefs. The learning process of respect, tolerance and human dignity cannot be achieved by force. It has to be a long-term commitment of each and everyone involved in order to create individual and global security.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

What Is Religion?

There is **no common definition** of religion in philosophical or sociological discussions. However, a number of common elements have been proposed in definitions.

Religion, etymologically, related to the Latin *religare,* refers to "binding". Religion binds the believer to some "Absolute" – conceptualised either in personal or impersonal terms. It normally includes a set of rites and rituals, rules and regulations that enables individuals or communities to relate their existence to a "God" or "Gods". According to Milton J. Yinger, religion represents *"a system of beliefs and practices by means of which people struggle with the ultimate problems of life".* By comparison, Black's Law Dictionary defines religion as *"A [human's] relation to Divinity, to reverence, worship, obedience, and submission to mandates and commandments of supernatural or superior life forms. In its broadest sense [religion] includes all forms of belief in the existence of a higher power which exercises power over human beings by, imposing sanctions and rules of conduct, together with future rewards and punishment."*

These and similar definitions incorporate the recognition of the existence of something Su-

preme, Holy, Absolute, Transcendent, be it personal or impersonal. The "Supreme/Ultimate" has a normative function, and believers are expected to follow the teachings and rules of conduct of their religion, as the way to this Absolute. Believers are also expected to express their religious beliefs in varying forms of worship or cult. Often, though not always, a legal entity, such as a church or other institution is established to organise the group or worship practices.

What Is Belief?

Belief is a **broader concept** than religion. It includes religion but is not limited to its traditional meaning. Black's Law Dictionary defines it as a *"belief of the truth of a proposition, existing subjectively in the mind, and induced by argument, persuasion, or proof addressed to the judgment".* Contrary to this narrow intellectual conception of belief as an act of reflection, belief means an act of trusting in or relying on something Supreme (be it personal or not, like the four Noble Truths in Buddhism).

The UN Human Rights Committee, in its General Comment No. 22 on Article 18 of the International Covenant on Civil and Political Rights **(ICCPR),** defines the protection of religion or belief as follows: *"Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief."* The General Comment goes on to say, *"The terms religion or belief are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, even if they are newly established, or represent religious minorities*

that may be the subject to hostility by a pre-dominant religious community."
(Source: United Nations Human Rights Committee. 1993. *General Comment No. 22 (48) on Art. 18 of the International Convent on Civil and Political Rights.*)

Beliefs of any other nature – whether political, cultural, scientific, or economic – do not fall under this protection and have to be treated differently.
☺☞ *Freedom of Expression and Freedom of the Media*

What Are Religious Freedoms?
In international law, religious freedoms are protected as **freedom of thought, conscience and religion.**
These three basic freedoms apply equally to theistic, non-theistic and atheistic beliefs as well as agnostic positions and include all beliefs with a transcendent or metaphysical view of the universe and a normative code of behaviour.
Freedom of religion and belief in a strict sense includes freedom *of* and freedom *from* religion and belief, which can be understood as the right to not to accept any religious norms or attitudes.
Freedom of thought and conscience is protected in the same way as freedom of religion and belief. It encompasses freedom of thought on all matters, personal convictions and the commitment to a religion or belief whether expressed individually or in community with others.
Freedom of conscience is often violated, as illustrated by the numbers of "prisoners of conscience" all over the world. Those prisoners mostly belong to religious minorities.
Freedom of thought and conscience and the freedom to choose and change a religion or belief are **protected unconditionally**. No one can be compelled to reveal his or her thoughts or be made to adhere to a religion or belief.

International Standards
Human rights law avoids the controversy about defining religion and belief and contains **a catalogue of rights** to protect freedom of thought, conscience, religion and belief. To better understand the complexity of religious freedom, a classification into four levels can be made:

1. Freedom to exercise particular individual practices
2. Freedom to exercise collective practices
3. Freedom of particular institutions
4. Freedom from religion

1. Freedom to Exercise Particular Individual Practices:
Article 18 of the Universal Declaration of Human Rights (UDHR) identifies **religious freedom as "everyone's" right**, which means it protects children and adults, nationals and aliens equally, and **cannot be restricted even in times of emergency or war**. The list of individual religious freedoms stated in Article 18 of the International Covenant on Civil and Political Rights (ICCPR) provides a detailed enunciation of the rights that fall within an internationally accepted minimum standard:

- The freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places for this purpose;
- The freedom to make, acquire, and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;

- The freedom to solicit and receive voluntary financial and other contributions from individuals and institutions;
- The freedom to train, appoint, elect, or designate by succession appropriate leaders according to the requirements and standards of any religion or belief;
- The freedom to observe days of rest and to celebrate holy days and ceremonies in accordance with the precepts of one's religion or belief;
- Religious freedoms at the workplace, including the right to prayer, dress codes and dietary regulations;
- The freedom of assembly and association for worship and religious festivals;
- The freedom to proclaim one's belief;
- The right to change or reject one's religion;
- The right to religious education "in the best interest" of the child.

(Source: United Nations. 1996. *Art. 18 of the International Covenant on Civil and Political Rights.*)

2. Freedom to Exercise Collective Practices:

Religious rights do not only entitle individuals to enjoy the above mentioned freedom. A religion or belief can be and usually is manifested in community and therefore often in public places. This implies the granting of freedom of assembly and association to the community of believers as well.

3. Freedom of Particular Institutions:

Particular institutions based on religious grounds also enjoy full protection by the freedom of religion. These institutions can be houses of worship or educational institu-

tions dealing with religious matters, or even NGOs.

Their rights include:
- The freedom to establish and maintain appropriate charitable or humanitarian institutions;
- The freedom to write, publish and disseminate relevant publications;
- The freedom to teach a religion or belief in suitable places.

(Source: United Nations. 1981. *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.*)

4. Freedom from Religion

Negative freedom of religion or religious neutrality means that non-religious citizens can invoke freedom from religion in the public domain. In Germany, for example, negative religious freedom or religious neutrality has been particularly emphasised since the Federal Constitutional Court in the "crucifix judgement" had decided that attaching a cross or crucifix in the classrooms of a compulsory state school, which is not a faith school, contravenes Article 4 (1) of Germany's Fundamental Law. This religious neutrality reached a new climax with new laws and guidelines and their implementation in eight German federal states; they include severe restrictions on wearing religious symbols including headscarves in the public sector. The human rights organisation Human Rights Watch (HRW) has criticised Germany's pronounced religious neutrality insofar, as the new regulations would violate Germany's international responsibility to protect religious freedom as well as the right to equality before the law. France and Belgium have also had laws and prohibitions regarding the

wearing of religious symbols and dress in the public domain since 2011.

The Principle of Non-Discrimination

Discrimination and intolerance on religious grounds, which means any distinction, exclusion, restriction, or preference based on religion or belief, are prohibited. The prohibition of religious discrimination and intolerance is not limited to the public domain but also applies to the private sphere of individuals in which beliefs of a religious or other nature are rooted.

☺☞ *Non-Discrimination*

Education

Parents have the right to educate their children according to their faith. The provision "in the best interest of the child" is intended to limit the freedom of action of parents only where a religious practice can injure a child's physical or mental health. Such a practice can be the refusal of medical treatment or school education. The refusal of blood transfusions, for example, may lead to the death of children of Jehovah's Witnesses whose belief does not allow blood transfusions on principle.

In the public domain states have the obligation to provide education which protects children from religious intolerance and discrimination and offers curricula including the teaching of freedom of thought, conscience and religion.

☺☞ *Human Rights of the Child*
        Right to Education

Discussion questions

- How is religious instruction handled in your country?
- Do school curricula and textbooks in your country deal with freedom of religion and belief, including freedom not to believe?
- Are there safeguards in your country for the independence of religious instruction?

Manifesting Faith

The freedom to manifest a religious belief includes protection of religious language, teachings, practice, worship and observance of that belief. We have the right to talk about our faith, to teach it, practice it alone or with others, observe dietary regulations and clothing requirements, or use of particular language, and celebrate rituals associated with our faith. Manifestation of religion or belief also means being able to avoid actions that are incompatible with principles of a faith. Such actions may be the refusal of oaths, military service, and participation in religious ceremonies, confession, or refusal of medical treatment.

Limits of Religious Freedom

Whereas belief itself is protected without reservation, the manifestation of belief can reach limits when the interests of others are at stake.

Article 9 of the European Convention on Human Rights (**ECHR**), for example, specifies that restrictions on the right to manifest a religious belief have to be **proportionate and based on law**. They can only be imposed when necessary to protect public security, order, health, morals, or the fundamental rights and freedom of others. Limitations on this freedom are permissible, for example, in the case of human sacrifice, self-sacrifice, female genital mutilation, slavery, forced prostitution, subversive activities and other practices threatening human health and bodily integrity.

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

State and Faith

Worldwide, one of the major disagreements regarding the protection of religious freedom concerns the **relationship between states**

and their citizens' religions or beliefs. There are several principal patterns of how states can interact with faiths: state religions, established churches, state neutrality towards faiths and their institutions, no official religion, separation of church and state, and protection of legally recognised religious groups. International standards do not require a separation of state and church and do not prescribe any particular model of relationship between a state and beliefs. They do not require the vision of secular societies which banish religion from public affairs, although the separation of religion from the state is a major characteristic of modern (Western) societies.

The sole international requirement is that any relationship between state and church should not result in discrimination against those who are not of the official religion or of the recognised faiths. But where only *one* religion is taken to be constitutive of national identity, it is difficult to see that equal treatment of different or minority faiths can be guaranteed.

According to Western views, a neutral relationship between religion and state is far more likely to guarantee full protection of the religious freedom of the individual. By contrast, traditional Islamic *Shariah* law, for example, links state with faith because this system is regarded as providing better protection of religious freedom for the community. It can be argued, however, that where the state is connected with a particular church or religion, it is unlikely that the rights of members of religious minorities receive equal protection.

Discussion questions

- What is the attitude of your country towards different beliefs?
- Does your country recognise institutions of different faiths?
- Do you think it is possible to establish a system of equality of all faiths while privileging one?

- Do you consider it legitimate to recognise confessional or religious political parties?

Apostasy – the Freedom to Choose and Change Faiths

The act of apostasy – leaving a religion for another religion or for a secular lifestyle – is a most controversial issue among different cultures despite clear international standards.

A person is an apostate if they leave a religion and either adopt another religion or assume a secular lifestyle. Historically, Islam, Christianity and other religions have taken a very dim view of apostates. The penalty for apostasy was often death.

In Islam, apostasy is still severely punished in many countries where society is based on *Shariah* laws. Countries like Afghanistan, Iran, Indonesia, India, Pakistan, Saudi Arabia or Egypt stand for many others where life imprisonment or the death penalty for openly rejecting the Islamic faith may be imposed. In practice, this means that there is no freedom to choose or change one's religion or belief.

This is in clear contradiction with international human rights law. A person has the right to choose their beliefs freely and without coercion. The debate on this issue is highly emotional and sensitive as it touches on deep convictions and different understandings of religious freedom. It illustrates the cultural differences in the perception of religious and other freedoms and seems to differentiate between the "West" and the "rest of the world".

Discussion questions

- Do you believe people can choose and change their beliefs freely?
- Could this lead to a collision with other human rights? If so, with which human rights?

Proselytism – the Right to Disseminate One's Belief

Every person has the right to disseminate their beliefs and to encourage people to convert from one faith to another as long as no coercion or force is used. This action is called proselytising or evangelising.

In Central Europe, Eastern Europe and Africa conflicts have arisen between local churches and foreign religions promoting missionary programs. In certain cases, governments have forbidden such programs. Human rights law requires that governments protect the right to freedom of expression, and that believers enjoy freedom to engage in non-coercive forms of proselytising, such as "mere appeals to conscience" or the display of placards or billboards.

Forcing somebody to convert to another faith is clearly a violation of human rights, but the question as to what is considered coercion is still not regulated in international law. "Coercive circumstance" that would lead to limitation of proselytising: the use of money, gifts or privileges in order to make a person convert; proselytising in places where people are present by force of law (classrooms, military installations, prisons and the like).

Inciting Religious Hatred and Freedom of Expression

In early 2006, human rights groups in the UK insisted that the new "Racial and Religious Hatred Bill", which introduced a new offence of "inciting religious hatred", must not prevent the right to criticise and ridicule religious beliefs and practices as part of the freedom of expression. The bill was amended accordingly.

☺☞ *Freedom of Expression and Freedom of the Media*

Conscientious Objection to Military Service

The intercultural controversy over what is called conscientious objection to compulsory military service continues. One can be exempted from military service if the obligation to use lethal force seriously conflicts with one's belief and if persons of other faiths are not at a disadvantage as a result. A certain trend to acknowledge such a right by national legislations can be noted in some countries where alternative community service is foreseen (for example in Austria, France, Canada, or the USA). However, in other countries such as Belarus, Chile, Turkey, Turkmenistan, Armenia or Israel conscientious objection to military service is not recognised and people may be sent to prison for refusing to carry a weapon.

Discussion questions

- Are there "prisoners of conscience" in your country?
- Do you think there is a need for the right to refuse to kill to be explicitly recognised in international human rights?

4. IMPLEMENTATION AND MONITORING

The main problem with the implementation of religious freedom is the lack of effective enforcement of Article 18 of the ICCPR. The *1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,* which was dedicated to the fight against intolerance, negative stereotyping, and stigmatisation of religion, against calls for violence and violence against people on the basis of religion and belief, has a certain legal effect as it may be seen as confirming customary international law. Generally, though, a declaration is not legally binding. Despite an international agreement on the need for a convention there is not yet a consensus as to its possible contents.

A Special Rapporteur on Religious Intoler-

ance has been established in 1986 to monitor the implementation of the 1981 Declaration. Their mandate is mainly to identify incidents and government actions that are inconsistent with provisions in the Declaration and to make recommendations on remedial measures which should be taken by the respective states. Religiously motivated persecution and discrimination affect individuals as well as communities of all faiths all over the world. They range from violations of the principle of religious non-discrimination and tolerance and belief to attacks on the right to life, physical integrity, and human security of the individual.

Regional human rights instruments also deal with the freedom of religion: The African Commission on Human Rights passed a ruling in a case concerning Sudan stating that the application of the *Shariah* law has to be in accordance with international obligations. The European Court of Human Rights (ECtHR) in Strasbourg is one of the most effective instruments to implement religious freedom on a regional European level. Numerous decisions, i.e. the ruling on Scientology in Russia (see ECtHR. 2007. *Case Church of Scientology Moscow v. Russia,* 5 April, 2007) or the ruling regarding the recognition of Jehovah's Witnesses as a religious community in Austria (see ECtHR. 2008**.** *Case Jehovah's Witnesses et al v. Austria,* 31 July, 2008) are proof of this. The most recent ruling on the crucifix discussion in Italian state schools also points into this direction (see ECtHR. 2011. *Case Lautsi et al v. Italy,* 18 March, 2011).

There are also many bodies and committees within the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE), dealing with the rights to freedom of thought, conscience, religion and ideology.

Preventive Measures and Strategies for the Future

Prior to continuing the work on a legally binding convention, the *1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* has to be better promoted in order to develop a *culture of multi-religious cohabitation.* Particular emphasis has to be put on the role of education as an essential means of combating religious intolerance and discrimination. States have clear duties under international law to counter violence and discrimination in matters of belief. NGOs, religious and secular organisations have an equally clear role in highlighting violations by states and others, in defending the persecuted and promoting tolerance through information campaigns, raising awareness, educational programs and teaching.

What Can We Do?

We can start to prevent discrimination and religious persecution by respecting the rights of others. Religious tolerance necessitates respecting followers of *other* faiths, whether or not we think that their belief is true. A culture of tolerance and respect demands that we refuse to discriminate, denigrate or vilify the religious other and respect the fundamental right to be *different* also in religious affairs. It also means refusing to discriminate against others in employment, accommodation and access to social services on the grounds of their faith. Furthermore, in order to bring about a change in attitudes, there is a need for interfaith dialogue, as well as for believers and non-believers to meet on common ground and learn to respect each other.

GOOD TO KNOW

1. GOOD PRACTICES

Interfaith Dialogue for Religious Pluralism
Throughout the last two decades questions about religious and cultural pluralism have reawakened interest in churches and religious communities. There is a sense of urgency to build creative relationships between people of different faiths. As interest in dialogue has grown, so has its actual practice, enabling various religious communities to understand one another better and to work together more closely in education, conflict resolution and everyday community life. **International NGOs** promoting religious dialogue and peace are, amongst many others:

- The World Council of Churches;
- The World Conference on Religion and Peace (WCRP) with its permanent working group on "religion and human rights";
- The World Parliament of Religions;
- The Global Ethic Foundation.

Numerous **local and regional initiatives** are furthering conflict resolution and conflict prevention through dialogue around the world:

- In the Middle East, *Clergy for Peace* brings together rabbis, priests, pastors and imams in Israel and in the West Bank for common action and to be witness to peace and justice in the region;
- In Southern India, the *Council of Grace* brings together Hindus, Christians, Muslims, Buddhists, Jains, Zoroastrians, Jews and Sikhs in an attempt to address community conflicts (Communalism);
- In the Pacific, *Interfaith Search* brings together representatives of a multitude of religions in Fiji seeking to overcome prejudices and to promote mutual respect and appreciation for one another;
- In Europe, the "Project: Interfaith Europe" is the first undertaking of its kind to invite urban politicians and representatives of different religions from all over Europe into the cities of Graz and Sarajevo;
- The city of Graz in Austria has established a Council for Inter-religious Affairs, which discusses inter-faith problems and advises the city how to resolve them.

Discussion question
"In dialogue, conviction and openness balance each other." (Worldwide Ministries – Guidelines for Interfaith Dialogue: www.pcusa. org/pcusa/wmd/eir/dialog.htm)

- How can this be done, individually and in a community?

"Religions for Peace" through Education
Inter-religious education encourages respect for people of other faiths and prepares students to cast aside barriers of prejudice and intolerance.

- In Israel, the project "Common Values/ Different Sources" brought together Jews, Muslims and Christians to study sacred texts together in search of shared values that they could practice in everyday life; the result should eventually be a uniform school textbook;
- In Thailand and Japan, recent Youth Leadership Ethics Camps brought together young representatives of their countries' religious communities for training programs in leadership vision, moral and ethic values, community service, and in order to further reconciliation;

- In Germany, England, and other countries, educators are analysing school textbook treatment of religious traditions that are foreign to the books' intended audiences.

2. TRENDS

Cults, Sects and New Religious Movements

> **JAKARTA (16 July 2005):** Vice President Yusuf Kalla condemned an attack by about 1,000 Muslims on the headquarters of a little-known Islamic sect denounced as heretical by mainstream Muslim groups around the world. Armed with batons and stones, the mob attacked the headquarters of the Ahamadiyah sect in the town of Bogor, just south of Jakarta, vandalizing offices and living quarters. Police tried to stop the attack, but were outnumbered.
> (Source: The Jakarta Post. 16 July, 2005. *VP condemns mob attack on Islamic sect.*)

Freedom of religion is not to be interpreted narrowly to refer to traditional world religions only. New religious movements or religious minorities are entitled to the same protection. This principle is of particular importance in light of current actions in which new religious movements are repeatedly targets for discrimination or repression. Such new movements are known by several different terms and need to be examined more closely.

The terms "cult" and "sect" are used to refer to religious groups that differ in their beliefs and practices from mainstream religions. Both expressions are highly ambiguous, but a sect generally refers to a dissenting religious group which has branched off from a mainstream religion, whereas a cult is generally regarded as an unorthodox or spurious system of religious beliefs, often accompanied by unique rituals.

Since both terms are defined by "differing from the norm", views on what constitutes a sect and a cult will be different among different beliefs. Buddhism and Hinduism will use the terms in a neutral way, while in the Western world "sect" or "cult" is often used with negative connotations. These do not only arise from how different these groups are from the norm, but also because they are often associated with complete devotion or abuse in financial matters. Groups founded with a commercial rather than religious background are not protected by the human right of religious freedom. A famous and controversial example is the Church of Scientology which in some countries – Germany being the best-known example – is not recognised as a church because of it being seen as an enterprise.

Discussion questions

- Are minority beliefs protected in your country and if so, how?
- Do they have the same rights/support as (the) major belief(s)?

Women and Faith

Throughout history women have been discriminated by nearly all faiths and it is only lately that their human right of religious freedom has been addressed. Women's discrimination in religion is twofold. They may lack the freedom to manifest their faith, if they cannot access places of worship, nor preach nor lead their communities in the same way as men. In addition, they may become victims of certain faiths whenever religious laws, practices and customs penalise them or even threaten their lives:

- The rate of young girls being mutilated in rural areas of Egypt is 95 %. **Female Genital Mutilation (FGM)** is a cultural tradition in many countries, and is strongly criticised by international human rights protection standards. Severe health problems may arise subsequently potentially resulting in death. However, progress in that area was made in June 2003 when the Cairo Declaration for the Elimination of FGM was signed at the Afro-Arab Expert Consultation on "Legal Tools for the Prevention of Female Genital Mutilation" by representatives of twenty-eight African and Arab countries affected by the practice of FGM.

- **Forced marriages** often resulting in slavery are practiced in parts of Nigeria, Sudan, Pakistan and other countries. The need for the woman to consent to the marriage is not respected. Sometimes "wives" are as young as nine years old. Forced marriages are also practiced among certain groups in Europe and North-America and are defended or tolerated in the name of culture, tradition and religion in spite of general prohibitions in such countries.

- **Rape as a specific form of "ethnic cleansing":** The religious affiliation of victims was the motivation for mass rapes in many cases in former Yugoslavia, Georgia, Sudan, Rwanda or Chechnya. Forced pregnancies among raped women ensured that they were publicly branded as having been raped, and thus shamed and dishonoured, prolonging the psychological damage. The children continue to be discriminated against. Among the victims were girls between the ages of seven and fourteen.

Religious Extremism and its Impacts

In the aftermath of the September 11, 2001 attacks on the World Trade Centre and the Pentagon, but also as a consequence of the July 7, 2005 attack on the London subway, terrorism seems to exploit religious belief more than ever. Many conclude that these tragic events only mark the tip of the iceberg that underlies the nexus of faith and terrorism: the hi-jacking of planes, the bombings of Western embassies in Muslim-dominated countries, not to mention the "Israel/Palestine question" and various "low-intensity" conflicts around the world, mobilise religion for political reasons.

However, this connection is very dangerous. It divides the world into "good" and "bad" scenarios and brands people because of their faith. Not every terrorist or extremist will be religious, just as not every believer is a terrorist. When extremist attacks are connected with faith, with offenders claiming they committed a crime "in the name of God", religion and its freedom are used and abused to disguise politically motivated acts or demands. Recourse to terrorism in the name of faith does not demonstrate a clash of different cultures based on religious beliefs, as extremism is a global threat not limited to any particular society or faith, but based on ignorance and intolerance.

The only way to combat extremism effectively is to look for ways to break the vicious circle of violence engendering more violence.

"*Just as religion may wrongly be used to justify terrorism, so can 'anti-terrorism' actions of governments wrongly be used to justify actions that undermine human rights and freedom of religion or belief".* (Source: OSCE. 2002. *Conference on religious freedom and fight against terrorism. Freedom of Religion and Belief*.)

Defamation of Religion

Since 1999, there have been endeavours within the UN to establish defamation of religion as a new form of racism. These endeavours were encouraged by the Organization of the Islamic Conference (OIC) in order to protect Islam from attacks. In 2001 the United Nations Commission on Human Rights passed a resolution to fight against the defamation of religion, naming only Islam. The resolution states further that defamation of religion leads to violation of human rights and is the reason for social instability in the world. The resolution was passed by the Human Rights Council with the EU states, Switzerland and other Western countries (e.g. USA, Canada) abstaining on the grounds that the concept of defamation of religion is inconsistent with human rights law.

The resolution was seen as contradictory, as it establishes a right for a religion rather than a right for individuals, whereas human rights generally protect individuals and not concepts, and as such religions. Furthermore, a right against defamation of religion would imply a strong restriction of freedom of opinion. In 2009, a coalition of over 180 NGOs declared its opposition to the resolution on the grounds that it threatens freedom of opinion. Nevertheless, the resolution was passed by the Human Rights Council.

Only in 2011 did the OIC itself propose a revised resolution, which was accepted by all states in the Human Rights Council and intends to protect persons, who, on the grounds of their religion or belief, are confronted with intolerance and violence.

(Source: United Nations Human Rights Council. 2011. *Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief.*)

Discussion questions

- What are the main reasons for conflict within and between religious communities? Can you give examples from your own experience?
- What do you think is the role of faiths in the search for peace and conflict resolution? Think of examples where religions have served as agents of reconciliation.

3. CHRONOLOGY

Major steps in the history of the development of religious freedoms:

1776	Virginia Bill of Rights (1789 Bill of Rights with First Amendment)
1948	Declaration on Religious Liberty of the World Council of Churches
1948	Universal Declaration of Human Rights (UDHR), Art. 2, 18
1948	Convention on the Prevention and Punishment of the Crime of Genocide, Art. 2
1950	European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Art. 9
1965	Declaration on Religious Freedom by the Vatican Council
1966	International Covenant on Civil and Political Rights (ICCPR), Art. 18, 20, 24, 26, 27
1969	American Convention on Human Rights, Art. 12, 13, 16, 17, 23
1981	African Charter on Human and Peoples' Rights, Art. 2, 8, 12
1981	UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

1989 Convention on the Rights of the Child (CRC), Art. 14
1990 Cairo Declaration of Human Rights in Islam
1992 UN Declaration on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, Art. 2
1993 Declaration Toward a Global Ethic, endorsed by the Parliament of the World's Religions in Chicago
1994 Arab Charter for Human Rights, Art. 26, 27
1998 Asian Human Rights Charter, Art. 6

2001 United Nations International Consultative Conference on School Education in relation with Freedom of Religion and Belief, Tolerance and Non-discrimination (Madrid)
2001 World Congress for the Preservation of Religious Diversity (New Delhi)
2004 Arab Charter on Human Rights
2007 OSCE Declaration on Intolerance and Discrimination against Muslims

SELECTED ACTIVITIES

ACTIVITY I: WORDS THAT HURT

1

Part I: Introduction
This activity aims at showing the limits of freedom of expression when what we do or say clashes with the religious beliefs and feelings of others.

Part II: General Information on the activity
Type of activity: Discussion
Aims and objectives:
- To discover and accept other people's religious feelings
- To learn about limits of the freedom of expression

Target group: Young adults and adults
Group size: 8-25
Time: At least 60 minutes
Material: Flipchart and marker
Preparation: Prepare a flipchart and marker

Skills involved: Listening to others, being sensitive and accepting others' opinions

Part III: Specific Information on the activity
The participants brainstorm a list of hurtful comments and stereotypes related to others' conscience or religious beliefs; ones that they know can cause distress. Participants choose a few of the worst ones and write them down.
Divide the participants into groups of four to six people. One in each group should read the first statement. At this point the group has agreed to simply accept that this comment is hurtful. They should discuss why the person hurt might feel the way he or she does; whether people should be allowed to say such things regardless of their effects; and what to do about it when it happens.
Repeat for each statement.

Feedback:
How did participants feel during the discussion? Was it difficult to accept that the comments have hurt others and stay silent?
What limits should be placed on what we can say about others' beliefs and thoughts? Should we always be able to say whatever we like?
Methodological hints:
Make sure that you are discreet and respectful during this activity by not weighing or subjectively evaluating the statements.
Suggestions for variation:
As a closing activity: a letter to everyone. Write the names of the participants on small pieces of paper, make everyone draw one piece and write a letter saying kind things to that person – a suitable end to many activities that evoke controversies and emotions.

Part IV: Follow-up
If the participants continue to work together, it is suitable to let the group find and establish discussion/communication rules which can be pinned on the wall giving everybody the chance to refer to them in case of doubt/argument.
Related rights:
Freedom of Expression and Freedom of the Media
(Source: United Nations. 2004. *ABC Teaching Human Rights. Practical Activities for Primary and Secondary Schools.*)

ACTIVITY II:
MY NEIGHBOUR'S FAITH AND MINE

Part I: Introduction
The principles of non-discrimination and the prohibition of intolerance on religious grounds are the subjects of this activity.
It works best with participants of different religious beliefs.

Part II: General Information on the activity

Type of activity: Multitask activity
Aims and objectives:
• To work out and understand the notion of tolerance
• To analyse the facets of religious freedoms
• To develop imagination and creative thinking skills
• To learn about different customs/cultures
Target group: Young adults and adults
The activity can also be used for students of all ages with slight modifications.
Group size: 5-30
Time: 120 to 240 minutes
Materials: Flipchart, flipchart paper and markers, pictures regarding various religious movements, pens, colours, paper, clay, wood, wire, etc.
Preparation: Prepare pictures about different religious movements
Skills involved: Social skills: listening to others, analysing, communicating; critical thinking skills: giving one's opinion, reflective thinking; creative skills: understanding and applying metaphors, develop illustrating symbols

Part III: Specific Information on the activity
First part: Spread pictures of different religious movements, ceremonies, symbols, etc. on the table or on the floor. Choose the pictures according to your group; in any case the pictures should show all religious communities in the country (in many cases more than you would believe at first sight). Depending on the group, consider including pictures of groups or religious movements that are not (yet) accepted in the country. Each participant chooses a picture showing something that s/he cannot tolerate. Have the group gather in a circle. Each participant shows the picture s/he chose and explains why s/he cannot tolerate it.

In a short feedback session, ask the participants to reflect on the whole process: Why does someone feel disturbed by things shown on a picture? Did some participants choose the same picture(s)? If yes, why? Which pictures did not disturb anyone, and why? Where are the conflict zones between different religions?

To sum up, explain which religions are accepted in your country.

Second part: In a short brainstorming session, the participants present their knowledge of the chosen religions. The group leader hands out information on the religious communities. Participants come together as groups, each of whom chooses one of the religions, so that eventually even the groups with a negative image have been chosen.

Organise a multicultural gathering. Ask each group of participants to represent a different religious or spiritual group.Ask them to illustrate in a painting, pantomime, song, cartoon, or small role-play something that would demonstrate the customs and beliefs of that religion.Give participants 40 minutes for preparation. Back in the plenary session each group represents their creative contribution.

Close the second part with a short feedback session: What can participants learn from the presentations? Do different presentations have anything in common? How much do they need to know about other religions to be able to present them without misunderstandings? Is it easier for participants to tolerate other beliefs/religions after having learned something about them?

Methodological hints:
For this activity make sure that the group is respectful of other participants' religious beliefs. Therefore you should not use this as a "getting-to-know-you" activity. Make sure, too, that the presentation of different customs does not hurt others' feelings or discriminate against them. Introduce this exercise in telling participants that the presentations should highlight the worship or rites and not emphasise their own rites as the only "true" or "good" ones. If despite your instructions students/participants might feel discriminated against, they should have the right to stop the presentations at any point in time. It is useful if all participants agree on a sign (e.g. a piece of red paper like a traffic light) to stop a presentation that is offensive or simply based on misunderstanding or erroneous information. After the presentation has been stopped a discussion on the motives of both sides has to follow.

Hints for variations:
If you work in schools, you can co-operate with art teachers for the second part of the activity. The presentation can also be done with plasticine or other materials.

Part IV: Follow-up
After this activity based on experience and creativity, you could continue with some intellectual input, e.g. some materials on tolerance/intolerance.

Related Rights/further areas of exploration:
Discrimination on other grounds such as ethnicity, colour, or gender; freedom of expression.

(Source: Adapted from United Nations. *Global Teaching and Learning Project Cyberschoolbus.*)

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ADDITIONAL INFORMATION

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Baptist Joint Committee: www.bjcpa.org

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Council for a Parliament of the World's Religions: www.parliamentofreligions.org/

European Court of Human Rights: www.echr.coe.int/echr

Global Ethic Foundation: www.weltethos.org

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Human Rights without Frontiers International: www.hrwf.net

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RIGHT TO EDUCATION

AVAILABILITY OF AND EQUAL ACCESS TO EDUCATION

EMPOWERMENT THROUGH THE RIGHT TO EDUCATION

»*Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. […]*«

Article 26 (2), Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORY

The Story of Maya

"My name is Maya. I was born 14 years ago in a poor peasant family. There were already many children, so when I was born no one was happy.

When I was still very little, I learned to help my mother and elder sisters with the domestic chores. I swept floors, washed clothes and carried water and firewood. Some of my friends played outside, but I could not join them.

I was very happy when I was allowed to go to school. I made new friends there, and learned to read and write. But when I reached the fourth grade, my parents stopped my education. My father said there was no money to pay the fees. Also, I was needed at home to help my mother and the others.

If I were given the choice to be born again, I would prefer to be a boy."

(Source: United Nations. 2000. *UN Millennium Report*.)

Discussion questions

1. What are the main problems illustrated in this case? Do you feel sympathy for Maya and, in addition, do you think that there is any way for her to lift herself out of poverty and to find access to education?
2. Can you think of reasons why such a large percentage of illiterate people are girl children or women?
3. Do you think that there are different kinds of knowledge? If so, what knowledge is important? What kinds of knowledge lose relevance?
4. Do you think that the right to education is currently a priority for the International Community?
5. Whose responsibility is it to eliminate ignorance and illiteracy and by what measures?
6. Is education important for the enjoyment of other human rights? If so, why?
7. Do you think that education can contribute to human security? If so, how?

NEED TO KNOW ☹!?

1. INTRODUCTION

Why a Human Right to Education?

Nearly a billion people entered the 21st century unable to read a book or sign their names. This figure represents one sixth of the world's population, or the entire population of India.

The human right to education can be characterised as an *"empowerment right"*. Such a right provides the individual with more control over the course of his or her life, and in particular, control over the effect of the state's actions on the individual. In other words, exercising an empowerment right enables a person to experience the benefits also of other rights.

The enjoyment of many civil and political rights, such as the freedom of information, the freedom of expression, the right to vote and to be elected and many others, depends on at least a minimum level of education. Similarly, a number of economic, social and cultural rights such as the right to choose work, to receive equal pay for equal work, to enjoy the benefits of scientific and technological progress and to receive higher education on the basis of capacity, can only be exercised in a meaningful way after a minimum level of education has been achieved.

The same holds true for the right to take part in cultural life. For ethnic and linguistic minorities, the right to education is an essential means to preserve and strengthen their cultural identity.

Education can also promote (although does not guarantee) understanding, tolerance, respect and friendship among nations, ethnic or religious groups and can help create a universal culture of human rights.

Education and Human Security
The denial as well as the violations of the right to education damage people's capacity to develop their own personalities, to sustain and protect themselves and their families and to take part adequately in social, political and economic life. On a society-wide scale, the denial of education harms the cause of democracy and social progress, and by extension international peace and human security. The lack of human security prevents children to go to school. This is obvious for children in armed conflict, in particular for child soldiers. But poverty as a threat to human security may result as well in the denial of the right to education. The right to know one's human rights through human rights education and learning can make a vital contribution to human security. Through education and learning about human rights and humanitarian law, violations of human rights in armed conflicts can be prevented and societal reconstruction after conflicts facilitated.
☺☞ *Human Rights of the Child*
    Human Rights in Armed Conflict

Education is more than just learning how to read, write or calculate. The Latin origin of the word itself is *"to lead somebody out"*. A person's right to education incorporates educational opportunities, e.g. access to primary, secondary, and tertiary education. While acknowledging a broader conception of the right to education, this module focuses on **primary** and **basic education**, as vast numbers of people are denied even the foundations of a lifelong learning journey.

The human right to education as prescribed in the International Bill of Human Rights of the United Nations requests free and compulsory education in the *"elementary and fundamental"* stages. States, however, interpret this requirement in different ways. In Europe, North America, Australia and some parts of South Asia, *"elementary"* education extends to full secondary education; however, some 20 countries worldwide have no specific age for compulsory education at all.

Historical Development

Prior to the age of enlightenment in Europe, education was primarily the responsibility of parents and the church. Education started to be considered a matter of public concern and state responsibility only with the emergence of the modern secular state. In the 16th and 17th centuries, the eminent philosophers John Locke and Jean-Jacques Rousseau alluded in their writings to the modern conception of the individual right to education.

By contrast, classical civil instruments such as the British Bill of Rights of 1689, the Virginia Declaration of Rights of 1776, the American Declaration of Independence of 1776 or the French Declaration of the Rights of Man of 1789 did not contain any rights specifically related to the right to education.

In the 19th century, the emergence of socialism and liberalism placed education more firmly in the realm of human rights. 19th century liberal and anti-clerical thoughts also influenced the definition of the educational rights, which were formulated to defend and advance the ideas of freedom of science, research

and teaching against church and state interference.

During the latter half of the 19th century, the explicit recognition of educational rights emerged. The 1871 Constitution of the German Empire contained a section entitled *"Basic Rights of the German People"*, which also contained the right to education; similarly the German Weimar Constitution of 1919, which included a section on *"Education and Schooling"*, explicitly recognised the duty of the state to guarantee education by means of free and compulsory school attendance.

The conclusion of peace treaties after the First World War included guarantees of educational rights of minorities. The proclamation of the Declaration of Geneva, the so-called *"Charter of Child Welfare of the League of Nations"* in 1924 led to an international recognition of the right to education.

During the 20th century, aspects of the right to education were enshrined in national constitutions and international bills of rights or recognised in non-constitutional or ordinary pieces of domestic legislation. The right to education has been explicitly mentioned in the constitutions of more than 50 countries, for example Nicaragua, Cyprus, Spain, Vietnam, Ireland, Egypt, Japan, Paraguay and Poland.

The United Kingdom and Peru have recognised the right to education in non-constitutional legislation; South Korea, Morocco and Japan have recognised the right in both their constitution and ordinary legislation.

No right to education is mentioned in the United States Constitution. US Courts at

federal and state levels have developed certain educational entitlements, particularly relating to equality of educational opportunity.

(Source: Douglas Hodgson. 1998. *The Human Right to Education.*)

2. DEFINITION AND DESCRIPTION OF THE ISSUE

Content of the Right to Education and State Obligations

The right to education has a solid basis in the international law on human rights. It has been laid down in several universal and regional human rights documents. Examples are the Universal Declaration on Human Rights (Article 26), the International Covenant on Economic, Social and Cultural Rights (Article 13 and 14), the Convention on the Elimination of All Forms of Discrimination against Women (Article 10) and the Convention on the Rights of the Child (Article 28 and 29).

On the regional level there is the European Convention on Human Rights and Fundamental Freedoms (Article 2 of the First Protocol), the American Convention on Human Rights (Article 13 of the Additional Protocol to the American Convention on Human Rights in the area of economic, social and cultural rights) and the African Charter on Human and Peoples' Rights (Article 17). One of the most recent codifications of human rights, the Charter of Fundamental Rights of the European Union, includes the right to education in its Article 14.

The fundamental right to education entitles all individuals to certain forms of behaviour by their respective governments. States have the obligation to respect, to protect and to fulfil the right to education.

The obligation to **respect** prohibits the state from acting in contravention of recognised rights and freedoms, interfering with or constraining the exercise of such rights and freedoms. States must, *inter alia*, respect the liberty of parents to choose private or public schools for their children and ensure the religious and moral education of their children in conformity with their own convictions. The need to educate boys and girls equally should be respected, as should the rights of all religious, ethnic and linguistic groups.

"The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations, and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace [...]."

Art. 13 (1), International Covenant on Economic, Social and Cultural Rights. 1966.

The obligation to **protect** requires states to take steps through legislation or by other means to prevent and prohibit the violation of individual rights and freedoms by third persons. States should ensure that public or private schools do not apply discriminatory practices to or inflict corporal punishment on pupils.

The obligation to **fulfill** in the International Covenant on Economic, Social and Cultural Rights (ICESCR) means the obligation of the progressive realisation of the right. For this purpose, the obligation of conduct and the obligation of result can be distinguished: The obligation of conduct refers to a certain action or measure that a state should adopt. The best example of this is Article 14 of the ICESCR, according to which new state parties that have not yet secured free and compulsory primary education have an obligation within two years *"to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years [...] of the principle of compulsory education free of charge for all".*

> **Standards to be achieved:**
> - Free and compulsory primary education;
> - Available secondary education (10–14-year-olds) that is accessible to all;
> - Accessible higher education to all on the basis of capacity;
> - Fundamental education intensified for those not having completed primary education;
> - Establishment of an adequate fellowship system and continuous improvement of the teachers' position.
>
> (Source: International Covenant on Economic, Social and Cultural Rights. 1966. *Article 13 (2)*.)

This means that the improvement of access to education for all on the basis of the principle of equality and non-discrimination and the freedom to choose the kind of school and content, represent the spirit and cardinal essence of the right to education.

The **General Comment** No. 13 of the Committee under the International Covenant on Economic, Social and Cultural Rights (ICESCR) identifies **four elements** of the state's obligations with respect to the right to education. These are: availability, accessibility, acceptability and adaptability.

Availability

The duty to provide compulsory and free primary education is undoubtedly a prerequisite for realising the right to education.

To ensure that primary schools are available for all children requires considerable political and financial commitments. While the state is not the only education provider, international human rights law obliges it to be the provider of last resort so as to ensure that primary schools are available for all school-aged children. If the structural capacity of primary schools is below the number of primary school-aged children, then a state's legal obligation as regards compulsory education is not fulfilled.

The provision of secondary and tertiary education is also an important element of the right to education. The requirement of *"progressive introduction of free education"* does not mean that a state can absolve itself from its obligations.

Accessibility

At a minimum, governments are obliged to ensure the enjoyment of the right to education through guaranteeing access to existing educational institutions by all, girls and boys,

> *"Educating a woman is educating a family, a community, a nation."*
>
> **African proverb**

women and men alike, on the basis of **equality and non-discrimination**.

The affirmative obligation to ensure equal access to educational institutions encompasses both physical and constructive access. Physical access to institutions is especially important for the elderly and persons with disabilities. Constructive access means that exclusionary barriers should be removed, for example by the elimination of stereotyped concepts of the role of men and women from textbooks and educational structures, as provided by Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women.

☺☞ *Non-Discrimination*
Human Rights of Women

Acceptability

The former Special Rapporteur on the Right to Education, Katarina Tomasevski, has stated in one of her reports that *"the State is obliged to ensure that all schools conform to the minimum criteria which it has developed as well as ascertaining that education is acceptable both to parents and to children".* This element involves the right to choose the type of education received, and the right to establish, maintain, manage and control private educational establishments. Education has to be culturally appropriate and of good quality. Pupils and parents have a right to be free from indoctrination and mandatory study of materials that are incompatible with a pupil's religious or other beliefs. Using the authority of the public educational system to induce people to change faith can be considered illicit proselytism.

☺☞ *Religious Freedoms*

Adaptability

Normally, what a child learns in school should be determined by his or her future needs as an adult. This means that the educational system should remain adaptable, taking into account the best interests of the child, as well as the social development and advancement both nationally and internationally.

The obligation of governments to ensure that the human right to education is respected, protected and fulfilled is not only a state concern. It is also the task of civil society to promote and assist the full implementation of the right to education.

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

Today, a comparative view of the world at large reveals substantial disparities in the implementation of the right to education. Indeed, the realisation of the right to education varies from region to region.

Most of the children who are not enrolled in school are in Sub-Saharan Africa and South Asia. On average, a child born in Mozambique today can anticipate four years of formal education. One born in France will receive 15 years at vastly higher levels of provision. Average schooling in South Asia, at eight years, is half the level in high-income countries. Moreover, while the primary school enrolment gap may be closing, the gap between rich and poor countries measured in terms of average years of education is widening. This is before taking into account differences in education quality: Less than one-quarter of Zambian children emerge from primary school able to pass basic literacy tests. Meanwhile, access to higher education remains a privilege available mainly to citizens of high-income countries.

> *"Education is the most powerful weapon you can use to change the world"*
>
> **Nelson Mandela,** former president of South Africa, Nobel Prize for Peace. **2003.**

These education inequalities of today are the global social and economic inequalities of tomorrow.

The example of Uganda: In the second half of the 1990s poverty reduction priorities shifted to education. Free primary education was introduced and public spending increased. Primary school enrolment rose from 5.3 million to 7.6 million between 1997 and 2003. Enrolment rates are the same for the poorest 20% of the population as for the richest 20%, and the gender parity gap has been closed at the primary level. Universal enrolment is now within reach, but drop-out rates make achieving universal completion by 2015 unlikely.

UNESCO's 2010 Report *'Reaching the marginalized'* charts some striking advances in education over the past decade. Despite this, the states of the world will not achieve the goal of **universal primary education** by 2015. About 72 million primary school age children and another 71 million adolescents are not at school, and if current trends continue 56 million children of primary school age will still not attend schools in 2015. There has been little progress towards the goal of halving adult illiteracy – a condition that affects 759 million people, two thirds of them women.
(Source: UNESCO. 2010. *EFA Global Monitoring Report 2010.*)

The UN Literacy Decade 2003-2012 is confronted with a situation, in which still 20% of the world's adult population is missing basic education. Literacy is crucial for enhancing human capabilities and economic, social and political participation in the knowledge societies of today.

Illiteracy is usually a result of extreme poverty. Women are less literate than men. In 2008, there were just under 796 million illiterate adults, around 17% of the world's adult population. Women make up just over 509 million of the total number.
(Source: UNESCO. 2011. *EFA Global Monitoring Report 2011.*)

A major issue of concern are the still low levels of literacy in poor parts of the world. According to UN General Assembly Resolution 56/116, literacy is at the heart of life-long learning, providing basic education for all and assisting to adjust to changing requirements. **Life-long learning or life-long education for all** has to be part of the future global knowledge societies. In this context the skills-oriented technical and vocational education needs adequate attention, too.

Many of the poorest countries spend significantly more on arms than on basic education – 35 countries were affected by armed conflict from 1999 to 2008. Of the total number of primary school age children in the world who are not enrolled in school, 42% – 28 million – live in poor countries affected by conflict.
(Source: UNESCO. 2011. *EFA Global Monitoring Report 2011.*)

The **World Conference on the Right to and the Rights in Education** of 2004, in its *"Declaration of Amsterdam"*, emphasised the need to guarantee access to education while safeguarding the educational rights and needs of all students on a non-discriminatory basis. It called on governments and international organisations, *inter alia*, to enlarge the educational opportunities of vulnerable groups like

migrants, minorities, etc., to improve the quality of education and the status of teachers, to take measures to minimise school violence and to meet the growing demand for life-long learning.

The issue of the **language of instruction** has spawned controversies. There is no general international human right to learn one's mother tongue at school when belonging to a linguistic minority of a country. Article 27 ICESCR only states that the *practice* of a language shall not be denied but remains silent on the issue of instruction in the mother tongue.

In its **Framework Convention for the Protection of National Minorities** of 1995, the Council of Europe has recognised the right to learn one's mother tongue but has not explicitly recognised the right to receive instruction *in* the mother tongue.

The European Charter for Regional or Minority Languages of 1992 has gone a step further in promoting the right to education in the mother tongue as an option for those states which have signed and ratified the Charter, the goal being bilingualism of minorities recognised by the state. However, there are minorities who are not protected this way and do not even have the right to learn their mother tongue at school, such as the Roma in Europe or the Aborigines in Australia.

Scientific analysis has shown that *primary education in a foreign language*, e.g. French in West Africa, may result in lower levels of achievement of students. Therefore, a **right to primary education in mother tongue** has been called for by the African Academy of Languages in Bamako, Mali.

☺☞ *Minority Rights*

Despite the remarkable progress in efforts to enable children to fully enjoy their right to education, there is still a great deal of work to be done in order to achieve the objectives. There are still many unresolved issues of discrimination, inequality, neglect and exploitation affecting in particular girls, women and minorities. The UNICEF State of the World's Children Report 2006 entitled *'Excluded and Invisible'* or the Human Rights Watch Report *'Failing our children: Barriers to the Right to Education'* give numerous examples on root causes of **exclusion**. Societies must therefore intensify efforts to address the social and cultural practices that prevent children and other groups from fully enjoying their educational rights, and in this way contribute to their human security.

The UN Special Rapporteur on the Right to Education, Kishore Singh, in his report of 2011 on the promotion of equality of opportunity in education recommended strengthening national regulatory frameworks and to address multiple forms of inequality and discrimination as well as to ensure adequate resources allocation to address the specific needs of victims of marginalisation and exclusion.

(Source: Kishore Singh. 2011. *Report of the Special Rapporteur on the Right to Education. The promotion of equality of opportunity in education*.)

☺☞ *Non-Discrimination*
    Human Rights of Women

Disadvantaged Groups and Access to the Right to Education

On behalf of UNESCO and other organisations several groups have been identified, which face particular difficulties in full access to education on the basis of equality. They include women and girls, persons belonging to minorities, refugees and migrants, indigenous people, people with disabilities and socially or economically disadvantaged groups, like demobilised soldiers or marginalised youth. These groups have become the focus of

international concern and action, e. g. in the reporting obligations of states. The UN Special Rapporteur on the Right to Education for example, focused his report of 2010 on the right to education of migrants, refugees and asylum-seekers, recommending the elimination of discrimination, successful integration and social justice and inclusion of all types and levels of education.

(Source: Vernor Munoz. 2010. *Report of the Special Rapporteur on the right to education. The right to education of migrants, refugees and asylum-seekers*.)

Particular attention has to be paid to the educational needs of **people with disabilities**. The Framework for Action adopted at the Salamanca Conference of 1994 pronounced itself in favour of **inclusive education**. Accordingly, *"schools should accommodate all children regardless of their physical, intellectual, social, emotional, linguistic or other conditions"*.

Human Rights in Schools
Contrary to the obligation of Article 26 (2) of the Universal Declaration of Human Rights

"The effective application of the child's right to education is primarily a question of will. Only the political will of governments and of the international community will be able to promote this essential right to a point which will contribute to the fulfilment of every individual and to the progress of every society."

Amadou-Mahtar M'Bow,
former UNESCO Director-General.

(UDHR), human rights in schools often remain unimplemented. Children are still subject to corporal punishment or to work. They are not educated on and informed about their rights as required by the Convention on the Rights of the Child ratified by all UN member states except the U.S. and Somalia.
☺☞ *Human Rights of the Child*

Accordingly, Human Rights Education in schools and school democracy need to be promoted. Teachers also need protection, if put under pressure by authorities or denied adequate salaries, which is recognised in pertinent UNESCO conventions and recommendations. Violence in schools is another problem, which has increased over recent years and become a focus of attention. Good practices can be found in the 9.000 educational institutions in 180 countries immersed in the UNESCO Associated Schools Project Network (ASPnet) (as of April 2011). It will celebrate its 60th anniversary in 2013.

4. IMPLEMENTATION AND MONITORING

Since its inception in 1945, the United Nations have recognised the necessity of *"international co-operation in solving international problems of economic, social, cultural or humanitarian character"* (Article 1 (3) of the UN Charter). International co-operation, through the transfer of information, knowledge and technology, is essential to the effective realisation of the right to education, especially for children in the less developed countries. The right to education is also a precondition for economic development. The provision of education should be considered by all states as a long-term, high-priority investment because it develops individual human resources as an asset in the process of national development.

International financial institutions such as the World Bank and the International Monetary Fund (IMF) stress the importance of education as an investment in human capital development. However, precisely these institutions have also forced governments to cut public expenditures, including those relating to education, or to introduce fees even in primary education as a result of stringent conditions attached to their Structural Adjustment Programmes.

The 1990 **World Conference on Education for All** held in Jomtien, Thailand, declared that the effective provision of **basic education for all** depends on political commitment and political will backed by appropriate and supportive fiscal, economic, trade, labour, employment and health policies. An **UNICEF** study covering nine countries identified six broad themes for achieving better results in ensuring the right to universal primary education. These are: political and financial commitment, the central role of the public sector, equity in the public sector, reducing the cost of education in households, and integration of education reforms into wider human development strategies.

The **World Education Forum**, held in Dakar in 2000, was the largest evaluation ever undertaken in the field of education. Altogether, 164 countries were represented, besides 150 civil society groups, mainly NGOs. The breakthrough outcome of the forum has been the adoption of the **Dakar Framework for Action**. ☺☞ *Good to Know, Trends*

The Dakar World Education Forum also saw the launching of **nine EFA Flagship programmes**: the Initiative on HIV/AIDS and Education; Early Childhood Care and Education; The Right to Education for Persons with Disabilities; Towards Inclusion; Education for Rural People; Education in Situations of Emergency and Crises; Focusing Resources on Effective School Health; Teachers and the Quality of Education; the UN Girl's Education Initiative; and Literacy in the Framework of the UN Literacy Decade.

Strong **institutional support** for the full implementation of the right to education is required. **UNESCO** as a specialised agency of the United Nations plays a leading role in this regard as, in pursuance of its constitution of 1946 education is one of its main functions. UNESCO, in cooperation with other organisations like UNICEF or ILO, has been instrumental in initiating educational reforms and promoting the full implementation of the right to education, as evidenced by the extensive corpus of standard-setting instruments, various documents, reports as well as the numerous forums, meetings, working groups and activities of co-ordination and collaboration with states, international inter-governmental organisations and NGOs. UNESCO is thus the leading agency for international co-operation in the field of education. The National Commissions for UNESCO assure that UNESCO actions are well rooted in the 193 member states.

UNESCO'S action in education is built up around three strategic objectives:
- Promoting education as a fundamental right;
- Improving the quality of education;
- Promoting experimentation, innovation and the diffusion and sharing of information and best practices as well as policy dialogue in education.

> *Education is not a way of escaping the country's poverty. It is a way to fighting it.*
>
> **Julius Nyerere**

UNESCO has developed a set of mechanisms designed to permit the more effective application of provisions adopted and to ensure the better fulfilment of obligations undertaken with regard to the right to education. The **periodic reports** that states are asked to submit have the effect of informing about the measures they have taken domestically to fulfil their obligations under the conventions to which they are parties. State parties to the Convention against Discrimination in Education (1960), and, according to the equally-worded Recommendation on Discrimination in Education of the same year, all member states have to report every five to seven years on the legislative and administrative provisions which they have adopted and other actions which they have undertaken for the application of the Convention. The responsibility for examining the reports of the member states under the different reporting obligations has been accorded to the Committee on Conventions and Recommendations. There is also a regular UNESCO/ECOSOC (CESCR) expert meeting on monitoring the right to education.

In addition, in 1978, the Executive Board established a **confidential procedure** for the examination of complaints against member states about alleged violations of human rights in the competence of UNESCO. The objective is to resolve the problem in the spirit of cooperation, dialogue and conciliation.

The monitoring of the implementation of the

right to education on a progressive basis can benefit from the adoption and use of reliable indicators, the use of cross-national comparisons and country rankings. In the educational sector, reliable cross-temporal **indicators** include literacy rates, enrolment ratios, completion and drop-out rates, pupil-teacher ratios, and public expenditure on education as a percentage of total public expenditure or in comparison with other sectors such as the armed forces.

In this respect, the annual **EFA Global Monitoring Report**, produced by UNESCO since 2002 has set new standards complementing the annual report of UNICEF on the *'State of the World's Children'*, which has a wider focus.

In December 2002, the United Nations General Assembly declared 2005–2014 the **UN Decade for Education for Sustainable Development (DESD).** As lead agency for the UN organisations, UNESCO seeks to implement education for sustainable development by promoting and improving basic education, developing public awareness and providing trainings.

The UN Commission on Human Rights, the predecessor of the Human Rights Council, in 1998 established a **Special Rapporteur on the Right to Education** with the mandate to report on the status of the progressive realisation of the right to education worldwide, including access to primary education as well as the difficulties encountered in the implementation of this right. The first Rapporteur appointed was Katarina Tomasevski, who focused on a rights-based approach to education. She left after 6 years disillusioned about the limited support for her function. From 2004 to 2010, Venor Muñoz Villalobos served as Special Rapporteur on the Right to Education. His successor is Kishore Singh.

There is an increasing emphasis on the **justi-**

ciability of the right to education in national and international courts as pointed out by the Special Rapporteur on the Right to Education in his 2005 report. The main issues are discrimination in education, in particular in the equal access to education.

> **The Committee on Economic, Social and Cultural Rights** is the UN supervisory body responsible for monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by the state parties. It examines the national reports to be regularly submitted by these states and maintains a dialogue with them in order to ensure the most effective implementation of the rights enshrined in the Covenant.
>
> With regard to the right to education, the Committee closely cooperates with UNESCO. The full realisation of the right to education can be achieved by a combination of measures, i.e. a greater resolve on the part of states to fulfil their **reporting obligations** under the relevant international instruments in good faith, "shadow reports" by NGOs and lobbying by professional associations.

Problems of Implementation

Social, economic and cultural rights often require substantial amounts of capital expenditure progressively over time for their effective implementation. Indeed, in the experience of many countries, education constitutes one of the leading governmental expenditure items.

Often, the main obstacle hindering a child's exercise of the right to education in developing countries is **poverty**. The problem is not so much that children do not have schools to

> *"[…] there is no tool for development more effective than the education of girls."*
>
> **Kofi Annan,**
> former UN Secretary-General**. 2004.**

attend. In fact, over 90% of the developing world's children start primary schooling. The real problem is the very high rates in terms of students dropping out of school or repeating their school year. Poverty makes it difficult for families either to pay school fees and the cost of books and school materials, or when schooling is free, to send a child to school when his or her work contributes to the meagre family budget.

☺☞ *Freedom from Poverty*

The lack of funds prevents the authorities from building and maintaining schools, operating teacher training colleges, recruiting competent teaching and administrative staff, providing teaching materials and other supplies, and providing adequate transportation systems for the students. All of these directly depend upon the economic resources at the state's disposal. A study conducted by the Save the Children Fund revealed that as a result of their debt burden, African states have been forced in some cases to impose or increase school fees, raising the cost of education to families. As a result, millions of children have either never attended school or failed to complete their basic education.

Another factor is the widespread use of **child labour**. Unfortunately, many families need this supplementary income to be able to make ends meet. This problem is particularly addressed in the work of the International Labour Organisation (ILO), e.g. by the Con-

vention against the Worst Forms of Child La-bour of 1999 and several programs, such as the International Programme on the Elimina-tion of Child Labour (IPEC). The Hague Glo-bal Child Labour Conference 2010 has agreed on a Roadmap to step up action to eliminate the worst forms of child labour by 2016.

Progress was greatest among children aged 5-14, where the number of child labourers fell by 10%. Child labour among girls decreased by 15%.However it increased among boys (by 8 million or 7%). Child labour among young people aged 15-17 increased by 20%, from 52 million to 62 million.

(Source: International Labour Organisation (ILO). 2010. *Accelerating Action against Child Labour. Global Report under the follow-up to the ILO Declaration on Fundamental Princi-ples and Rights at Work.*)

Poverty and child labour are a notable ob-stacle for the **education of girls** in particular. Many girls have to assume heavy workloads at a rather early age in order to survive. Not only that they are expected to respond to fam-ily needs and take over laborious chores, but they are also faced with social expectations re-garding early motherhood and old-fashioned attitudes. These traditional views concerning girls' education, though near-sighted and one-sided, still prevail and finally result in a lack of motivation of parents to send girls to school. Certain groups of girls – such as girls from in-digenous or nomadic communities, ethnic mi-norities and abandoned as well as girls with disabilities – face particular disadvantages.

It is therefore a rising international concern to provide for the equal access to education for girls and thus enable them to fulfil their hu-man potential. At the World Education Forum in Dakar in 2000, the *'Ten-Year United Na-tions Girls' Education Initiative'* was launched,

which aims at awareness-raising, the educa-tion of girls and the elimination of gender dis-parities.

☺☞ *Human Rights of Women*
    Human Rights of the Child
    Non-Discrimination

HIV/AIDS, which caused more than 3 mil-lion deaths in 2004 has a profound impact on education, in particular in sub-Saharan Africa. Kenya, Tanzania and Zambia each lost at least 600 teachers in 2005. Absenteeism due to AIDS has become a major problem for schools in Africa.

(Source: UNESCO. 2005. *EFA Global Monitor-ing Report 2006.*)

The joint UN programme on **HIV/AIDS** (UNAIDS) will be guided by the new 2011-2015 strategy which aims to advance global progress in achieving country set targets for universal access to HIV prevention, treatment, care and support and to halt and reverse the spread of HIV and contribute to the Millen-nium Development goals by 2015.

Around 28 million children of primary school age in **conflict-affected countries** are esti-mated to be currently out of school. **Schools should be respected and protected as sanc-tuaries and zones of peace.** In most conflict zones they are **targets of war** – a flagrant vio-lation of the Geneva Conventions 1949. The United Nations have put in place an extensive system of monitoring grave violations of hu-man rights against children. Whether they are in conflict zones, displaced within their own countries or refugees, parents, teachers and children affected by conflict have at least one thing in common: the extraordinary level of ambition, innovation and courage they dem-onstrate in trying to maintain access to edu-cation. Parents understand that education can

> *"Nothing is more important in a new nation than providing children with an education. If you want peace and justice, if you want jobs and prosperity, and if you want a people to be fair and tolerant towards one another, there is just one place to start – and that place is school."*

José Ramos-Horta, Nobel Peace Prize Laureate. **1996.**

provide children with a sense of normality and that it is an asset – sometimes the only asset – that they can carry with them if they are displaced.

A UNICEF fact-finding report found that the dominant approach to peace-building still marginalises education, although education can play a crucial role in peace-building in all phases of the conflict.

(Sources: UNESCO. 2011. *EFA Global Monitoring Report 2011.*; UNICEF. 2011. *The Role of Education in Peacebuilding.*)

The UN Special Rapporteur on the Right to Education, Kishore Singh, in his interim report in 2011 recommended to ensure adequate funding for education in situations of emergency, to enhance protection of schools from attack and to pay attention to the exclusion of girls and marginalised groups.

(Source: Kishore Singh. 2011. *Interim-Report of the Special Rapporteur on the Right to Education. The right to education (Domestic financing of basic education).)*

☺☞ *Human Rights in Armed Conflict*

Did you know that:

The achievement of universal primary education within a decade in all developing countries would cost $7-8 billion annually which represents about seven days' worth of global military spending, seven days' worth of currency speculations in international markets, or less than half of what North American parents spend on toys for their children each year and less than half of what Europeans spent each year on computer games or mineral water.

(Source: Kevin Watkins. 1999. *Education Now. Break the Cycle of Poverty.*)

GOOD TO KNOW

1. GOOD PRACTICES

- In **Egypt**, the government is integrating the successful concept of girl-friendly community schools into the formal education system and has launched a comprehensive package of reforms aimed at generating healthy and health-promoting schools.
- **Malawi** (1994), **Uganda** (1997), **Tanzania** (2002) and **Kenya** (2003) have cut the cost of schooling for parents by eliminating school fees. Some countries also abolished compulsory uniforms.
- The Busti Program in **Pakistan**, which is a collaboration between a Karachi-based NGO and UNICEF aims to provide basic education to children who can then be admitted to formal schools. The age group covered is the five-to-ten-year-olds; about three quarters of the pupils are girls. The initiative has succeeded in reversing the normal gender bias partly by providing education in homes. It has set up more than 200 home schools, enrolling over 6000 students, at per-unit costs of $6, far lower than the average cost in state-run elementary schools.
- **Mauritania** has adopted legislation prohibiting early marriages, made basic education compulsory and raised the minimum age for child labour to 16. It has founded a Council for Children to promote implementation of the Convention of the Rights of the Child and has promoted the establishment of juvenile courts in all main cities.
- In Mashan County in **China**, villages and households that take effective measures to send girls to school are awarded priority for loans or development funds.

- The People's Democratic Republic of **Laos** is successfully implementing a gender inclusive design which assures the access to quality primary education for girls in minority areas. The long-term objective is to bring more women into the mainstream of socio-economic development by progressively improving their educational level.
- In Mumbai in **India** the Pratham Mumbai Education Initiative, a partnership among educators, community groups, corporate sponsors and government officials, has set up 1.600 schools and helped modernise over 1.200 primary schools.
- In **Afghanistan**, where girls were excluded from the official education system, UNICEF took the bold step of supporting home schools for girls and boys, beginning in 1999.
- The CHILD project in **Thailand** which started with donations of second-hand computers, monitors the connections between children learning and health.
- **Mali** has adopted a 'Fast Track Initiative' to accelerate the process to reach universal primary education by 2015.
- According to a World Bank report the completion rate in primary education rose from 43,2% in 2005 to 55,7% in 2010, of which 64,4% were boys and 47,6% girls. This, however, shows that there is still a long way to reach the MDG in education, in particular regarding girls. (Source: World Bank. 2011. *Mali - Education Sector Investment Program II: P093991 - Implementation Status Results Report: Sequence 10.*)
- As a result of the economic crises in Argentina, spending for education fell dramatically. In 2004, Spain agreed to a proposal by **Argentina** for a **debt for education swap**. Accordingly Argentina transferred US $100

million on a special education account instead of repayment to Spain. The new funds will help 215.000 students in three of the poorest parts of the country. (Sources: UNESCO. 2005. *EFA Global Monitoring Report 2006.*; Kevin Watkins. 1999. *Education Now. Break the Cycle of Poverty.*)

The Right to Education Project was set up by the Special Rapporteur on the Right to Education in 2001 in order to increase the transparency of her work and to provide a forum for education on the right to education. Being the only public access human rights resource site devoted solely to the right to education, the project promotes the enhancement of all human rights through education, carries out assessments of the global realisation of the right to education, provides input for education strategies and facilitates exposing and opposing human rights violations. (www.right-to-education.org)

2. TRENDS

The Dakar Framework for Action – Education for All adopted at the World Education Forum (Dakar, Senegal, 28 April 2000), expresses the commitment of the entire international community to the full realisation of the right to education. The Dakar Framework for Action sets out six goals for achieving basic education for all by 2015:

1. Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children;
2. Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to complete free and compulsory primary education of good quality;
3. Ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life skills programmes;
4. Achieving a 50% improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults;
5. Eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls' full and equal access to basic education of good quality;
6. Improving all aspects of the quality of education and ensuring excellence of all so that recognised and measurable learning outcomes are achieved by all, especially in literacy and essential life skills.

The **achievement of universal primary education** for all boys and girls and of gender equality and empowerment of women by eliminating gender disparity in primary and secondary education by 2005, and at all levels of education for all girls and boys by 2015 was affirmed by the Millennium Summit in September 2000 as the second and third of the eight **Millennium Development Goals (MDGs).** The commitment to eliminate gender discrimination in education was reaf-

firmed by the UN World Summit in September 2005. Also other MDGs like the reduction of child mortality and improvement of maternal health or combating HIV/AIDS cannot be achieved without appropriate educational policies. The '*EFA Flagship Initiatives*' like the initiative on the impact of HIV/AIDS on education, which are multi-partner collaborative mechanisms in support of EFA goals, provide examples in case.

The **World Bank**, which in the past has come under attack for being not enough supportive of free primary education, in 2002 has started an **EFA Fast Track Initiative** as a global partnership between donor and developing countries to ensure faster progress towards universal primary education. Low-income countries which demonstrate a serious commitment to achieve the second MDG can receive additional support from the donor community under the co-chairmanship of UNESCO and the World Bank. By the end of 2010 EFA FTI supported education in 44 developing countries which became fast track partners. Between 2004 and 2010 FTI helped to build around 30.000 classrooms, provided more than 200 million textbooks and granted over two billion dollars in financial aid to developing countries. In addition, it helps donors and developing country partners work together to ensure that education aid is better coordinated and more effective. It helped more than 19 million children to go to school for the first time. In 2011, it has been renamed into '*Global Partnership for Education*'.

Commercialisation of Education

Globalisation has increased the commercialisation of education, which is becoming a payable service rather than a public good resulting from a human right. Private educational institutions set up as businesses can undermine public education. To counter this trend and in response to concerns from professional as-

sociations the European Union has refrained from making any concessions on services in education in the Doha Round of International Trade Negotiations.

Progress towards Education for All: Mixed Results

Positive Trends since 1999

- From 1999 to 2008, an additional 52 million children enrolled in primary school. Especially in sub-Saharan Africa and South and West Asia enrolment increased sharply.
- Viewed from a global perspective, the world is edging slowly towards gender parity in school enrolment.
- Low income countries have significantly scaled up their national education financing effort.

Remaining Challenges

- If current trends continue, there will be as many as 56 million children out of primary school in 2015.
- In the wake of the 2008 financial crisis, prospects for achieving the Education for All goals in many of the world's poorest countries have been badly damaged.
- While many countries have phased out formal school fees, according to the obligation under Article 13 of the ICESCR, surveys continue to highlight parental inability to afford education as a major factor in decisions to let children drop out.
- The global gender gaps in the out-of-school population have narrowed, but girls still made up 53 % of the out-of- school population in 2008. Disparities are most pronounced in South

and West Asia, where girls account for 59% of children not enrolled in school.

(Source: UNESCO. 2011. *EFA Global Monitoring Report 2011*.)

3. CHRONOLOGY

1946 Constitution of UNESCO: ideal of equality of educational opportunities

1948 The Universal Declaration of Human Rights is adopted by the General Assembly of the UN. Education is declared a basic right of all people

1959 The Declaration of the Rights of the Child is adopted by the UN General Assembly. Education is declared the right of every child

1960 UNESCO Convention against Discrimination in Education

1965 The International Convention on the Elimination of All Forms of Racial Discrimination proclaims the right of all to education, regardless of colour or ethnicity

1966 International Covenant on Economic, Social and Cultural Rights, Article 13

1973 ILO Convention on the Minimum Age of Employment

1979 The Convention on the Elimination of All Forms of Discrimination against Women calls for the elimination of discrimination against women and for equal rights in education

1985 At the Third World Conference on

Women education is declared the basis for improving the status of women

1989 Convention on the Rights of the Child

1990 World Declaration on Education for All in Jomtien, Thailand. The conference, co-sponsored by UNDP, UNESCO, UNICEF, the World Bank and later UNFPA, presented a global consensus on an expanded vision of basic education

1993 E-9 Education Summit of the nine most populated developing countries in New Delhi, India. Representatives of government agreed to achieve the goal of universal primary education by 2000. A World Plan of Action on Education for Human Rights and Democracy is adopted by an international conference in Montreal

1994 World Conference on Special Needs Education: Access and Equality in Salamanca, Spain. Participants declare that all countries should incorporate special needs education into their domestic education strategy and provide 'inclusive education'

1997 International Conference on Child Labour

1998 Appointment of the Special Rapporteur on the Right to Education

1999 General Comment No. 13 on the Right to Education

1999 ILO Convention on the Worst Forms of Child Labour

2000 Dakar Framework for Action, adopted at the World Education Forum in Dakar, Senegal

2000 Millennium Assembly: Primary education and equal access for all children by 2015

2003 United Nations Literacy Decade (2003-2012)

2004 World Conference in Amsterdam on the Right to and the Rights in Education

2005 UN Decade 'Education for Sustainable Development' 2005-2014

2005 World Programme for Human Rights Education: First phase (2005-2009) with focus on HRE in primary and secondary school systems; Second phase (2010-2015) with focus on HRE for higher education and on training programmes for teachers and educators, civil servants, law enforcement officials and military personnel

2006 UN Convention on Persons with Disabilities aims to promote, protect and ensure full and equal enjoyment of all human rights by persons with disabilities, which includes the right to education

2009 UNESCO World Conference on Education for Sustainable Development

SELECTED ACTIVITIES

ACTIVITY I: AVAILABLE? ACCESSIBLE? ACCEPTABLE? ADAPTABLE?

Part I: Introduction

This activity aims to deepen the understanding of the issues presented in the module on the right to education.

Part II: General Information

Type of activity: Role play, pantomime

Aims and objectives: The role play technique can enhance learning. Its purpose is to make participants experience an unfamiliar situation and to develop empathy and appreciation for different points of view.

Target group: Young adults and adults

Group size: About 20

Time: 90 minutes

Material: Flip chart paper, markers, copies of the four elements of state duties (availability, accessibility, acceptability, adaptability) from the 'Right to Education' module (see above)

Skills involved: Acting and linguistic skills, empathetic skills, creative skills

Part III: Specific Information on the Activity

Instructions:

Explain that the purpose of the exercise is to come up with a dramatic representation of the content of the education module. To start with, read out the exact meaning of the „four A's", the four elements of the state duties, and make sure that all participants understand the content. Then ask people to get into four small groups (4-6) and give each group a large sheet of paper and markers. Each group chooses one of the four elements for their role play. Give

the groups ten minutes first to brainstorm all their ideas about the module and then to identify two or three key ideas that they would like to bring out most strongly in a role play. Now give the groups 30 minutes to design and rehearse their play. Explain that this must be a group effort and everyone should have a role in the production.

After that gather the groups together in a circle so that everyone can watch each other's performance. Give a few minutes after each performance for debriefing, feedback and discussion. Ask first the players, then the observers to state their opinions.

Feedback:
Review the role-play itself: How did people feel about this activity? Was it more or less difficult than they had first imagined? What were the most difficult aspects, or the most difficult things to represent? Did people learn anything new? Were there similarities or differences among the groups, and if so, which?

Methodological hints: A role play can take many forms, but in all of them participants act out little dramas which normally evoke strong feelings in the actors as well as in the audience. Therefore, the group leader should encourage evaluation of what took place and should then analyse its relevance to human rights.

Tips for variation:
- Call out *"Freeze"* during a moment of intense action and ask actors to describe their emotions at that moment or invite the others to analyse what is happening.
- Without warning, stop the action, ask actors to exchange roles and continue the action from that point.
- Have someone stand behind each actor. Halt the action midway and ask the 'shadow' what they think their character is feeling and thinking and why.

Part IV: Follow-up
Read plays or other pieces of literature on a human rights topic, and organise a dramatic performance for the members of your local community.

Related rights: All other human rights, social and cultural rights.

ACTIVITY II: EDUCATION FOR ALL?

Part I: Introduction
'Education for all' was one of the objectives of the World Education Forum in Dakar/Senegal. But the realisation of the right to education is connected with and influenced by many other factors.

Part II: General Information
Type of activity: Reflection and creative transfer

Aims and objectives: To understand that education is a human right, to understand the difficulties in realising the objective of 'Education for all'.

Target group: Young adults, adults

Group size: Up to 25

Time: 120 to 180 minutes

Material: Copies of the relevant articles of the UDHR; articles, reports, material on the complexits of the human right to education and the interferences of education and other topics; cardboard cards (about 8 cm x 8 cm); scissors; pens and markers

Preparation: Collecting relevant material and information

Skills involved: Creative skills, argumentative, understanding complex interrelations

Part III: Specific Information on the Activity
Instructions:

Participants create a 'memory game' together. The memory game consists of pairs of cards, half of the cards show only keywords (e.g. girl, money, hunger), the other half shortly describes in which way the keywords are linked to the field of education. Ask people to get into small workings groups (3 to 4 persons), then hand out the cards and spread all information material on a table. Allow for enough time to choose the texts that serve as a basis for the memory cards.

Some ideas to form pairs: Girls/women – restricted access to education; minorities – restricted acces to education, no mother-tongue education; army – comparison of states' education and military budgets; globalisation – consequences for the education system(s); internet – consequences for education; money – no money, no school?; food/hunger – difficulties for education when not even basic needs are met; child labour – working instead of going to school; human rights education – whose profit, whose responsibility?

When all pairs of cards are ready you can start to play memory with the whole group (or in two rounds if the group is very large). Memory rules: Put the cards on a table showing only their empty back sides. The person that starts to play turns two cards to give everybody a chance to read them. If the cards form a pair, s/he can keep them; if not, they have to be turned again and the next person turns the next two cards.

Feedback:

Invite participants to talk about their experiences during the activity: Was it difficult to create pairs of cards? Did they gain any insights or learned things they had not known before?

- Start by inviting each group to present their results. Then go on to review how participants enjoyed the activity and what they learned.
- Set up a couple of questions like: similarities and differences between the groups; why do we have different priorities; which arguments were the most persuasive, what is the situation in our own community like?

Methodological hints:

Make sure that participants create a minimum of 20 pairs of cards to make playing possible.

Part IV: Follow-up

Discuss ways to approach the objective of education for all in the participants' own country. If the group is very active and creative they could possibly start an action campaign on 'Education for all'.

Related rights: Globalisation, political participation.

(Source: Adapted from Council of Europe. 2002. *Compass - A Manual on Human Rights Education with Young People.*)

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HUMAN RIGHTS OF THE CHILD

CHILD EMPOWERMENT AND PROTECTION

PARTICIPATION AND PROVISION

NON-DISCRIMINATION OF CHILDREN

BEST INTERESTS OF THE CHILD

»*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*«

Article 3, UN Convention on the Rights of the Child. 1989.

ILLUSTRATION STORIES

Corporal Punishment of Children

Children's answers on: *"Why do you think children get smacked?"*

- *"When people have been naughty and they're fighting, they get smacked by [their] mum or dad."* (6-year-old boy)
- *"[Children get smacked] when you fight with other people, when you throw stones and things."* (7-year-old boy)
- *"Maybe [you] do painting on the carpet [or] drawing on the settee [or] not tidying your room up – if you play with paint and get it on something. And if you knock your mum's favourite glass over and it smashes."* (5-year-old girl)
- *"Well, if it was time to tidy up your room and you only had an hour and you wasted all the hour reading books, you could get smacked."* (6-year-old boy)
- *"Because their parents tell them not to do something and they do it."* (7-year-old girl)

(Source: Carolyne Willow, Tina Hyder. 1998. *It Hurts You Inside – Children Talking about Smacking*.)

Children's answers on: *"What does it feel like to be smacked?"*

- *"It feels like someone banged you with a hammer."* (5-year-old girl)
- *"It's like when you're in the sky and you're falling to the ground and you just hurt yourself."* (7-year-old boy)
- *"It hurts a lot, it makes you unhappy."* (6-year-old girl)
- *"You're hurt and it makes you cry [and] drips come out of your eyes."* (5-year-old girl)
- *"And you feel you don't like your parents anymore."* (7-year-old girl)

- *"It feels, you feel sort of as though you want to run away because they're sort of like being mean to you and it hurts a lot."* (7-year-old girl)
- *"It feels bad or sad when your dad or mum smacks you – your try and tell your aunties but they do nothing."* (5-year-old girl)
- *"I don't get sad, only when my mum smacks me … and then, I cry…"* (4-year-old girl)

(Sources: Children's Rights Alliance for England and Save the Children UK (eds.). 2004. *It hurts you inside. Young children talk about smacking.*; Elinor Milner. 2009. *"I don't get sad, only when my mum smacks me." Young Children Give Advice about Family Discipline*.)

Discussion questions

1. Why do people smack their children?
2. Is it a legitimate form of discipline to smack children?
3. What are alternatives to corporal punishment?
4. Why have only 29 states in the world comprehensively prohibited corporal punishment at home, in schools and in the penal system?
5. What could you do about this yourself and with others?

Children Affected by Armed Conflict

"I was abducted [by the Lord's Resistance Army] while my mother and I were going to the field [...]. One of the other abducted girls tried to escape but she was caught. The rebels told us that she had tried to escape and must be killed. They made the new children kill her. They told us that if we escaped, they would kill our families.

They made us walk for a week. […] Some of the smaller children could not keep up, as we

were walking so far without resting, and they were killed. […] Some of the children died of hunger. I felt lifeless seeing so many children dying and being killed. I thought I would be killed."

Sharon, a 13-year-old girl, was abducted by the Lord's Resistance Army, a rebel group based in the north of Uganda fighting the Ugandan government but also terrorising the local population, particularly by abducting children to use them in their rebel forces.

(Source: Human Rights Watch. 1997. *The Scars of Death: Children Abducted by the Lord's Resistance Army in Uganda.*)

"They [the army] took us to the barracks. They beat us both with their guns and boots. After 15 days my friend died from the beatings. They beat me repeatedly. Once I was beaten unconscious and taken to the hospital. When I regained consciousness I was taken back to the barracks and beaten again. I nearly died. I don't know why they beat me."

Ram, recruited in 2004 by the Maoists when he was 14 years old describes his capture by the Royal Nepal Army one year later.

(Source: Human Rights Watch. 2007. *Children in the Ranks: The Maoists Use of Child Soldiers in Nepal.*)

Discussion questions

1. What may be the reasons for adults using children to fight their wars?
2. What should be done to remove child soldiers from this cycle of violence?
3. What will be the consequences of using children in war – for the child, for society?

Child abour

"The children work like we do, doing everything. Typically we work from 7:00 a.m. to 7:00 or 8:00 p.m. About 11 to 12 hours per day. Sometimes we will come to the field at 4:00 a.m."

Sabir S. was interviewed in Malybai, Kazakhstan, where he worked with his son, 15 and daughter, 13 on a tobacco farm. The children worked long hours, had inadequate rest, had little or no access to proper sanitation and nutrition, were exposed to high heat and sun, had no masks or protective clothing, suffered skin complaints from contact with tobacco leaves, and had limited access to medical care.

(Source: Human Rights Watch. 2010. *Hellish Work: Exploitation of Migrant Tobacco Workers in Kazakhstan.*)

Discussion questions

1. What are the main causes for child labour?
2. Why do states not implement laws according to their international obligations and enforce them properly?
3. Why do companies employ children?
4. Does child labour interfere also with other human rights of the child?

"The idealism and creativity of youth are some of the most important resources any country has."

Ban Ki-moon. 2010.

NEED TO KNOW

1. THE STRUGGLE FOR PROTECTING THE RIGHTS OF THE CHILD

Discussing the human rights of children is sometimes a strange, ambivalent experience. At first thought, everyone would immediately agree on young people's rights to a home, to live with family and friends, to develop personality and talents, to be protected from harm and to be respected and taken seriously. However, once questions arise about concrete standards of parenting and about responsibilities for realising these objectives, controversies are close.

Just look at the UN Convention on the Rights of the Child (CRC): This international treaty, adopted by the UN General Assembly in 1989, constitutes the foundation for the international protection of human rights of children. With 193 states parties including all UN member states except two (Somalia and USA) the CRC is the most widely ratified human rights treaty ever, setting truly universal human rights standards for children. But the success story of the standard-setting procedure stands in stark contrast to the level of their implementation. The childhood of millions continues to be devastated by malnutrition, persistent poverty and exclusion, exploitative labour, the sale and trafficking of children, and other forms of abuse, neglect, exploitation and violence. Therefore, expectations were high when, in 2002, several thousand government delegates and representatives from non-governmental organisations (NGOs) and more than 600 young people (up to 18) from over 150 countries gathered in New York for the UN General Assembly Special Session on Children. However, the resulting outcome document, the international Plan of Action "A World Fit for Children", which took nearly two years to be negotiated, brought only mixed success. And most strikingly, one of the thorniest issues in the debate was the status of the Convention on the Rights of the Child in the outcome document, as some states, like the USA, altogether objected to a child rights-based outcome document.

According to UNICEF, there are currently an estimated 127 million underweight children in the developing world today, which translates into 22 % of children in developing countries; 9 % of the children in the developing world are severely underweight. Decades after commitments to provide a quality education for every child, some 68 million primary-school-age children are still denied this right.

Child Rights and Human/Child Security

The concept of human security has been described as freedom from pervasive threats to rights and security of the person, promoting freedom from fear and from want, with equal opportunities to fully develop his or her human potential. Thus, it focuses on situations of insecurity caused by violence and poverty and further aggravated by discrimination and social exclusion. The requirement of prioritisation and the element of urgency to counter immediate threats to a person's security favourably complement the concept of children's rights, in particular following the principle of giving priority to the consideration of the child's best interests. However, when using the human security concept as a political tool, some caveats should be taken into account.

First, a binding legal framework for the

protection of human rights of children is already in place, providing for comprehensive rights with corresponding binding obligations on states – whereas human security lacks this normative foundation so far. Second, human security/child security approaches might lead to (over-) protectiveness, stressing the vulnerability and dependency of the child while neglecting the child's own capacities and resources. Therefore, a conceptual challenge for child security lies in how to best integrate the empowerment/self-enabling aspect, which is central to the human rights discourse.

From this follows that the synergies between child rights and child security approaches should be emphasised, as seen, for instance, in the context of the current discussion on the participation of children in peace processes and post-conflict reconstruction.

Since its beginning, the Human Security Network has paid special attention to child security, in particular in relation to armed conflict. Conflicts threaten children's access to nutrition, clean water, sanitation, education and health care. Children are particularly vulnerable to any form of violence and abuse, and at great risk of abduction, trafficking, involuntary recruitment by armed groups or forces, and sexual violence, including the use of rape as weapon of war. In its Resolution 1882 (2009) and Resolution 1998 (2011) the United Nations Security Council strongly condemned all violations of applicable international law involving the recruitment and use of children by parties to armed conflict, as well as their re-recruitment, killing and maiming, rape and other sexual violence, abductions,

attacks against schools or hospitals and denial of humanitarian access by parties to armed conflict and all other violations of international law committed against children in situations of armed conflict. It accordingly strengthened the monitoring and reporting mechanism on these grave violations of children's rights during conflict, which was established by Security Council Resolution 1612 (2005), requiring direct reporting on and response by parties that commit such violations of international law.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

The Nature and Content of the Human Rights of Children

The concept of children's rights has evolved, on the one hand, from the broader human rights movement but, on the other hand, also derives from other developments in the social, educational and psychological field over the last 200 years. This includes the impact of state-sponsored institutionalised compulsory education in schools, the negative effects of industrialisation on children (for example child exploitation in factories or mines) and the consequences of war for children. A new understanding of child development evolved, from new teaching concepts and models of child-upbringing to "children liberation movements" in the 1970s. They helped to shift the focus from the child's vulnerability and protection needs to a new discourse on child autonomy, competence, self-determination and child participation, rejecting traditional paternalistic views of children as mere objects of parental/adult control. Eventually, all these de-

velopments combined had a strong impact on the political process which started in 1978/79 within the United Nations with the drafting of a new, first legally binding document on the human rights of children – the **Convention on the Rights of the Child (CRC).** The day of its adoption – 20 November 1989 – is now the annual *International Child Rights Day*.

In 2002, two Optional Protocols to the Convention on the Rights of the Child entered into force. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict requires state parties to take all feasible measures to ensure that members of their armed forces under the age of 18 do not take a direct part in hostilities, and banning compulsory recruitment below the age of 18. The Protocol doesn't require a minimum age of 18 for voluntary recruitment, however, any voluntary recruitment under the age of 18 must include sufficient safeguards. States parties shall also take all feasible measures to prevent independent armed groups from recruiting and using children under the age of 18 in conflicts. Currently there are 146 parties to the Optional Protocol (April 2012).

Supplementing the Convention which requires governments to protect children from all forms of sexual exploitation and abuse and take all measures possible to ensure that they are not abducted, sold or trafficked, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography requires states parties to prohibit the sale of children (also for non-sexual purposes such as other forms of forced labour, illegal adoption and organ donation), child prostitution and child pornography, and make such offences punishable by appropriate penalties. States parties must provide legal and other support services to child victims. Currently there are 154 states parties to this Optional Protocol (April 2012).

In December 2011 the United Nations General Assembly adopted and opened for signature the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure which will allow children to submit individual complaints to the Committee on the Rights of the Child claiming that their rights under the Convention have been violated. By April 2012 the Protocol has been signed by 20 states but has not yet entered into force.

„Any society wishing to deny children, or any other group, rights which are the common property of other groups, should be able to offer clear and sustainable reasons for doing so. The burden of proof always rests with those who wish to exclude others from participation; children should not be obliged to argue their case for possessing the same rights as everyone else."

Bob Franklin. 1995.

Principal Concepts of the Convention on the Rights of the Child
Empowerment and Emancipation, Generational and Gender Aspects

Based upon the respect for the dignity of all human beings, the CRC recognises every child as the bearer of his or her own human rights: These rights are not derived from or dependent upon rights of parents or any other adult. This is the foundation for both the concepts

of emancipation and of empowerment of the child, enabling the child as a respected subject and citizen of society to challenge and change limiting and discriminating perceptions and expectations towards young people.

Factually, children still remain dependent on adults (in line with their physical, emotional and social development, lack of material resources/income etc.) and the given economic and social situation of their care-givers (e.g. unemployment, separation of parents), which have immediate impact on the child's standard of living. However, by protecting the human rights of children, their status in law and in society at large will change. It is neither a solution to all problems children face nor an end in itself, but a necessary means for engaging in a process that addresses these problems in a comprehensive way based on the child's (and society's) best interests. Accepting young people's rights, thus, does not create a specifically "privileged" social group, but instead, it is the necessary precondition for raising their status in society to a level where they can defend their interests on an equal footing with adults. Only then will a child be heard before a court in custody-related cases or will feel secure enough to report sexual abuse. This also highlights the preventive, awareness-raising aspect of the empowerment of children. Only then will the interests of children as a specific, distinct social group be taken seriously – a crucial challenge considering the demograph-

> *"A hundred children, a hundred individuals who are people - not people-to-be, not people of tomorrow, but people now, right now - today."*
>
> **Janusz Korczak.** How to Love a Child. 1919.

ic situation in northern "ageing societies" but also in the Southern hemisphere where young people often constitute up to 50 % of the entire population.

In addition to this generational aspect, the gender dimension is of prime importance to the empowerment of children. Trafficking of children for sexual exploitation, killing of girls in the name of the "family's honour", exclusion and disadvantages in education and employment as well as degrading stereotypes in the media and the entertainment industry clearly show their twofold discrimination both as girls and as children.

A Holistic View of the Child

The CRC is unique as it is the first universal human rights treaty combining economic, social, and cultural, as well as civil and political rights in one single document. The CRC, thus, follows a comprehensive ("holistic") approach in addressing the situation of children; it goes beyond those earlier child rights declarations which focused on the protective needs during child development as it also encompasses provisions guaranteeing respect for the child's identity, self-determination and participation.

The Child-Parent-State Relationship

At the same time, it is important to stress that these dual dimensions – protective rights and autonomy rights – are not exclusive but mutually reinforcing; the Convention does not favour e.g. autonomy rights over protective rights as has sometimes been claimed by critics calling the CRC "anti-family" and fearing the breaking-up of families by granting human rights to the child. The CRC explicitly recognises the *"responsibilities, rights and duties"* of (both!) parents to provide *"appropriate direction and guidance"* for the child. However, this parental responsibility is qualified by *"being consistent with the evolving capacities of the child"*, meaning that this re-

sponsibility does not grant any absolute power over the child but is constantly dynamic and relative. Moreover, vis-à-vis the state, parents bear primary educational responsibility, but if they are not able or willing to fulfil their obligations, it is legitimate for the state/society to intervene.

Non-Discrimination of the Child

The Convention contains a clear prohibition of discrimination against children, providing a long list of grounds unacceptable for differentiation (also in regard to the child's parent/guardian) in Article 2: "*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. States parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinion, or beliefs of the child's parents, legal guardians, or family members.*" The UN Committee on the Rights of the Child, which monitors the implementation of the CRC, has interpreted this list quite broadly, also referring to discrimination against children e.g. infected with HIV/AIDS,

"I have a dream that my four little children will one day live in a nation where they will not be judged by the colour of their skin but by the content of their character."

Martin Luther King Jr. 1963.

"The future promise of any nation can be directly measured by the present prospect of its youth."

John F. Kennedy. 1963.

street children, children living in remote rural areas, asylum-seeking children, etc.

Best Interests of the Child

Article 3 (1) of the CRC formulates the overall guiding principle of the entire Convention, namely to give prior attention to *"the best interests of the child"*. It is not limited to actions directly targeting children (e.g. education, custody court cases, etc.), but instead, it is relevant for all actions which might have a direct or indirect impact on the child (employment policies, budgetary allocations, etc.). Therefore, this implies an obligation of any actor (state or private) to conduct a "child impact assessment", which sets out to consider possible consequences of any measure and alternatives and to further monitor the implementation of that measure and its impact on children.

In addition, the principle of "best interests of the child" serves as an umbrella provision where no CRC provision might be explicitly applicable, and as guidance for any situation of conflicting CRC rights.

The CRC Definition of the "Child"

Finally, one key question remains: Who is actually considered a "child" under the Convention on the Rights of the Child? Following a rather legalistic approach, the CRC defines a "child" as any human being below the age of 18 (unless majority is reached earlier in the respective country, Article 1), thereby separating adults from non-adults. Evidently,

challenges and needs of a teenager will often differ widely from that of a new-born baby. Because of this very diverse, inhomogeneous, social constituency of "under-18s", it is essential in the application of the CRC to be clear about the relevant target group of any measures in a given context. Apart from that, the CRC Committee has repeatedly stressed that the Convention also mandates states parties to generally review their national provisions on age limits, both in terms of consistency and continued justification.

Convention Rights:
Participation - Protection - Provision

A commonly used structure for describing the contents of the Convention (apart from the guiding principles indicated above) follows the "three Ps" – *participation, protection, provision*:

- The **participation** aspect is, first of all, represented by the explicit recognition of a child's right to participation as stated in Article 12 (1) of the CRC, according to which children shall have the right to express their views freely in all matters affecting them. Attributing "due weight" to the child's perspective is the key element of this provision; it requires a level of involvement of children (with adult support as appropriate) which allows them to truly influence processes and to have an impact on decision-making. The CRC Committee's General Comment No. 12 (2009) on the "Right of the Child to be Heard" brings further light to what participation really means and highlights the fact that the right to be heard establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights. In addition, the CRC adopted other basic political and civil rights relevant in this context as children's rights, such as the freedom of conscience, religion, association, assembly and respect for one's privacy.
- Regarding **protection** issues, rights in the CRC include protection from all forms of violence, neglect or exploitation in relation to children.
- **Provision** rights guaranteed under the CRC encompass, for instance, the right to health, education, social security and an adequate standard of living.

Moreover, the CRC also developed *new standards* by formulating a child's right to protection of their identity, family and other social relations (including family reunification), it guarantees alternative family environments and adoption, a child's right to rest, leisure, play and cultural activity, and a state obligation to ensure recovery and rehabilitation for all child victims of any form of violence or exploitation.

Summing up: Why use a Child Rights-Based Approach?
- Children's rights are human rights – respect for human dignity regardless of age.
- Children's rights shift the focus of attention – to the individual child and to children as a group in society.
- Children's rights are comprehensive and inter-related – no free speech without prohibition of violence, no right to education without an adequate standard of living.
- Children's rights are legal rights – they clarify responsibilities and hold those responsible accountable.
- Children's rights empower children – they require a new culture of interaction with children based on their recognition as subjects and bearers of rights.

*"If we wish to create
a lasting peace we
must begin with the
children."*

Mahatma Gandhi. 1931.

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

The protection of children's rights sheds light on the status of the child in society, on prevalent concepts of childhood, role models attributed to children, living conditions and infrastructure relevant to them. Moreover, it reveals a great deal about concepts of family and the status of women in society.

One typical example of the ambiguities often surrounding children relates to corporal punishment of children. While any criminal code in the world would describe the infliction of intentional harm on adults clearly as a criminal act, the same principle is not applied to children. Instead, you may find discussions on the "reasonable" number of lashes, regulations on the size and material of the rod or the requirement to have a doctor present during punishment at school. It is striking to see

that currently, there are only some 30 states in the world which have completely abolished corporal punishment. The Committee on the Rights of the Child has focused on violence inflicted upon children by the state and within family and in school during two thematic discussions in 2000 and 2001, and initiated a major **United Nations Study on Violence against Children**, which was presented by the Independent Expert for the Secretary-General Study on Violence against Children to the UN General Assembly in 2006. The Study analyses violence against children within home and family, schools and educational settings, care and justice institutions, the work-place, and the community, and contains 12 over-arching recommendations and a number of specific recommendations that represent a comprehensive framework for follow-up action. The Study process also resulted in a more detailed **World Report on Violence against Children** and in child-friendly publications. In 2007, the Independent Expert presented his progress report on the implementation of the Study recommendations to the General Assembly. Another follow-up was the establishment of the **Special Representative of the Secretary-General on Violence against Children** by General Assembly Resolution A/RES/62/141. The resolution encourages the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the International Labour Organi-

"Can there be a more sacred duty than our obligation to protect the rights of a child as vigilantly as we protect the rights of any other person? Can there be a greater test of leadership than the task of ensuring these freedoms for every child, in every country, without exception?"

Kofi Annan. 2002.

"Children must be at the heart of our thinking on climate change, on the food crisis, and on the other challenges we are addressing on a daily basis. We know what to do, and we know how to do it. Even during the most severe economic crisis in decades, the means are at hand. It is up to us to seize the opportunity and build a world that is fit for children."

Ban Ki-moon. 2009.

zation (ILO) to cooperate with and support the Special Representative.

Other contentious areas are, for instance, the **status of girls** (e.g. "son preference" in family, education, employment, restrictive interpretation of religious laws, harmful traditional practices like female genital mutilation or early and forced marriage, access to reproductive health services) and how to effectively address the problem of **child labour**, which is linked to various economic and social factors and conditions in the respective country.

4. IMPLEMENTATION AND MONITORING

Typically, in the field of human rights, a gap exists between principles and practice, between commitments and their actual implementation, but one could argue that this gap is nowhere wider than in the field of children's rights. Various reasons may be given for this situation (e.g. child rights issues are linked to often controversial discussions about "family values"/cultural/religious traditions; the lack of child-focused infrastructure and of support to child-driven initiatives, etc.), but one more contributing factor could also be found in the weak CRC treaty monitoring system. Until the end of 2011, the Convention had only established a **state reporting** mechanism

for monitoring compliance with its provisions. Under this procedure, states parties are obliged to submit reports (every five years) to the CRC's supervisory body, the **Committee on the Rights of the Child**, on their progress in implementing the Convention (and its Optional Protocols). This starts a „constructive dialogue" with the respective government, leading to the Committee's "**Concluding Observations**" as a critical assessment, with recommendations to the government.

NGOs have constantly been lobbying for an **individual complaint mechanism** which would allow the Committee to develop its own case law – which would be a strong boost to a more elaborate legal discourse on children's rights. In 2009 the Human Rights Council established an Open-ended Working Group to explore the possibility of elaborating an Optional Protocol to the Convention on the Rights of the Child

"Implementing the Convention is not a matter of choice, welfare or charity, but of fulfilling legal obligations"

Child Rights Caucus. 2002.

to provide a communications procedure complementary to the reporting procedure under the Convention. The mandate of the Working Group was extended in 2010 in order to prepare a proposal for a draft optional protocol. In December 2011 the United Nations General Assembly adopted and opened for signature the **Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure** providing for an individual complaints procedure before the Committee on the Rights of the Child, allowing children who claim that their rights under the Convention have been violated to directly submit a complaint to the Committee. The entry-into-force of this Protocol which by April 2012 has been signed by 20 states will constitute a huge step forward in promoting children's rights.

However, dealing with the current situation, the Committee on the Rights of the Child has been quite innovative in compensating for the lack of traditional mechanisms. First, it took a very open position towards the involvement of NGOs, inviting them to submit their own ("shadow") reports on the country's child rights situation to get a more complete picture of the issues at stake. Second, the Committee initiated annual public forums ("Days of General Discussion") on specific topics (e.g. "Juvenile Justice", "Children with Disabilities", "HIV/AIDS", "Violence against Children within the Family and in School", "The Right of the Child to Education in Emergency Situations") in order to direct international attention to those issues. And since 2001, the Committee also has been publishing "**General Comments**", i.e. key authoritative interpretations of CRC standards, e.g. on "The Aims of Education" (2001), "Treatment of Unaccompanied and Separated Children outside their Country of Origin" (2005), "The Rights of Children with Disabilities" (2006), "Indigenous Children and their Rights under the Convention (2009)",

"The Right of the Child to be Heard" (2009) or "The Right of the Child to Freedom from all Forms of Violence" (2011).

Increasingly, however, the growing number of standards, instruments and institutions poses new challenges for monitoring, requiring closer co-ordination among all actors involved, both on the international and the national level. As far as the latter is concerned, it is important to recall the 2002 UN Special Session's outcome document "**A World Fit for Children**" (WFFC) setting an agenda with a series of goals and targets based on four priorities: promoting healthy lives, providing quality education for all, protecting children against abuse, exploitation and violence, and combating HIV/AIDS. Heads of states committed themselves to building "A World Fit for Children" and to achieving these commitments by the end of 2010. UNICEF last reported on progress towards these commitments in its 2007 "Progress for Children: A World Fit for Children Statistical Review" which is structured around the Millennium Development Goals as these are currently the focus of the world's development efforts. Many of the "World Fit for Children" targets are stepping stones towards the 2015 MDGs, and governments will henceforth concentrate primarily on their MDG commitments.

Furthermore, on the structural level, the establishment of a **child rights perspective** in all levels of legislation and government still constitutes a major challenge. Regular **child impact assessment** of regulations, child-sensitive budgeting, child participation in poverty reduction strategies and the establishment/strengthening of independent ombudspersons for children is still rather the exception than the rule. In addition, child rights advocacy continues to be a largely adult-driven movement, so new ways for supporting child/youth-led initiatives have to be explored. Various states started to discuss or already integrated principles of the

Convention into their national constitutions, thereby strengthening the rights of the child in their national laws and procedures.

Finally, any effort aiming at the promotion of children's rights should be based on effective and reliable information, education and training strategies, with child rights and human rights education reaching out directly to children and young people and adults as well. In its first General Comment on the "Aims of Education" in 2001 the CRC Committee stated the following: "*An education with its contents firmly rooted in the values of Art. 29 (1) is for every child an indispensable tool for her or his efforts to achieve in the course of her or his life a balanced, human rights-friendly response to the challenges that accompany a period of fundamental change driven by globalisation, new technologies and related phenomena.*"

☺☞ *Right to Education*

GOOD TO KNOW

1. GOOD PRACTICES

The following examples of initiatives and projects have successfully strengthened the implementation of the Convention on the Rights of the Child:

"Connecting People"

"Connecting People" is a sponsorship project for young refugees in Austria, organised by "Asylkoordination Österreich" (an Austrian NGO co-ordinating refugee and migrant's organisations), and supported by the Austrian Committee for UNICEF. The basic idea of this project is to bring together unaccompanied young refugees with adults living in Austria, who are willing to spend some time and offer practical support to the refugee, e.g. in education, language courses, jobs, meetings with authorities, sports activities, etc. The establishment of a trusting relationship between the child and the sponsor helps the refugee to stabilise in his/her environment and benefits the sponsor with a rich personal experience. All sponsors are carefully selected and undergo pre-training on legal matters, psycho-social issues, working with authorities, etc. Since its start in 2001, the project has received positive feedback from the participants and from the public, authorities and the media.

Non-governmental "Shadow Reports" and "National Coalitions" on domestic CRC implementation

States parties to the Convention on the Rights of the Child are required to regularly submit progress reports on its implementation to the CRC Committee. In order to facilitate a comprehensive review of these state reports, the Committee welcomes "shadow reports"/"alternative reports" prepared by NGOs or NGO networks ("national coalitions") on their own assessment of the situation of children and adolescents in the country under review. In some 100 countries such national child rights coalitions have already been set up, promoting and monitoring the Convention's implementation. In addition, an international NGO Group for the CRC in Geneva provides support for NGOs and coalitions in reporting and monitoring processes.

NGO Group for the Convention on the Rights of the Child

The NGO Group for the Convention on the Rights of the Child is a network of 79 international and national NGOs which work together to facilitate the implementation of the Convention. The Group's main functions are to advocate and raise public awareness regarding the importance of the CRC, to promote and facilitate the implementation of the Convention through specific programmes and actions, to promote the active participation of children in all aspects of implementation and monitoring of the Convention, and to serve as a means of contact between civil society and the Committee on the Rights of the Child. As part of its work, the NGO Group has issued a set of guidelines for NGOs preparing alternative reports to the CRC Committee, and encourages the creation and development of national coalitions of NGOs working for children's rights.

Stopping Violence in Schools

UNESCO's "Stopping Violence in Schools: A Guide for Teachers" examines various forms of violence that take place in schools, and offers practical suggestions as to what teachers can do to prevent them. 10 action areas are proposed, each with specific examples that teachers can adopt to address and prevent violence. Excerpts from relevant international normative instruments as well as a list of links to online resources for stopping violence in schools are annexed. The guide is a contribution in support of Education for All and the UN International Decade for a Culture of Peace and Non-Violence for Children of the World (2001-2010).

(Source: UNESCO (ed.). 2009. *Stopping Violence in Schools: A Guide for Teachers*.)

2. TRENDS

The CRC as the framework for the protection of the rights of the child is not a "static" document but under continuous development. This process is strengthened, for instance, by the Committee on the Rights of the Child through interpretation of the CRC or by adopting new standards to the CRC such as the Optional Protocol on the Involvement of Children in Armed Conflict or the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, both of which entered into force in 2002. The institutionalisation of a communications procedure by the new Optional Protocol establishing the competence of the CRC Committee to receive and consider individual communications will strengthen the monitoring mechanism under the Convention and contribute to the implementation of children's rights.

In 2009, on the occasion of the 20th anniversary of the adoption of the CRC, the CRC Committee, together with the OHCHR and other partners organised a two-day celebration highlighting three main challenges the Convention faces: 1. ensuring the dignity of the child, 2. providing the child with full possibilities for development, and 3. facilitating dialogue between adults and children in accordance with the participatory approach of the Convention. The meeting focused on identifying achievements in implementation and examples of best practice, challenges for the future and constraints, and formulating priority recommendations to enhance implementation.

In 2010, on the occasion of the 10th anniversary of the adoption of the Optional Protocol on the Involvement of Children in Armed Conflict, the Special Representative of the

Secretary-General for Children and Armed Conflict along with the Special Representative on Violence against Children, UNICEF and the OHCHR launched the two-year campaign "Zero-Under-18" to achieve universal ratification of the Optional Protocol by 2012, encourage all states to raise the age of voluntary recruitment to a minimum of 18 years, and promote the adoption and effective implementation of relevant national legislation.

Some recent trends and discussions in the child rights field include the following issues:

- **Structural aspects**: support for child/youth-led initiatives and organisations; establishment of ombuds-offices for children and youth; child rights monitoring.
- **Child and youth participation** (locally, nationally, internationally): e.g. political participation/right to vote.
- **The child and the family environment:** separation of parents; "patchwork families"; single-parent households; children without parental care and alternative settings.
- **Rights of the girl child:** social role models; media stereotypes; religious/cultural backgrounds; reproductive health.
- **Generational aspects**: non-discrimination against children in comparison to adults ("age-based discrimination"); demographic shifts; distribution of wealth; access to resources; political influence; protection of interests of children and youths.
- **Right to information:** access to internet; data protection; violent content in media/TV/computer games etc.; child pornography on the internet.
- **Violence against children** and **sexual exploitation of children**: global ban on corporal punishment; elimination of all forms of violence against children; psychosocial support and parental training; violence among children/peer violence.

- Inclusive education and vocational training for **children with disabilities**.
- **Children and the economy**: consideration of child rights issues in the context of anti-poverty programs; provision of social services; child labour/elimination of its worst forms; effects of economic globalisation and liberalisation of public services (health, education – GATS); impact of the entertainment and sports industry, advertising, mass media on youth culture.
- **Impact of HIV AIDS on children:** discrimination; loss of parents, etc.
- **Children and armed conflict and children in emergencies (natural disasters):** education in emergencies; child soldiers rehabilitation; child participation in post-conflict reconstruction; responsibilities of non-state actors/private companies; role of the UN Security Council; role of the International Criminal Court; child rights training and codes of conduct for peacekeeping/field personnel.

Facts and Figures – Statistical Information on Children's Rights:

- **Birth registration**: Only half of the children under 5 years in the developing world have their births registered. Birth registration is a crucial strategy in creating a protective environment for children and defending their rights, and is considered a human right under Article 7 of the Convention on the Rights of the Child.
- **Child mortality under five**: Infants in developing countries are nearly 10 times more likely to die than newborns in industrialised countries. According to UNICEF, over 24.000 children under the age of five – about

one every three seconds – die every day, mainly from preventable causes. The majority of child deaths are attributable to six causes: diarrhoea, malaria, neonatal infection, pneumonia, preterm delivery, or lack of oxygen at birth; among these, pneumonia and diarrhoea account for the highest child deaths.

- **Mothers dying in childbirth**: Each year more than half a million women – roughly one woman every minute – die as a result of pregnancy complications and childbirth. Some 99 % of all maternal deaths occur in developing countries. One out of 16 sub-Saharan African women dies as a result of pregnancy or childbirth, compared to one out of 4.000 women in industrialised countries. Motherless newborns are between 3 and 10 times more likely to die than newborns whose mothers survive. Access to basic health care services, including skilled attendants at all births and emergency care for women who develop complications could save many of women's lives.

- **Teenage pregnancies**: 14 million children worldwide are born to under-19s annually. Complications during pregnancy and delivery are the leading causes of death for girls aged 15 to 19 in developing countries.

- **HIV/AIDS**: In 2009, an estimated 2.5 million children under age 15, and 5 million young people aged 15-24 were living with HIV. UNAIDS estimates that every day 1.200 children worldwide become infected with HIV, the vast majority of which newborns infected through mother-to-child transmission. Sub-Saharan Africa is home to nearly 90 % of all children living with HIV. The estimated number of children who have lost one or both parents due to AIDS in Sub-Saharan Africa in 2007 reached 14.1 million. Globally, the estimated number is 17.5 million.

- **Food**: There are an estimated 127 million underweight children in the developing world today, which translates into 22 % of children in developing countries; 9 % of the children in the developing world are severely underweight.

- **Poverty**: 1.7 billion out of the combined population of 5.5 billion of 109 countries which have been analysed by UNDP in 2010 live in multidimensional poverty. This kind of poverty is assessed using the UNDP Multidimensional Poverty Index (MPI) which examines factors such as access to clean water or health services, providing a better understanding of poverty than dealing with income alone. The number of 1.7 billion living in multidimensional poverty compares to 1.3 billion people estimated to live on $1.25 a day.

- **Child labour**: An estimated 150 mil-

> *"Mankind owes to the child the best it has to give."*
>
> **United Nations Declaration of the Rights of the Child.** 1959.

lion children aged 5-14 are engaged in child labour. Millions of children work under hazardous conditions (e.g. in mines, with chemicals and pesticides in agriculture or with dangerous machinery). The International Labour Organization (ILO) estimates that more than two thirds of all child labour are to be found in the agricultural sector. It has found that children in rural areas – girls in particular – begin agricultural labour as young as 5-7 years old.

- **Street children**: There are an estimated 100 million to 150 million street children in the world; this number is growing.
- **Education**: The number of primary-school-age children not attending school fell from 115 million in 2002 to 101 million in 2007. In 2010, 68 million children of primary school age did not attend school, 53 % were girls.
- **Social services and political priorities**: On average, developing countries spend more on defence than on either basic education or basic health care; industrialised countries spend about 10 times more on defence than on international development aid.
- **Armed conflict**: Over the last decade more than 2 million children have died in armed conflict, 6 million children have been seriously injured or permanently disabled. 1 million children have been orphaned or separated from their families. An estimated 300.000 are directly involved in conflict as child soldiers.
- **Child refugees and displaced children**: There are 27.1 million persons worldwide who have been inter-

nally displaced by armed conflicts. Out of these at least 13.5 million are children.
- **Children with disabilities**: Around 650 million people worldwide live with a disability. According to the World Health Organization (WHO) around 10 % of the world's children and young people (some 200 million) have sensory, intellectual or mental health impairments, around 80 % of them living in developing countries. 20 % of the world's poorest people and 30 % of street youths live with a disability; 90 % of children with disabilities in developing countries do not attend school.
- **Violence**: It is impossible to measure the true magnitude of violence against children as an enormous part of all cases occurs in secret. However, between 500 million and 1.5 billion children are estimated by UNICEF to experience violence annually, 2 out of 3 children are subject to physical punishment. Most violence against children is carried out by people children know and should be able to trust, such as family members, caregivers, teachers, etc. Groups of children being **particularly vulnerable** to violence include children with disabilities, children belonging to minority groups, children living on the streets, children in conflict with the law, refugee children, displaced and migrating children. Boys tend to be at greater risk of **physical violence**, while girls are at greater risk of **neglect and sexual violence and exploitation**. UNICEF estimates that 70 million girls and women aged

15-49 in 28 countries in Africa, plus Yemen have undergone **female genital mutilation/cutting (FGM/C)**. The prevalence of FGM/C has declined slowly but steadily during the past decades.

- **Child trafficking**: Due to the clandestine nature of the crime the estimated numbers of victims of child trafficking vary. Sexual exploitation is by far the most commonly identified form of human trafficking (79%), followed by forced labour (18%). Trafficking in human beings is one of the fastest growing transnational crimes – it is estimated that some $32 billion per year profit is made by criminals exploiting trafficked victims for sexual and economic exploitation.
- **Suicide:** Suicide is one of the 3 leading causes of mortality among people aged 15-35. Globally, an estimated 71.000 adolescents commit suicide annually, while up to 40 times as many make suicide attempts.

(Sources: United Nations Children's Fund (UNICEF), www.unicef.org; UNICEF Childinfo – Monitoring the Situation of Children and Women, http://www.childinfo.org; United Nations Development Programme (UNDP), www.undp.org; United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict, www.un.org/children/conflict.)

3. CHRONOLOGY

1924 Declaration on the Rights of the Child (Eglantyne Jebb/League of Nations)

1959 UN Declaration on the Rights of the Child

1989 UN Convention on the Rights of the Child (adoption: 20 November 1989; entry into force: 2 September 1990; ratifications by January 2012: 193)

1990 Appointment of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography by the UN Commission on Human Rights

1990 World Summit for Children in New York (29-30 September); adoption of the World Declaration and Plan of Action for the Survival, Protection and Development of Children

1990 African Charter on the Rights and Welfare of the Child (entry into force: 29 November 1999)

1993 Vienna World Conference on Human Rights, great emphasis on the rights of children in its Vienna Declaration and Programme of Action

1996 Graça Machel, independent expert appointed by the UN Secretary-General, submits her groundbreaking study "Impact of Armed Conflict on Children" to the UN General Assembly, leading to the establishment of the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict

1996 World Congress against Commercial Sexual Exploitation of Children in Stockholm (2001: Yokohama follow-up)

1998 Six international NGOs form the Coalition to Stop the Use of Child Soldiers in order to lobby for a ban on the use of children in war and armed conflict

1999 The Human Security Network de-

velops out of a group of like-minded countries, with a strong emphasis on the situation of children affected by armed conflict

1999 Convention No. 182 on the Worst Forms of Child Labour, adopted by the International Labour Organization (ILO) (entry into force: 19 November 2000; ratifications by January 2012: 174)

2000 Adoption of two Optional Protocols to the Convention on the Rights of the Child: OP on the Involvement of Children in Armed Conflict (entry into force: 12 February 2002; ratifications by January 2012:143) and OP on the Sale of Children, Child Prostitution and Child Pornography (entry into force: 18 January 2002; ratifications by January 2012: 152)

2002 Children's Forum (5-7 May) and UN General Assembly Special Session on Children in New York (8-10 May); adoption of the Children's Forum Document and Declaration and Plan of Action ("A World Fit for Children")

Adoption of UN Security Council Resolution 1612, providing for a monitoring and reporting mechanism on children and armed conflict

Adoption of the UN Convention on the Rights of Persons with Disabilities; Art. 7: Children with Disabilities (entry into force: 3 May 2008; ratifications by January 2012: 109)

2007 Adoption of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (entry into force: 1 July 2010; ratifications by January 2012: 17)

2010 Launch of the UN "Zero-Under-18" Campaign to achieve universal ratification of the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict

2011 Adoption of the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure

SELECTED ACTIVITIES

ACTIVITY I:
CHILDREN'S NEEDS AND RIGHTS

Part I: Introduction
When you talk about (human) rights you should clearly distinguish rights and needs.

Part II: General Information
Type of activity: Depicting and discussing children's needs and rights related to them

Aims and objectives: Understanding the rights of the child and realising that human rights principles apply to all human beings.

Target group: Children and youth

Group size: 10-20

Time: 60 to 120 minutes

Preparation: Room/class arrangement, copies of the Convention on the Rights of the Child (simplified text)

Material: Paper or cards, tape or pins, wall or pin board

Skills involved: Analytical and creative skills

Part III: Specific Information

The participants work in pairs or small groups. Each pair or group creates ten cards that illustrate things children need for life. Advise the participants to think of material objects (e.g. water, food, clothes), abstract ideas (e.g. love, peace) and persons (e.g. parents, friends). Each pair/group pins its cards to the wall or pin board and explains why the things described are important. Group double/multiple entries. When all groups are finished label the pin board "NEEDS".

In the next step discuss the following questions with regard to your own country or region:

- Which basic needs have been selected? Did participants think of material objects, of emotions and relationships or of things other people should do or refrain from doing?
- Who is responsible to satisfy these needs? Which needs can we meet ourselves, for which needs do we depend on other persons?
- Are all these needs satisfied for all of us? Does someone know children personally whose needs are not (fully) met? Does someone know groups who do not have (sufficient) access to one or more of these things? Who is responsible for change?

In the third step look at the world: Which of the needs depicted are basic for children all around the world? Remove cards that the participants do not consider as universal, add items that might not have been named before. The result should primarily illustrate participants' understanding. It's not necessary at this stage to refer to internationally acknowledged standards.

Analysis of the related rights:

Take the step from needs to rights together with the participants: Shortly explain the UN human rights system and then hand out the Articles of the Convention on the Rights of the Child (simplified text, each article on a sheet/slip of paper). Ask the participants to complete the picture on the pin board by adding the rights to the needs they refer to. Very probably there will be no matches for some needs and rights. Discuss the matches and the differences with the participants and ask for examples where and how children's rights are violated. Inform the participants how and by which mechanisms/institutions/organisations children's rights are protected in your country or region.

Suggestions for variation:

Creating the cards can be done by drawing or painting, cutting pictures from old magazines or – most simply – writing.

Part IV: Follow-up

Further areas of exploration: possible action to protect children and prevent violations of the rights of the child.

(Source: Gerald Kador Folkvord. 2004. *Ideen für den Unterricht*. In: Teaching Human Rights 18/2004.)

ACTIVITY II: ROUND TABLE ON ACTION TO REDUCE CHILD LABOUR

Part I: Introduction

In many parts of the world children have to work to earn their living or to contribute to their families' budgets. Any action to ban child labour may have positive and unwanted effects because of the complexity of social and economic dependencies.

Part II: General Information

Type of activity: Role-play on child labour

Aims and objectives: Raising understanding for the various interests and motives involved in child labour and its consequences for the development of strategies and possible alternatives; this role play should have been preceded by some earlier discussion on child

labour issues to familiarise participants with the background.

Target group: Young adults and adults

Group size: 15 - 20 participants

Time: Up to 120 minutes (depending on the scope of the "Action Plan")

Preparation: Room/class arrangement, cards with names and roles of participants; for background information on the various roles and positions use recent newspaper clippings, UNICEF/ILO/NGO reports on child labour, etc.

Material: Paper, flip chart etc. for documentation

Skills involved: Communication and analytical skills

Part III: Specific Information

Introduction to the topic:

Announce that the child labour problem in country X has received growing criticism from local child rights organisations and the ILO internationally; the government has decided to convene a round table to discuss measures against child labour; participants represent various actors involved (teams possible), mainly (not all have to be included) working children, children at school, parents, teachers, employers' organisation, trade union, government officials, child rights NGO, UNICEF/ILO. The ultimate goal of the discussion should be a basic strategy for a follow-up process (alternatively: the elaboration of an Action Plan).

Performance of the role-play:

Select round table participants, give them up to 20 minutes to develop a position/strategy for discussion (alternatively, give them reading material in advance); UNICEF/ILO or NGO representative may act as chairperson of the meeting and introduce the participants and their respective "functions". The discussion may start with a brief report of the current situation of children, e.g. "children working in garment factory" or concerned parents complaining about the treatment of children. Participants should present their principal position in a chaired discussion. As a result, a strategy should be elaborated or an action plan developed in separate study groups.

Feedback, methodological hints:

Ask the participants about their feelings, thoughts and reactions during the game; reflect particularly on the role "children" have played in the discussion.

Part IV: Follow-up

Related rights/further areas of exploration:

Article 3 (best interests of the child), Article 6 (survival and development), Article 32 (economic exploitation), Article 24 (health), Articles 26 and 27 (social security, adequate living standard), Articles 28 and 29 (education), Article 31 (leisure and play) of the Convention on the Rights of the Child; ILO Convention on the Worst Forms of Child Labour. Discuss the work of ILO (the IPEC initiative). Watch out for children working instead of or in addition to going to school in your local community.

Other suggested topics for Round Tables: ban on corporal punishment at home/in schools; responsibility of child soldiers for their crimes committed and ways of rehabilitation; child prostitution and trafficking.

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ADDITIONAL INFORMATION

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Child Rights Information Network (CRIN): www.crin.org

Children are Unbeatable! Alliance: www.childrenareunbeatable.org.uk/

Childwatch International Research Network: www.childwatch.uio.no

Coalition to Stop the Use of Child Soldiers: www.child-soldiers.org/home

Defence for Children: www.defenceforchildren.org/

End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT): www.ecpat.net

European Network of Ombudspersons for Children (ENOC): http://crin.org/enoc/

Global Initiative to End All Corporal Punishment of Children: www.endcorporalpunishment.org

Global March against Child Labour: www.globalmarch.org

International Labour Organization (ILO): www.ilo.org

International Programme on the Elimination of Child Labour (IPEC): www.ilo.org/public/english/standards/ipec

NGO Group for the Convention on the Rights of the Child: www.crin.org/NGOGroupforCRC

Office of the United Nations High Commissioner for Human Rights (OHCHR): www.ohchr.org

Save the Children Alliance: www.savethechildren.net/alliance/index.html

SOS Children's Villages International: www.sos-childrensvillages.org

Terre des Hommes – International Federation for Children, their Rights and Equitable Development: www.terredeshommes.org

United Nations Children's Fund (UNICEF): www.unicef.org/

UNICEF Innocenti Research Centre: www.unicef-irc.org

UNICEF Statistical Database: www.childinfo.org

United Nations Committee on the Rights of the Child: www.ohchr.org/english/bodies/crc

United Nations Educational, Scientific and Cultural Organization (UNESCO): www.unesco.org

UNESCO – Education for All (EFA): www.unesco.org/education/efa/ed_for_all/

United Nations High Commissioner for Refugees: www.unhcr.org

United Nations Human Rights Council: www2.ohchr.org/english/bodies/hrcouncil/

United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict: www.un.org/children/conflict/english/home6.html

United Nations Secretary-General's Study on Violence against Children: www.unviolencestudy.org/

United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography: www2.ohchr.org/english/issues/children/rapporteur/index.htm

United Nations Special Session on Children: www.unicef.org/specialsession/index.html

United Nations "Zero-Under-18" Campaign: http://zerounder18.org/

Watchlist on Children and Armed Conflict: www.watchlist.org

World Bank – Children and Youth: www.worldbank.org/childrenandyouth

World Congress against Commercial Sexual Exploitation of Children: www.csecworldcongress.org

World Health Organization (WHO): www.who.int

HUMAN RIGHTS IN ARMED CONFLICT

INTERNATIONAL HUMANITARIAN LAW:
EVEN WARS HAVE LIMITS

» *[…] the following acts are and shall remain prohibited at any time and in any place whatsoever […]: violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular, humiliating and degrading treatment; the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples; The wounded, sick and shipwrecked shall be collected and cared for. […]*«

Article 3 (1) and (2), common to the four Geneva Conventions. 1949.

ILLUSTRATION STORY

"I was 19 when I went to Viet Nam. I was a rifleman specialist fourth class. I was trained to kill, but the reality of killing someone is different from training and pulling the trigger.

I didn't know that I was going to do that. I knew the women and children were there, but for me to say that I was going to kill them, I didn't know I was going to do that until it happened. I didn't know I was going to kill anyone. I didn't want to kill anyone. I wasn't raised up to kill.

She was running with her back from a tree line, but she was carrying something. I didn't know if it was a weapon or what. I knew it was a woman, and I didn't want to shoot a woman, but I was given an order to shoot. So I'm thinking that she had a weapon running, so I shot. When I turned her over, it was a baby. I shot her about four times, and the bullets just went through and shot the baby too. And I turned her over and saw the baby's face was half gone. I just blanked. The training came to me, the programming to kill, and I just started killing.

Varnado Simpson, American Viet Nam War veteran recounting events that occurred in 1968.

(Source: Adapted from: Donovan, David. 2001. *Once a Warrior King: Memories of an Officer in Viet Nam*.)

Discussion questions

1. Why did this soldier decide to shoot even though he knew that women and children were not legitimate targets?
2. Why do you think women and children are protected persons during an armed conflict?
3. Do you think that obedience matters in fighting a war? Should soldiers always follow orders?
4. Who do you think determines what is lawful and unlawful behaviour in war?
5. How important is it for soldiers to learn what is unlawful? What is the purpose of having rules?
6. How can tragedies such as the one described above be prevented?

NEED TO KNOW

1. EVEN WARS HAVE LIMITS

Few situations threaten human security more dramatically than that of war. In the extreme circumstances of armed conflict, governments find themselves having to make difficult choices between the needs of society and those of the individual. Human rights never cease to be relevant but the outbreak of systematic and organised violence, which are the true characteristics of an armed conflict, constitutes an affront to the very principles underlying these rights. As such, situations of armed conflict require a complementary but separate set of rules

based on a very simple idea which is that **even wars have limits**. These rules are commonly referred to as **International Humanitarian Law** (IHL) or the **Laws of Armed Conflict**. IHL can be summarised as the principles and rules which set limitations to the use of violence during armed conflicts in order to:

- spare those people ("civilians") not directly involved in hostilities;
- limit the effects of violence (even to "combatants") to the amount necessary for the purpose of war.

International Humanitarian Law and Human Security

Many have questioned and many deny that law can regulate behaviour in the exceptional, anarchic, and violent reality of armed conflict. How can one expect that where the survival of the individual or the society is at stake, legal considerations will restrict human behaviour? Though it may appear surprising at first sight, there are many compelling reasons for aggressors and defenders alike to follow the rules of conduct established by IHL. While the outburst of violence negates the very idea of security, it is nonetheless important to understand that IHL contributes to human security by defending the idea that even wars have limits. IHL recognises the reality of armed conflicts and responds to it pragmatically, with detailed and practical rules aimed at individuals. This branch of law does not try to establish whether a state or a rebel group does or does *not* have the right to resort to armed force. Rather, it aims first and foremost at limiting the suffering that war can cause. In striving to preserve human dignity, IHL can also be said to contribute to an eventual peace by increasing the possibilities of reconciliation.

"War should always be waged with a view to peace."

Hugo de Groot (Grotius).

The Origins of International Humanitarian Law

Although scholars generally agree that the birth of modern IHL was in 1864 with the adoption of the First Geneva Convention, it is also clear that the rules contained in that Convention were not entirely new. In reality, a large portion of the First Geneva Convention was derived from existing international customary law. In fact, there were rules protecting certain categories of victims in armed conflicts, and customs connected with the means and methods of authorised or prohibited combat during hostilities as early as 1000 BC.

Up until the mid-19th century, the codes and customs that had made up IHL were geographically limited and did not express a universal consensus. The impetus for the first universal treaty on Humanitarian Law came, in great part, from a Swiss businessman named Henry Dunant. Having witnessed the carnage that occurred at Solferino in 1859, during the battle in which the French and Austrian forces opposed each other in northern Italy, Dunant decided to write a book in which he depicted the horrors of the battle and tried to suggest and publicise possible measures for improving the fate of war victims.

The adoption of the 1864 Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field resulted in an international treaty open to universal ratification in which states agreed voluntarily to limit their own power in favour of the individual. For the first time, armed conflict became regulated by written, general law.

"When the sun came up on the twenty-fifth June 1859 it disclosed the most dreadful sights imaginable. Bodies of men and horses covered the battlefield: corpses were strewn over roads, ditches, ravines, thickets and fields […]. The poor wounded men that were being picked up all day long were ghostly pale and exhausted. Some, who had been the most badly hurt, had a stupefied look as though they could not grasp what was said to them […]. Others were anxious and excited by nervous strain and shaken by spasmodic trembling. Some, who had gaping wounds already beginning to show infection, were almost crazed with suffering. They begged to be put out of their misery, and writhed with faces distorted in the grip of their death struggle."

Henry Dunant. *A Memory of Solferino.* **1862.**

International Humanitarian Law as International Law

The rules and principles of IHL are universally recognised legal rules, not just moral or philosophical precepts or social custom. The corollary of the legal nature of these rules is, of course, the existence of a detailed regime of rights and obligations imposed upon the different parties to an armed conflict. Individuals who do not respect the rules of IHL will be brought to justice.

International humanitarian law must be understood and analysed as a distinct part of a more comprehensive framework: the rules and principles regulating coordination and cooperation between the members of the international community, i.e. Public International Law.

International Humanitarian Law and Human Rights

In striving to limit the suffering and the damage caused by armed conflict, IHL may be said to protect the "hard core" of human rights in times of conflict. This includes the right to life, the prohibition of slavery, the prohibition of torture and inhuman treatment, and the prohibition of any retroactive application of the law. Unlike other rights (such as freedom of speech, of movement and of association), which may be derogated in times of national emergencies, the core protection afforded by IHL can never be suspended. Since IHL applies precisely to the exceptional situations that constitute armed conflicts, the content of the "hard core" of human rights tends to converge with the fundamental and legal guarantees provided by humanitarian law. While IHL, as the *'lex specialis'* regulates situations of armed conflict, whereas human rights are made for peacetime, international human rights law continues to apply during armed conflicts, and IHL and human rights law complement each other in protecting the life and dignity of those caught in armed conflict.

Here are some of the ways in which IHL protects fundamental human rights in armed conflicts:

- the protection accorded to victims of war must be **without any discrimination**;
- a great deal of humanitarian law is devoted to the **protection of life**, especially the life of civilians and people not involved in the conflict; IHL also **restricts the imposition of the death penalty**;
- IHL goes beyond the traditional civil right to life by **protecting the means necessary for life**, a right that might be categorised as 'economic and social' under human rights law;
- IHL absolutely **prohibits torture and inhuman treatment**;

- IHL specifically **prohibits slavery**: prisoners of war are not to be seen as the property of those who captured them;
- **judicial guarantees** are codified in the Geneva Conventions and the Additional Protocols;
- the **protection of children and family life** is clearly emphasised in IHL: examples include rules on the conditions of internment of children and rules against separating family members;
- the **respect for religion** is taken into account in the rules concerning prisoners of war as well as in customs of burial.

IHL **HR**

- prohibition of hostage-taking
- respect for judicial guarantees
- care for the sick and wounded; humane treatment of persons not (or no longer) taking part in the hostilities;
- rules governing the conduct of hostilities

- right to life
- prohibition of torture and cruel, humiliating or degrading treatment
- prohibition of discrimination
(founded on ethnicity, color, sex or religion)

- prohibition of slavery
- prohibition of retroactive application of penal provisions
- right to recognition as a person before the law
- right to freedom of conscience and religion
- prohibition of imprisonment for inability to fulfil a contractual obligation

IN ALL CIRCUMSTANCES . . .

When Does International Humanitarian Law Apply?

IHL is applicable in international armed conflicts and in non-international armed conflicts, as well as in situations of occupation. The notion of "armed conflict" has, since 1949, replaced the traditional notion of "war".

International armed conflicts are those in which two or more states are engaged in hostilities and those in which people have risen in opposition to a colonial power, foreign occupation or racist crimes, commonly referred to as wars of national liberation. Above and beyond the applicable regime of human rights law, these situations are subject to a broad range of IHL rules, including those set forth in the four Geneva Conventions and Additional Protocol I.

A more limited set of rules is applicable in internal armed conflicts. They are contained in particular in Article 3 common to the four Geneva Conventions and in Additional Protocol II. Article 3 represents the minimum standard of humanity and is relevant in every situation of armed conflict. Additionally, a number of rules originally designed to apply to international conflicts also apply, as customary rules, during non-international conflicts. In situations of violence not amounting in intensity to an armed conflict, IHL does not apply. In such cases, the provisions of human rights law and the relevant domestic legislation govern the fate of those engaged in the acts of violence.

2. DEFINITION AND DESCRIPTION OF THE RIGHTS PROTECTED

What Are the Basic Rules of International Humanitarian Law in Armed Conflict?

1. Persons hors de combat and those who do not take a direct part in hostilities are entitled to respect for their lives and their moral and physical integrity. They shall in all circumstances be protected and treated humanely without any adverse distinction.
2. It is forbidden to kill or injure an enemy who surrenders or who is hors de combat.
3. The wounded and the sick shall be collected and cared for by the party to the conflict which has them in its power. Protection also covers medical personnel, establishments, transports and equipment. The emblem of the Red Cross, the Red Crescent and the Red Crystal is the sign of such protection and must be respected.
4. Captured combatants and civilians under the authority of an adverse party are entitled to respect for their lives, dignity, personal rights and convictions. They shall be protected against

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Distinction

"The victims of today's conflicts are not merely anonymous, but literally countless [...].
The awful truth is that civilians today are not just 'caught in the crossfire'. They are not accidental casualties or 'collateral damage' as the current euphemism has it.
All too often,
they are deliberately targeted."

Kofi Annan, Secretary-General of the United Nations. **1999.**

all acts of violence and reprisals. They shall have the right to correspond with their families and to receive relief.

5. Everyone shall be entitled to benefit from fundamental judicial guarantees. No one shall be held responsible for an act he has not committed. No one shall be subjected to physical or mental torture, corporal punishment or cruel or degrading treatment.

6. Parties to a conflict and members of their armed forces do not have an unlimited choice of methods and means of warfare. It is prohibited to employ weapons or methods of warfare of a nature to cause unnecessary losses or excessive suffering.

7. Parties to a conflict shall at all times distinguish between the civilian population and combatants in order to spare civilian population and property. Neither the civilian population as such nor civilian persons shall be the object of attack. Attacks shall be directed solely against military objectives.

(Note: These rules, drawn up by the ICRC, summarise the essence of IHL. They do not have the authority of a legal instrument and in no way seek to replace the treaties in force. They were drafted with a view to facilitating the promotion of IHL.)

What Does International Humanitarian Law Protect and How?

International humanitarian law protects **individuals** who are not or are no longer taking part in the fighting, such as civilians, the wounded, the sick, and prisoners of war, the shipwrecked, and medical and religious staff. Protection is guaranteed by obliging the par-

ties to the conflict to provide them with material assistance and to treat them humanely at all times and without adverse distinction.

Certain **places and objects**, such as hospitals and ambulances, are also protected and must not be attacked. IHL defines a number of clearly recognised emblems and signs – in particular the Red Cross, Red Crescent and the Red Crystal emblems – which can be used to identify protected people and places. Historic monuments, works of art or places of worship are also protected. The use of such objects in support of the military effort is strictly prohibited. Moreover, the **environment** is also a concern of IHL which prohibits methods and means of warfare that are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

A **distinction** must be made between **combatants and civilians** in the conduct of hostilities, but also between **civilian objects and military objectives**. This means that not only civilians as such are protected, but also the goods needed for their survival or subsistence (foodstuffs, livestock, drinking water supplies, etc.).

IHL protects from **unnecessary suffering** by prohibiting the use of weapons whose effect would be excessive in relation to the military advantage anticipated, such as exploding bullets whose aim is to cause untreatable wounds. The principles of **humanity**, **military necessity** and **proportionality** are key in ensuring the goals of protecting civilians against incidental or collateral effects and combatants from unnecessary suffering. Military necessity is defined as those actions that are necessary to overpower the opponent, and the law has been drafted so as to take this fully into account. The result is that a certain amount of humanitarian law may not seem to be very

"humanitarian" to a human rights lawyer, but it does have the advantage of being precise and realistic.

Who Must Respect
International Humanitarian Law?

Only states may become party to international treaties, and thus to the Geneva Conventions of 1949 and their two Additional Protocols of 1977. However, all parties to an armed conflict – whether armed forces of states or dissident forces – are bound by international humanitarian law. Today, all of the world's states are party to the four Geneva Conventions of 1949, which clearly demonstrates their universality. Currently, 170 states are parties to Additional Protocol I which relates to the protection of victims of international armed conflict, whereas Additional Protocol II, relating to the protection of victims of non-international armed conflict, has 165 state parties

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Humanity

*"By preserving a sphere of humanity in the
very heart of armed conflict,
international humanitarian law keeps open the path
towards reconciliation and contributes not only to restoring peace among the belligerents but also to fostering harmony among peoples."*

**Inter-Parliamentary Union.
1993**.

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3. INTERCULTURAL
PERSPECTIVES
AND CONTROVERSIAL ISSUES

The Importance of Cultural Awareness

Man's efforts to limit the brutality of war are universal. Many cultures throughout history have sought to restrain the use of violence in order to reduce unnecessary suffering and limit destruction. Even though the initial Geneva or Hague Conventions were not universal at inception, since they were drafted and adopted by lawyers and diplomats belonging to the European Christian culture, the underlying values are universal. This universal dimension of IHL should never be underestimated or forgotten: Very often the respect and implementation of the rules will in fact depend on the establishment of a clear correspondence between the treaties applicable and local traditions or customs.

Conflicting Views
regarding the Applicability of IHL

While the principles of IHL have obtained quasi-universal approval, problems of implementation may arise due to competing ideas of the point at which manifestations of violence become an armed conflict. The qualification of a conflict as armed is of primary importance as it is the basic requirement for IHL to be applicable. When states face acts of violence on their territory, they often prefer to deal with these occurrences internally. This even happens when another state is indirectly involved in the troubles. Accepting that a situation of armed conflict is taking place means accepting that those responsible for carrying out the violence may be worthy of protection under the rules of IHL, above and beyond the basic protection afforded by human rights law. Not surprisingly, governmental authorities tend to characterise these perpetrators as criminals, bandits or terrorists, rather than combatants, therefore avoiding the rules of IHL.

"We can learn how easily a person, regardless of nationality, can be trapped by the psychology of brutality when involved in war. Such brutality is often caused by hatred of others, as is clearly illustrated in acts of racism. The most fundamental problem we must address when dealing with any war crime is the profound fear of death that soldiers experience. In order to overcome fear during war, people tend to rely upon violence, which in turn degrades their morals and manifests itself as an outbreak of brutality."

Yuki Tanaka, Japanese scholar.

One of the ways in which IHL makes itself acceptable to states in such situations is by guaranteeing that the applicability of the rules will not confer any legitimacy on the groups involved in the hostilities. The realistic and pragmatic approach of IHL is used to protect the victims of conflict, regardless of sides. It is important to note that IHL is a balance between conflicting concepts: military necessity on the one hand and humanitarian concerns on the other.

4. IMPLEMENTATION AND MONITORING

Given the difficulty of enforcing law in armed conflict, the state representatives who drafted the treaties of IHL had to devise specific implementation mechanisms and adapt the general mechanisms of international law to the specific needs of victims of armed conflict. Unfortunately, the general and the specific mechanisms combined cannot guarantee even a minimum of respect for individuals in armed conflicts. This can only be achieved if **training** and **education** make everyone aware that in armed conflicts the enemy is still a human being who deserves respect.

Broadly speaking, there are three types of strategies employed by International Humanitarian Law to ensure its implementation:

- Preventive measures;
- Measures to ensure compliance during armed conflicts;
- Repressive measures.

Preventive Measures

States parties to the Geneva Conventions – that means almost every state in the world – have an **obligation** to spread knowledge of international humanitarian law as widely as possible. It is not enough that the armed forces of a state are taught IHL: civil society and youth also need to be made aware of the humanitarian perspective on armed conflict. The immediate focus of IHL is protecting life and human dignity in times of war; however, by extension, it is also about protecting such values in all of our experiences. As such, alongside human rights education, IHL has a unique contribution to make to citizenship education at the local, national and international levels. Education and training must start in times of peace, in order to inculcate a true humanitarian reflex.

Measures for Monitoring Compliance
The **International Committee of the Red Cross (ICRC)** plays a major role in reminding states that they have undertaken to make the humanitarian provisions known and that they must take all the necessary steps to ensure that the law is effectively applied and fully respected.

Repressive Measures
International humanitarian law obligates states to suppress all its violations. Certain grave human rights violations, called war crimes, are criminalised by IHL. Indeed, there is a requirement that states enact domestic legislation to punish war crimes, to search for people who have allegedly committed such crimes, and to bring them before their own courts or to extradite them to another state for prosecution. These repressive measures may also serve as a deterrent and prevent human rights violations from reoccurring.

The **International Criminal Court (ICC)** is competent to try individuals for war crimes, crimes against humanity, and genocide. Unlike the *ad hoc* Tribunals created for the conflicts in Yugoslavia and Rwanda, the ICC has universal jurisdiction. Cases regarding Uganda, the Democratic Republic of Congo, the Central-African Republic, Kenya, Darfur/Sudan and Libya are presently pending before the court.

GOOD TO KNOW

The **International Red Cross and Red Crescent Movement** is composed of the International Committee of the Red Cross (ICRC), the National Red Cross and Red Crescent Societies of 186 countries, and the International Federation of Red Cross and Red Crescent Societies. The National Societies act as auxiliaries to the public authorities of their own countries in the humanitarian field and provide a range of services including disaster relief and health and social programs. The Federation is the organisation that promotes cooperation between national Societies and strengthens their capacity.

As guardian and promoter of IHL, the ICRC plays the lead role in seeking to preserve a measure of humanity in the midst of armed conflict.

1.GOOD PRACTICES

Protection of Civilians
Humanitarian law is founded on the principle of immunity of the civilian population. People not taking part in the hostilities may under no circumstances be attacked; they must be spared and protected. In today's conflicts, however, civilians often endure horrific violence, sometimes as direct targets. Massacres, hostage-taking, sexual violence, harassment, expulsion, forced transfer and looting, and the deliberate denial of access to water, food and health care, are some of the practices which spread terror and suffering among civilians.
The **ICRC** maintains a constant presence in areas where civilians are particularly at risk.

Special attention is given to women and children since IHL affords them specific protection.

Women experience armed conflict in a multitude of ways – from taking an active part as combatants to being targeted as members of the civilian population or because they are women. Women's experience of war is multifaceted – it means separation, the loss of family members and livelihood, and an increased risk of sexual violence, wounding, deprivation and death. Responding to this reality involves:

* Teaching arms bearers about women's rights;
* Providing assistance for gynaecological and reproductive health care to medical facilities and health posts serving victims of hostilities;
* Reminding detaining authorities that female detainees must be put under the immediate supervision of women and that their sleeping quarters and sanitary facilities must be adequately separated from those of men;
* Working at restoring contact between family members that have been separated as a result of armed conflict;
* Providing support to the families of those who have gone missing.

☺☞ *Human Rights of Women*

Children are all too often first-hand witnesses of atrocities committed against their parents or other family members. They are killed, mutilated, imprisoned or otherwise separated from their families. Cut off from the environment familiar to them, even those who manage to escape lack any certainty as to their own future and that of their loved ones. They are often forced to flee, abandoned to their own devices and rejected without an identity. In addition, children living with their families or left to themselves in conflict zones are potential candidates for recruitment as soldiers. Deprived of a family, these child recruits find it almost impossible to imagine life without war. Joining an armed group is a way of ensuring one's own survival. Responding to this reality involves:

* Promoting respect for the rights of children amongst arms bearers;
* Banning the recruitment and participation of children in armed conflicts;
* Providing child victims of conflict with adequate medical, psychological and social assistance;

"The disintegration of families in times of war leaves women and girls especially vulnerable to violence. Nearly 80% of the 53 million people uprooted by wars today are women and children. When fathers, husbands, brothers and sons are drawn away to fight, they leave women, the very young and the elderly to fend for themselves. Refugee families cite rape or the fear of rape as a key factor in their decisions to seek refuge."

UNICEF. The State of the World's Children. **1996.**

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*"There are children who join for so-called voluntary reasons.
But I think one has to be very careful to recognize that there is no
voluntary joining, in the sense that the vast majority of children who
join willingly do so out of necessity or victimization, fear or security.
Unaccompanied children who have no parents to protect them,
people who are fearful that they will die of hunger or who have
inadequate health care may seek military activity."*

Dr. Mike Wessells. 2006.

- Working at restoring family links by providing protection for unaccompanied children and tracing missing persons;
- Monitoring conditions of detention for children – making sure that they are kept separate from adults unless they are members of the same family – and working to bring about the release of children.

☺☞ *Human Rights of the Child*

Protecting Prisoners

One of the consequences of armed conflict is the taking and holding of prisoners. Being deprived of their freedom puts people in a vulnerable position vis-à-vis the detaining authorities and within the prison environment. This vulnerability is particularly acute in times of conflict and internal violence, when the excessive and illegal use of force is commonplace and structural deficiencies are exacerbated. IHL includes measures specifically intended to protect prisoners. Ways to ensure respect for the life and dignity of prisoners include:

- Ensuring that those in charge of prisons receive training in the rules and are penalised if they fail to obey these rules;
- Making sure that the authorities provide adequate funds and means for the prisons;
- Allowing neutral humanitarian organisa-

tions such as the ICRC to visit prisoners and monitor their treatment;
- Restoring family links where they have been disrupted;
- Supporting human rights organisations such as Amnesty International and Human Rights Watch or local human rights organisations that make public what they learn about the abuse of prisoners by their captors.

Restoring Family Links

In almost all emergencies – armed conflicts, mass population displacements, and other crisis situations – children become separated from their parents, families and other responsible adults. Because their status is seldom immediately clear, they are referred to as "separated or unaccompanied children" rather than "orphans". Others, such as the elderly or persons with disabilities, might also be in a difficult situation during a conflict. They might remain behind, be isolated and separated from their relatives and unable to take care of themselves. Because of their particular vulnerability, the ICRC will undertake, when necessary, specific measures aimed at their protection and family reunification. Some of these measures involve:

- Forwarding family news through Red Cross messages, radio broadcasts, the telephone

and the internet, via the International Red Cross and Red Crescent Movement;

- Organising repatriations and family reunifications;
- Facilitating family visits to detained relatives or across front lines;
- Issuing ICRC travel documents for those who, owing to a conflict, do not have or no longer have identity papers, and are about to be repatriated or resettled in a third country;
- Informing and supporting the families of missing persons.

A Word about the Emblem

The Geneva Conventions mention three emblems: the Red Cross, the Red Crescent and the Red Crystal (since 2006). IHL regulates the use, size, purpose and placing of the emblem, the people and property it protects, who can use it, what respect for the emblem entails and what the penalties for misuse are:

In times of armed conflict, the **emblem may be used as a protective device** only by:

1. The medical services of an armed force;
2. National Red Cross and Red Crescent Societies duly recognised and authorised by their governments to lend assistance to the medical services of armed forces;
3. Civilian hospitals and other medical facilities recognised as such by the government;
4. Other voluntary relief agencies subject to the same conditions as National Societies.

Three types of **misuse of the emblem**:

1. Imitation: A humanitarian organisation uses a confusingly similar red cross to identify itself.

2. Usurpation: A pharmacist announces his/her business with a Red Cross flag.
3. Perfidy: The armed forces use an ambulance bearing a red cross to carry weapons.

States must take all measures to prevent and repress misuse of the emblem. The most severe cases of misuse are regarded as war crimes.

Working Principles of Humanitarian Action

In order to be qualified as humanitarian, an organisation must abide by certain key principles. The most important of these working principles are neutrality and impartiality. **Neutrality** can be understood as not taking sides. This principle allows humanitarian workers to gain and keep the confidence of everyone involved in the conflict. **Impartiality** means that priority will be given on the basis of needs. Indeed, humanitarian workers make no distinction based on nationality, ethnicity, religious beliefs, social class or political opinions. They are guided solely by the needs of individuals and must give priority to the most urgent cases.

The Fundamental Principles of the Red Cross and Red Crescent Movement:

- **Humanity** – protecting life, health and ensuring respect for the human being.
- **Impartiality** – no discrimination as to nationality, "race", religious beliefs, class or political opinions: guided solely by needs.
- **Neutrality** – no side may be taken in the hostilities.
- **Independence** – full autonomy from all types of external authority.

- **Voluntary service** – non-profit organisation.
- **Unity** – there can only be one Red Cross or Red Crescent Society in any one country.
- **Universality** – a worldwide organisation.

Because of the politically sensitive nature of the work performed by the ICRC, whether it involves visiting prisoners or acting as neutral intermediary between warring parties, and because it wants to be present, and at least be tolerated by all sides, **confidentiality** plays an important role in the organisation's work. This principle along with those of neutrality and impartiality raises certain ethical dilemmas for humanitarian workers who cannot denounce abuses where doing so might endanger the lives of victims or hinder their ability to access those who need their assistance.

2. TRENDS
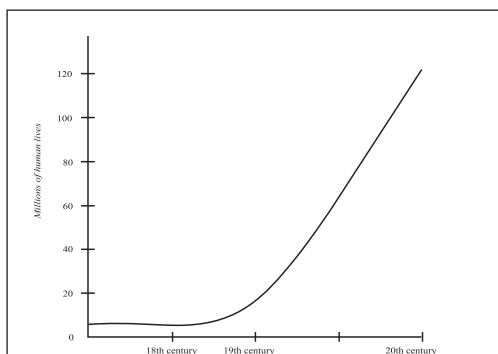
Source: Inter-Parliamentary Union and International Committee of the Red Cross. 1999. *Respect for International Humanitarian Law*.

Trends in State-Based Armed Conflicts by Type: 1946-2008

State-based armed conflicts are defined by the Human Security Report Project (HSRP) as "*conflicts in which at least one of the warring parties is the government of a state, and that result in 25 or more reported battle deaths in a given calendar year*". Following this definition, state-base conflicts therefore include interstate conflicts, intrastate or civil conflicts, internationalised interstate conflicts and extrastate conflicts. Over the past decades changes in state-based conflicts have become visible. Today, the overwhelming majority of armed conflicts are fought within states: While in the late 1940s half of all conflicts where fought within states, by the early 1990s the number was already reaching 90 %. The deadliest forms of conflicts have always been conflicts between states, but they have become very rare. In 2007 the lowest number of wars since 1957 has been reached. Not only the numbers of actual wars declined, but also the number of people killed in those conflicts is lowering. Accoring to the HSRP there were 20.000 people killed per year during wars in the 1950s compared to 4.000 in the new millennium. Since the end of World War II conduct of war has steadily become less deadly.
(Source: Human Security Report Project. 2011. *Human Security Report 2009/2010: The Causes of Peace and the Shrinking Costs of War.*)

Trends in Non-State Armed Conflicts by Region: 2002-2008

According to the Human Security Report 2009/10, non-state armed conflicts can be defined as "*conflicts that involve the use of armed force between two organized groups – neither of which is the government of a state – which results in at least 25 battle deaths in a year*". Within non-state armed conflicts a distinction into two groups can be made: The first category includes conflicts fought between different

rebel groups; the second category comprises conflicts between ethnic, religious or other groups. In contrast to state-based armed conflicts non-state armed conflicts are shorter in duration but also a lot less deadly. Although according to the Report, the number of conflicts has decreased by 52 % from 2002 to 2007, the overall number of conflicts reached an all-time high in 2008. The only region that has been completely free from non-state armed conflicts is Europe, in contrast to sub-Saharan Africa which shows the largest number of conflicts.

(Source: Human Security Report Project. 2011. *Human Security Report 2009/10: The Causes of Peace and the Shrinking Costs of War.*)

Terrorism

A major issue that has risen from the discussion about terrorism in regard to IHL is how to respond to the security challenge that terrorism poses, while the rights of the suspects have to be protected. An example of the difficulties arising when faced with this challenge is the situation of detainees by the USA regarding armed conflicts and the "War against Terrorism". The principles of armed conflict lay down that a conflict that can be qualified as armed conflict either has to involve force between two or more states or a certain level of violence between a state and an armed group. The interpretation of this rule diverges from country to country, especially when faced with the challenges of terrorism. The USA have a very strong opinion that the "War against Terrorism" is to be qualified as an armed conflict which will only end once terrorism is quelled, and that the rules of warfare apply, as terrorism is a global challenge, to the entire world, including the view that to a certain limit killings of suspected terrorists are justified.

For the assessment of the situation of detainees held at Guantánamo Bay, a distinction between those detainees captured on a bat-tlefield and others has to be made. Therefore it also has to be determined whether there was an armed conflict at the time of capture. The USA saw an act of aggression in the terror attacks from 11 September 2001 entitling them to self-defence which they applied in a counter attack on Afghanistan. The USA did not consider Afghanistan responsible for the acts of 2001, but Afghanistan gave a safe haven for terrorist training camps. The conflict in Afghanistan qualifies, as recongised by a U.S. District Court, as an international armed conflict. The question arises whether those detainees captured on the battlefield in Afghanistan are "prisoners of war" as defined by IHL. Concerning those people captured not on a battlefield of an armed conflict but within the so-called "War on Terror", IHL does not apply. For the determination of a detainee's status as "prisoner of war" the principles of the Geneva Convention of 1949 are applicaple. IHL, however, differs between combatants and non-combatants, with the result of only combatants being able to attain "prisoner of war" status. Combatants can fight for the armed forces, whereas non-combatants can be prosecuted for fighting, as this qualifies as a war crime. Article 5 of the Geneva Convention III states that in case of doubts regarding the status of persons having committed a belligerent act and having fallen into the hands of the enemy "*such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal*". Applying this rule to the situation at Guanánamo leads to the presumption that detainees whose status was not clear when they were captured should be given the same treatment as prisoners of war. The decision of an executive or other military person does not qualifiy as decision by a competent tribunal.

(Sources: ICRC. 2012. *Persons detained by the US in relation to armed conflict and the fight*

against terrorism – the role of the ICRC.; ICRC. 2011. *The relevance of IHL in the context of terrorism.*; ICRC. 2010. *Challenges for IHL – terrorism: overview.*)

The Ban on Anti-Personnel Landmines and Cluster Munitions

Throughout the 1990s, the International Red Cross and Red Crescent Movement, international organisations and a vast coalition of NGOs worked relentlessly to achieve prohibition of anti-personnel mines, and to bring relief to mine victims and mine-affected communities. This work culminated in 1997 with the adoption of the Ottawa Treaty, the **Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-personnel Mines and on their Destruction**, which came into force on 1 March 1999. It is the first Convention ever to prohibit, under international humanitarian law,

a weapon in widespread use, and it became law more quickly than any previous multilateral arms-related agreement. As of January 2012, 156 countries have ratified the 1997 Mine Ban Treaty.

In 2008, the campaign on prohibiting cluster munitions repeated the success of the ban on anti-personnel landmines with the adoption of the **Convention on Cluster Munitions**. Cluster bombs are weapons containing up to hundreds of explosive submunitions, dropped from the air or fired from the ground. Their indiscriminate nature and the long-term danger of unexploded remnants pose great dangers to civilians and affects the live of community over decades. The Convention obliges states never to use such munition, develop, produce, acquire, stockpile or transfer them, destroy cluster munition, clear affected areas and provide assistance to those affected. By January 2012, 59 states have ratified the Convention.

ICRC Assistance (figures worldwide for the year 2010)
Detainess visited:...500.928
Numbers of visits carried out:..5.027
Numbers of places of detention visited:...1.783
Detainees newly registered in 2010:...14.738
Red Cross Messages (to restore family links) collected:............................160.338
Red Cross Messages (to restore family links) distributed:.........................145.114
Telephone calls facilitated between family members:..................................12.795
Unaccompanied minors newly registered:...2.031
Demobilised child soldiers newly registered:..627
Essential household items delivered (humanitarian aid):........................4.735.328
Food aid delivered:..4.937.114
Water and habitat activities:..9.928.247
(Source: ICRC. 2011. *Annual Report 2010. Main Figures and Indicators.*)

3. CHRONOLOGY

Some armed conflicts have had a more or less immediate impact on the development of humanitarian law.

World War I (1914-1918) witnessed the use of methods of warfare that were, if not completely new, at least deployed on an unprecedented scale. These included poison gas, the first aerial bombardments and the capture of hundreds of thousands of prisoners. The treaty of 1925 prohibiting the use of certain methods of warfare and the treaties of 1929 dealing with the treatment of prisoners of war were a response to those developments.

World War II (1939-1945) saw civilians and military personnel killed in equal numbers, as against a ratio of 1:10 in the World War I. In 1949, the international community responded to those tragic figures, and more particularly to the terrible effects the war had on civilians, by revising the Conventions then in force and by adopting a new instrument: the Fourth Geneva Convention for the protection of civilians.

In 1977, the Additional Protocols were a response to the new challenges for protection in decolonisation wars as well as to the development of new military technology. In particular, the Additional Protocol II includes also dissident armed forces or other organised armed groups which, under responsible command, exercise control over a part of the territory.

Principal Instruments of International Humanitarian Law and Other Related Instruments

1864 Geneva Convention for the amelioration of the condition of the wounded in armies in the field

1868 Declaration of St. Petersburg (prohibiting the use of certain projectiles in wartime)

1899 The Hague Conventions respecting the laws and customs of war on land and the adaptation to maritime warfare of the principles of the 1864 Geneva Convention

1906 Review and development of the 1864 Geneva Convention

1907 Review of The Hague Conventions of 1899 and adoption of new Conventions

1925 Geneva Protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare

1929 Two Geneva Conventions:
- Review and development of the 1906 Geneva Convention
- Geneva Convention relating to the treatment of prisoners of war (new)

1949 Geneva Conventions:
I: Amelioration of the condition of the wounded and sick in armed forces in the field
II: Amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea
III: Treatment of prisoners of war
IV: Protection of civilian persons in time of war (new)

1954 The Hague Convention for the protection of cultural property in the event of armed conflict

1972 Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxic weapons and on their destruction

1977 Two Protocols additional to the four 1949 Geneva Conventions,

which strengthen the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts

1980 Convention on prohibitions or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects (CCW), which includes:

- Protocol (I) on non-detectable fragments
- Protocol (II) on prohibitions or restrictions on the use of mines, booby traps and other devices
- Protocol (III) on prohibitions or restrictions on the use of incendiary weapons

1993 Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction

1995 Protocol relating to blinding laser weapons (Protocol IV [new] to the 1980 Convention)

1996 Revised Protocol on prohibitions or restrictions on the use of mines, booby traps and other devices (Protocol II [revised] to the 1980 Convention)

1997 Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction

1998 Rome Statute of the International Criminal Court

1999 Protocol to the 1954 Convention on cultural property

2000 Optional Protocol to the Convention on the rights of the child, dealing with the involvement of children in armed conflict

2001 Amendment to Article 1 of the CCW, extending it to non-international conflicts

2002 Coming into force of the Rome Statute, establishing the first permanent International Criminal Court

2002 Coming into force of the Optional Protocol to the Convention on the rights of the child, dealing with the involvement of children in armed conflict

2003 Protocol on Explosive Remnants of War (Protocol V to the 1980 Convention)

2008 Convention on Cluster Munitions

(Source: ICRC, available at www.icrc.org/ihl)

SELECTED ACTIVITIES

ACTIVITY I:
WHY RESPECT INTERNATIONAL HUMANITARIAN LAW?

Part I: Introduction

For many people, the idea that there can be rules in war seems absurd because they believe that the very idea of war is in contradiction to the notion of law or human rights. But the fact is that most of the countries in the world accept and enforce the rules of IHL. Why is that? In the proposed discussion, participants will be given some questions that will help them work through some of the main reasons states comply with their humanitarian obligations in times of armed conflict.

Part II: General Information

Type of activity: Discussion
Aims and Objectives: Understanding some of the reasons why rules are needed for armed conflict; becoming aware of difficult questions that are raised by the idea of IHL; becoming familiar with the reasons for which states respect IHL; understanding the complementarity between human rights law and IHL; knowing some of the basic rules of IHL.
Target group: Young adults and adults
Group size: 12-20
Time: 90 minutes
Preparation and material:
- Distribute copies of the basic rules of IHL as well as the graph showing the complementarity of IHL and Human Rights Law (see above).
- There should be a visible board on which to write down some of the key ideas that are brought out during the discussion.
- Distribute the discussion questions a week or so before the day of the activity so that participants have a chance to think them over and discuss them among themselves or with friends and family.

Skills involved: Ability to develop an argument; ability to think critically; ability to communicate effectively; ability to deal with conflicting opinions.

Part III: Specific Information on the Activity

Introduction:
This discussion addresses some difficult questions to which there are no easy answers. Participants should be encouraged to think creatively and critically, and not to waste time looking for the *right* answer. It is also important that cynical answers are not ignored, as the point of the activity is for the participants to discover that states have incentives to respect IHL above and beyond their moral and legal reasons for doing so. Cynical comments can be used to bring out these incentives and demonstrate the pragmatic nature of IHL.

Discussion process:
The participants are divided into four subgroups and each subgroup is assigned one of the four discussion questions. Thirty minutes are allotted to the group discussion during which the instructor can circulate and help the discussion along by bringing up some of the issues listed below. Each subgroup should nominate one *rapporteur* to report back to the rest of the group once the thirty minutes are over. For the remaining hour, the floor is open to the entire group to discuss each question in light of what the *rapporteurs* have said.

Question 1: If I am winning in a war, why should I obey rules that limit my behaviour?
- Think about the country's long-term interest.

- What if your side starts losing the war?
- What is the role of public opinion?

Question 2: If these rules get broken all the time, why do we need them?

- Does abiding by the rules make the news?
- How do we know that the rules get broken all the time?
- Imperfect respect of the rules may still provide protection to some people.
- What if sanctions were more consistently applied for breaking the rules?

Question 3: Do we really need IHL in the light of all the human rights instruments that exist? Why don't states just make it more difficult to suspend their human rights obligations in times of war?

- Think about good reasons for suspending certain rights in times of armed conflict.
- Does IHL protect human rights?
- Can you ask combatants to respect the right to life when they are fighting a war?
- Do human rights instruments say anything about the means and methods of combat?

Question 4: How can IHL pretend to improve prospects for peace and human security if it accepts the reality of war?

- When an armed conflict ends, do you think that the parties forget what happened during the hostilities?
- Can the prevention of extensive destruction contribute to peace?
- Think about the repressive measures that can be used to ensure justice after a conflict. How do these contribute to peace? Or do they at all?

Feedback:

Ten minutes at the end of the session should be devoted to getting feedback from the group on what they liked or did not like about the discussion. If other questions were raised during the discussion, they should be noted on the board and, perhaps, be used for future discussion.

Methodological hints:

Encourage participants to get beyond the idea of what is wrong and what is right and steer them toward an exploration of why it is in states' interest to respect IHL.

Tips for variation:

After the discussion has taken place in the subgroups, organise a role play where each group has ten minutes to use the answers they have come up with in order to convince their government that it should ratify the IHL treaties. One participant can be asked to play the role of the doubtful Head of State who does not see the point of IHL.

Part IV: Follow-up

Review world news in recent newspapers and identify breaches of IHL that have been committed in various conflicts. Do the media, the governments or the United Nations seem to treat these as a fact of war, or do you find that there is condemnation of such behaviour?

Further areas of exploration:

Complementarity of human rights and IHL
(Source: ICRC. 2002. *Exploring Humanitarian Law, Education modules for young people.*)

**ACTIVITY II:
ETHICS OF
HUMANITARIAN ACTION**

Part I: Introduction

An ethical dilemma can be defined as a situation in which pursuit of one worthy goal conflicts with another worthy goal or leads to harm as well as good. Humanitarian workers often experience ethical dilemmas in their work. As a result of this, much criticism is directed at humanitarian action more generally. It is important to understand what types of dilemmas are involved in providing humanitarian assistance and to discuss whether sustainable alternatives exist. In the proposed

activity, participants will have to analyse situations which present an ethical dilemma and decide what action they would take. In doing so, they will also develop arguments to repudiate the criticism.

Part II: General Information
Type of activity: Case study
Objectives: Being aware of the principles, such as those of neutrality and impartiality, that guide humanitarian action; understanding some of the dilemmas that humanitarian workers may face in performing their work; understanding that even in no-win situations, humanitarian workers cannot avoid making a choice: doing nothing is as much a choice as taking some specific action.
Target group: Young adults and adults
Group size: Between 12 and 20
Time: 90 minutes
Preparation and material: Distribute copies of the four cases described below; write the questions that illustrate each situation on a flipchart or board.
Skills involved: Ability to see a problem from various angles; ability to develop a personal opinion; ability to solve problems; ability to empathise.

Part III: Specific Information on the Activity
Introduction:
Ask whether anyone knows of specific codes of conduct that bind the behaviour of people in doing the work of their profession. Answers could include the rules and duties a medical doctor has to follow or journalists' codes of ethics that prevent them from disclosing the names of people who gave them information if it might endanger the informants or their desire for privacy. Review the part of the module entitled "Working Principles of Humanitarian Action" (see above) and make sure participants understand the principles of neutrality and impartiality. Write out on the board the

main consideration of a humanitarian worker in delivering assistance: *assisting and protecting those in need*.

Case study process:
The cases are distributed and read out loud by participants. The ethical dilemma must be identified by the participants. The debate should centre on whether or not the humanitarian effort should be continued in light of the dilemma identified:
A. Aid agencies came to the rescue of desperate civilians in a war-torn area. Since the agencies provided outside support for civilian survival, the groups who were waging the war were able to ignore the needs of their own civilians. This outside aid enabled them to use all their country's resources to supply their soldiers. And that helped to keep the war from ending. **Are we prolonging the war?**
B. Civilians fled to a Protected Zone that was set up as a haven for victims of "ethnic cleansing" in their country. From the zone, humanitarian workers assisted in their evacuation to refugee centres outside the country. This humanitarian action thereby contributed to "ethnic cleansing" by removing the victims from their homeland. **Are we assisting policies of ethnic separation?**
C. Two countries are at war, and casualties among the civilian population are enormous. Some voices in other countries decry the victims' plight, but no foreign government is willing to intervene either to get the two fighting parties to stop or to put pressure on them to spare the civilian population. "What does it mean to try to bring humanitarian assistance when we know perfectly well that it will be only a 'drop in the ocean' and that without foreign political pressure or military intervention, we humanitarian organisations just

provide a good conscience for the world?" laments a humanitarian worker. **Does humanitarian action provide a pretext for politicians' non-involvement?**

D. To reinforce control of a village in a fighting zone that rebel fighters used for shelter, the civilians were forced to settle in a camp 30 kilometres from their home. Humanitarian aid agencies were asked to take food and medical assistance to the camp. Doing so, however, would sanction the forced displacement of civilians. **Are we sanctioning forceddisplacement of civilians?**

To help the participants think about these situations, the instructor should ask whether inaction in these cases is a valid alternative.

Feedback:

Ten minutes at the end of the session should be devoted to getting feedback from the group on what they liked or did not like about the activity. If questions regarding the work of specific organisations were raised during the discussion, they should be noted and could form the basis for an assignment.

Methodological hints:

This activity may be frustrating for the participants because it will not yield any clear answers. What is important is that the analysis focuses on the humanitarian workers' perspective and that participants always refer back to the consideration of protecting and assisting those in need as well as the principles of neutrality and impartiality. If the discussion has strayed from these points, the instructor may want to point out the fact that there are many actors involved in an armed conflict whose actions complement those of the humanitarian workers.

Tips for variation:

After the discussion, a few participants are asked to act out the following situation:

An aid worker is standing at the gate of a refugee camp. He is faced with a family that wants to enter but fears enemies inside the camp. The father insists he has to keep his gun to protect his sick wife and baby. The family is also terrified of becoming separated.

After they acted out the scenario, the participants discuss the principles the aid worker has to consider and whether some principles conflicted with others in this situation.

Part IV: Follow-up
Further areas of exploration:
Do human rights activists face ethical dilemmas in carrying out their work?
(Source: ICRC. 2002. *Exploring Humanitarian Law, Education modules for young people.*)

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ADDITIONAL INFORMATION

Crimes of War: www.crimesofwar.org

Exploring Humanitarian Law Virtual Campus: www.ehl.icrc.org

Humanitarian Law and Policy Forum: http://ihlforum.ning.com

International Committee of the Red Cross; website on War and Law: www.icrc.org/eng/war-and-law/index.jsp

International Criminal Court: www.icc-cpi.int

International Humanitarian Law Research Initiative: http://ihl.ihlresearch.org

Human Security Report Project: www.hsrgroup.org

United Nations Office of the Coordination for Humanitarian Affairs (OCHA): http://ochaonline.un.org

RIGHT TO WORK

» *[…] universal and lasting peace can be established only if it is based upon social justice […].*«

Constitution of the International Labour Organization. 1919.

ILLUSTRATION STORY

**Appalling Working Conditions
in Free Trade Zones**

Xiao Shen, a young girl who lived in the small rural village of Zhongyuan in the middle of China, had a harsh existence. She had little to no rice to eat and no future prospects. Day after day she had to kneel in deep water helping her father with the rice crop.

Finally, one day she decided to leave. She had heard about a better, foreign place far away somewhere behind the forbidding mountains. One morning before sunrise she and some of her friends who shared her dreams of a better life left home. After two thousand kilometres and endless days of strain, anxiety and uncounted tears they reached their destination – a town called Shenzhen, a free trade zone in the South of China next to the border of Hong Kong. There they hoped to find work, earn money and to fulfil their dreams.

Xiao Shen happened to get to know two businessmen called Huang Guoguang and Lao Zhaoquan who were hiring workers for their "Zhili Handicrafts Factory", a company that produced toys. Xiao Shen was one of the 472 employees and soon she had the impression that she was even worse off now then she used to be in her little village. From dusk till dawn she drudged in the Zhili-factory for a starvation wage – just enough to survive on (US$32-49 a month!). The businessmen both feared that the employees would steal their goods, so the factory was set up like a prison where the workers lived 24 hours a day. The windows were barred and all emergency exits were blocked. State superintendents were bribed to turn a blind eye to these conditions. Day after day Xiao Shen lived behind bars, unable to leave the building, unable to lead a normal life, denied her own space. On the afternoon of 19 November 1993, a fire broke out and spread throughout the building with uncontrollable speed. Highly flammable chemicals were stored throughout the building, causing an inferno of nightmare proportions. Xiao Shen and the others desperately tried to flee the fire – but how? The windows were barred and the doors were locked. Two hundred men and women, many of them not older than sixteen, were surrounded by flames, screaming for their lives. Xiao Shen managed to break open one of the barred windows in the second floor and had the choice between either jumping out or burning alive. She decided to jump and broke both of her ankles – but she survived.

87 people lost their lives that afternoon and over 47 were seriously injured.

(Source: Adapted from: Klaus Werner, Hans Weiss. 2001. *Schwarzbuch Markenfirmen.*)

Discussion questions

1. Which (work-related) human rights were violated by the conditions under which Xiao Shen was forced to work?
2. Which measures could be taken on an international scale to enhance the prospects or at least the working conditions of employees like Xiao Shen?
3. Why do states establish export processing zones (EPZ) and reduce or remove social and labour standards?
4. What is the responsibility of multinational corporations who produce goods in free trade zones?
5. What actions can consumers take to change situations such as the one described?

NEED TO KNOW

1. THE WORLD OF WORK IN THE 21ST CENTURY

New technologies and the global data-highway have the potential to transform the world of work even more than the Industrial Revolution. Due to ongoing industrialisation, the 20th century has seen the further decline of the agricultural sector and the increasing importance of the services sector. With the liberalisation of the world market and the "cyber revolution" opportunities in the global economy have become much broader.

This **new global economy** calls for highly specialised workers who must be well-trained, flexible and highly motivated, as well as willing to automatically adapt to current market demands. Workers must cope with increasing stress and changing working conditions in the light of accelerated technological and structural change. An increasing number of people work part-time, are self-employed or face unstable working conditions. In this regard, globalisation is exposing social gaps between those with the education, skills and mobility to flourish in an integrated world economy, and those without. These new inequalities and insecurities lead to tensions between different sectors of society.

Heightened competition as a result of the liberalisation of trade and financial regimes exerts high pressure on companies to reduce production costs. To meet these targets they can either reduce the cost-intensive factor of production "work" through automation, making labour redundant, or instead transfer production to low-wage countries, where social standards are much lower. States may also be involved in forcing pay and working conditions downwards in order to stimulate economic growth by attracting foreign investment (FDI), as an export-oriented growth strategy is often seen

"Trade has the power to create opportunities and support livelihoods; and it has the power to destroy them. Production for export can generate income, employment, and the foreign exchange which poor countries need for their development. But it can also cause environmental destruction and a loss of livelihoods, or lead to unacceptable levels of exploitation.
The human impact of trade depends on how goods are produced, who controls the production and marketing, how the wealth generated is distributed, and the terms upon which countries trade.
The way in which the international trading system is managed has a critical bearing on all of these areas.
International trade is thus [...] neither inherently good nor bad."

Kevin Watkins. 1995.

as the only avenue to raise economic growth. Too often, exploitation, forced and child labour are the consequences. Several countries around the world have established Free Trade Zones (FTZ) or Export Processing Zones (EPZ), where not only trade barriers as taxes and tariffs are reduced or removed, but also international social and labour standards. According to estimates by the World Bank (2008) there are 3.000 of these zones in 135 countries and zone firms employ approximately 68 million people.

The "globalisation" phenomenon affects people worldwide but its positive outcomes are spread unevenly. State powers to mitigate the negative effects of financial deregulation and free trade are shrinking, mostly due to the new "global players": transnational corporations. The financial power of these "global players" now exceeds that of many states. More than half of the world's 100 largest economic entities are transnational corporations.

The **social dimension of globalisation** must be pushed to the forefront of international policies. The promotion of social standards and human rights on an international scale is essential in order to secure social stability, peace and development while also giving a human face to the global economy. In 2002 the International Labour Organization (ILO) initiated the World Commission on the Social Dimension of Globalization, as an independent body. The Commission issued its report in February 2004, entitled *A Fair Globalization: Creating Opportunities for All* (for further information and follow-up activities see: http://www.ilo.org/fairglobalization/lang--en/index.htm).

Work and Human Security

The right to work as a human rights standard goes far beyond the mere safeguarding of survival, as the satisfaction of basic needs will not suffice to enhance human security. The right to work not only secures survival and well-being but also relates to the individual's inclusion and participation in society. It is also closely related to self-determination, self-respect, self-realisation and to human dignity. Unemployment and the denial of trade unions lead not only to personal insecurity, dangerous, unhealthy or unjust working conditions, but also are prone to producing unrest and insecurity and instability in a society. For these reasons, the promotion of standards of decent work without exploitation is both a precondition for, and conducive to, the enhancement of human security.

"A Look Back in History"

In order to understand how the human dimension of labour developed, it is necessary to take a look back in history.

Social justice and just working conditions are indispensable components in the promotion of peace and development. Work-related injustices, as well as financial hardships and privation of employment are considered directly linked to social unrest and, at several points in history, to grand-scale proletariat uprisings. The recognition that decent work is a precondition for human dignity is predominantly the result of such events, whereby workers struggled for state recognition of those rights they considered to be inconvertible and inalienable. On an international level, workers' rights have been embodied in the ILO's labour legislation since 1919 as well as the UN's post World War II standard-setting.

18th Century: The idea that work is a fundamental entitlement of all members of society was a claim initially advanced in the French Revolution. Charles Fourier, an utopist social philosopher was the first to use the term "right to work" and emphasised the importance of work not only for both the social and the psychological well-being of the individual. He maintained that states had an obligation to provide equal opportunities and concluded that the realisation of this right would require a complete reorganisation of society.

This concept of the right to work emerged again in Socialist theories; Communist governments later promoted it as well. It can be said, therefore, that the right to work developed from a socialist background.

19th Century: The Industrial Revolution led to the emergence of the working class, a social group dependent on wage labour due to the lack of means of production. Workers were exploited and endured dangerous working conditions in factories, textile mills and mines. Such impoverishment of workers and exploitation resulted in a sense of solidarity among the workers and they began to organise themselves (Karl Marx in "Workers of the world unite").

Gradually, the voice of workers grew louder and their situation was increasingly publicised. Due to the pressure from the first trade unions, laws relating to the improvement of working hours and conditions were passed in a number of countries. Continued labour unrest, however, pressured industrialists and governments to consider instituting further measures.

20th Century: Some industrialists proposed setting common international standards in order to avoid comparative advantages of nations disregarding labour standards. In 1905 and 1906 the first two International Labour Conventions were adopted, however initiatives to draft and adopt further conventions were interrupted by World War I.

The Treaty of Versailles, ending World War I, formally recognised the interdependence of labour conditions, social justice and universal peace on an international scale, while also creating the International Labour Organization (ILO) as a mechanism for international standard setting in the field of work and labour.

Between 1919 and 1933 the ILO drafted forty conventions addressing a wide range of work-related issues.

However, the stock market crash of 1929, known as "Black Friday", resulted in a severe setback. The financial carnage of Western economies was accompanied by large scale unemployment. Demonstrations and riots of unemployed workers followed. In Germany, the world economic crisis was followed by a severe political crisis, contributing to the rise of Adolf Hitler and leading finally to World War II.

After World War II: The UNO included economic and social concerns in its aims and programmes for a new world order to prevent such a situation arising again.

The link between work and human dignity was emphasised in the Declaration Concerning the Aims and Purposes of the International Labor Organization adopted in Philadelphia in 1944 (known as the "Declaration of Philadelphia"; incorporated into the ILO Constitution of 1946). In it, we read that "*labour is not a commodity*" and that "*all human beings have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity*".

This was further emphasised in the papal Encyclica "Laborem Exercens" of 1981, which enhanced the position of workers as subjects rather than objects from a philosophical and religious viewpoint.

Much has been done to improve the fate of workers all over the world, by the ILO as well as the UN. Today, however, in the light of the globalising economy, new challenges and new insecurities require innovative and complex solutions.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

Examples of work-related human rights violations range from children working in coal mines and the imprisonment of trade-unionists to modern slavery, such as bonded labour or the commercial sexual exploitation of children. The practical implementation of work-related human rights operates to reverse bad working conditions, such as an unhealthy or dangerous working environment or exploitative hours of work, while also working to protect particularly vulnerable workers, such as women or migrants. Most importantly, work-related human rights play an essential part in preserving the link between human dignity, human security and decent working conditions.

In the following section, two major international mechanisms for the protection of the right to work and workers' rights will be analysed: the ILO system on the one hand and the International Bill of Human Rights (UDHR, ICCPR, ICESCR) on the other.

International Labour Organization

The International Labour Organization (ILO) was created in 1919 with its headquarters situated in Geneva, Switzerland. It was developed predominantly to respond to the growing concern for social reform after World War I. Based on the strong belief that poverty is a danger to prosperity and security everywhere, the ILO aims to improve conditions for working people worldwide without discrimination as to ethnicity, gender or social origin.

In 1947 the ILO became a specialised agency of the United Nations, and in 1969 it was awarded the Nobel Peace Prize for its work.

The ILO is unique among the UN agencies, due to its **tripartite structure**, whereby decisions reached by its organs represent the views of **employers** and **workers,** as well as those of **governments.**

The ILO
- formulates policies and programmes to promote basic human rights, to improve working and living conditions and enhance employment opportunities;
- establishes international standards (conventions and recommendations) in these fields and monitors their national implementation;
- conducts an extensive programme of technical cooperation to help countries to make their policies effective.

The ILO has drafted some 190 conventions, laying down standards in fields such as working conditions, occupational safety and health, social security, employment policy and vocational training and providing protection for women, migrants and indigenous people.

Only a handful of conventions of the ILO, however, are considered to be **fundamental human rights conventions.** These eight conventions and their ratification status are listed below:

The core ILO-Conventions

Principle	Conventions	Number of ratifications (as of January 2012)
Freedom of association and protection of the right to organise and collective bargaining	Convention 87 (1948) Convention 98 (1949)	150 160
Minimum working age and prohibition of worst forms of child labour	Convention 138 (1973) Convention 182 (1999)	161 174
Prohibition of forced labour	Convention 29 (1930) Convention 105 (1957)	175 169
Rights to equal remuneration and prohibition of discrimination in employment and occupation	Convention 100 (1951) Convention 111 (1958)	168 169

(Source: ILO, www.ilo.org)

As a response to the new challenges posed by globalisation, on 18 June 1998 the ILO adopted the **Declaration on Fundamental Principles and Rights at Work and its follow up.** The declaration precisely defines which principles and rights of workers are fundamental, namely those eight core ILO conventions listed above. This is an important first step towards correct practical implementation and adherence to ILO conventions on a national level while also adding to the international dialogue on work-related human rights. It reflects the commitment of states to a common set of values expressed in those rules seen to constitute a "social minimum".

The Declaration affirms that *all* ILO members, irrespective of ratification of the conventions in question, are obliged to respect, promote and realise the fundamental rights set out in the conventions. States that have not ratified the core conventions are asked to submit annual reports on the progress made in implementing the principles enshrined in the Declaration. As a result of this initiative, the Declaration has contributed to a significant increase in ratifications of the fundamental human rights conventions. As of 3 January 2012, 135 of 183 ILO members have ratified all eight conventions; only three states (Republic of Maldives, Marshall Islands, Tuvalu) have ratified none of the fundamental conventions.

The ILO also issues annual global reports focusing on the progress made in implementing the fundamental principles of *all* member states in four year cycles. These serve as a basis for assessing the effectiveness of the action taken during the preceding period.

> *"Decent work is a global demand today, confronting political and business leadership worldwide. Much of our common future depends on how we meet this challenge."*
>
> **International Labour Office.** 1999.

The Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights contains a wide range of work-related human rights. All these rights are further developed in

the UN Covenants which make them binding upon states parties. Below is an extract from the UDHR which lists the rights in question.

"No one shall be held in slavery or servitude […]. Everyone has the right to freedom of peaceful assembly and association […]. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests. Everyone has the right to rest and leisure, including reasonable limitation of working hours […]. Everyone has the right to a standard of living adequate for the health and well-being of himself and his family […] and the right to security in the event of unemployment, sickness, disability […] or other lack of livelihood […]."
Articles 4, 20, 23, 24 and 25 UDHR.

The International Covenant on Civil and Political Rights (ICCPR)

Freedom from Slavery

"No one shall be held in slavery […]. No one shall be required to perform forced or compulsory labour […]."
Article 8 ICCPR

Although universally legislated against and condemned, slavery and forced labour practices are still in existence in various forms. Often they are deeply rooted in either ideological considerations or in the legacy of traditional cultural settings. According to ILO there is an apparent link to undemocratic structures. Millions of men, women and children around the world are forced to lead their lives as slaves. Although this exploitation is often not called slavery, the conditions are the same. A slave is:

- forced to work – through mental or physical threat;
- owned or controlled by an "employer", usually through mental or physical abuse or threatened abuse;
- dehumanised, treated as a commodity or bought and sold as "property";
- physically constrained or has restrictions placed on his/her freedom of movement.

(Source: Anti-Slavery International. *What is Modern Slavery?*)

What types of slavery exist today?

- **Bonded labour** affects millions of people around the world. People become bonded labourers by taking or being tricked into taking a loan for as little as the cost of medicine for a sick child. To repay the debt, many are forced to work long hours, seven days a week, 365 days a year. They receive basic food and shelter as "payment" for their work, but may never pay off the loan, which can be passed down for generations.
- **Early and forced marriage** affects women and girls who are married without choice and are forced into lives of servitude often accompanied by physical and sexual abuse and violence.
- **Forced labour** affects people who are illegally recruited by individuals, governments or political parties and forced to

work – usually under threat of violence or other penalties.

- **Slavery by descent** is where people are either born into a "slave class" or are from a group that society views as suited to being used as slave labourers.
- **Trafficking** involves the transport and/or trade of humans, usually women or children, for economic gain using force or deception. Often migrant women are tricked and forced into domestic work or prostitution.
- The **worst forms of child labour** refer to children who work in exploitative or dangerous conditions. Millions of children worldwide work full-time, deprived of the education and recreation crucial to their personal and social development.

(Source: Anti-Slavery International. *What is Modern Slavery?*)

According to the ILO's 2005 Global Report "An Alliance against Forced Labour", at least 12.3 million people are victims of forced labour worldwide. Of those, 9.8 million are exploited by private agents, including more than 2.4 million in forced labour as a result of human trafficking. Another 2.5 million are forced to work by states or by rebel military groups. The ILO's 2009 Global Report on Forced Labour entitled "The Cost of Coercion" does not update these figures, which were based on extrapolations from real cases of forced labour reported over a 10-year period, but instead further examined the financial cost to these affected workers in terms of unpaid wages, unremunerated overtime, wage deductions and fees, estimating this at some US$20 billion. The ILO is currently attending to gather ground for more reliable country estimates. Despite several gaps and challenges the 2009 report shows some positive trends: new laws, particularly against human trafficking for both labour and sexual exploitation as well as national action plans

have been adopted by many countries. Several countries have gone so far as to set up and train special units to identify instances of forced labour and release victims.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The Right to Work

> *"The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts [...]. The steps to be taken [...] to achieve the full realization of this right shall include technical and vocational guidance and training programmes [...]."*
> Article 6 ICESCR

Work: Right or Obligation?

The correlation between the concept of work as a duty, requiring mental or physical strain, and the concept of the right to work often provokes confusion as to the practical usefulness of such a right. Work, however, is closely related to human dignity and to one's participation in society, while unemployment can lead to severe frustration and even depression. Work can also be a means of self-realisation and contribute positively to personal development.

The right to work acts to ensure that nobody is excluded from the world of work by dealing predominantly with access to work, as well as providing protection to those unfairly dismissed. The right work does not, however, include a guarantee that each individual be employed and in fact; unemployment exists in all states. Nevertheless, governments must take steps by all appropriate means to achieve progressively the full realisation of the right

(Article 2 ICESCR), mainly through the adoption and implementation of national employment policies.

The Right to Just and Favourable Conditions of Work

> *"The States Parties […] recognize the right of everyone to […] just and favourable conditions of work which ensure […] fair wages and equal remuneration for work of equal value without distinction of any kind […]; a decent living […]; safe and healthy working conditions; equal opportunity for everyone to be promoted […]; rest, leisure, and reasonable limitation of working hours […]."*
> Article 7 ICESCR

This article inter alia provides for minimum remuneration guaranteeing a decent living, as well as just and favourable working conditions. It is closely related to a large number of conventions adopted by the ILO, which are also used by the Committee on Economic, Social and Cultural Rights to concretise states' obligations arising from this provision.

The Right to Form and Join Trade Unions

> *"The States Parties […] undertake to ensure the right of everyone to form trade unions and join the trade union of his choice […], for the promotion and protection of his economic and social interests. […]; the right to strike […]."*
> Article 8 ICESCR

Banding together in organisations has always been a way for people to enhance their security, whether at their workplace or within their community or nation. Article 8 ICESCR

is closely linked to the freedom of association. The right to collective bargaining makes freedom of association effective in the world of work. These rights are considered important because they often hold the key to the realisation of other fundamental rights and entitlements at work. Yet, they do not always have the same amount of public awareness or commitment as, for example, the struggle against child labour.

Equality of Treatment and Non-Discrimination Rights

When discussing work-related rights, provisions on the principles of non-discrimination and equality of treatment cannot be left out. In its 2011 Global Report entitled "Equality at Work: The Continuing Challenge", the ILO discussed a number of positive trends, as more legislation and institutional initiatives are implemented worldwide, as well as a growing awareness of the need to overcome discrimination at work. However, with the recent global financial crisis new challenges arose. The report warns against the tendency during economic downturns to marginalise anti-discrimination policies and workers' rights. For instance, the laws and institutions which act to prevent workplace discrimination may become less effective as businesses become overburdened with debt. During these periods institutionalised discrimination is aggravated. Furthermore, the report demonstrates that workplace discrimination has also become more varied and discrimination on multiple grounds is becoming a common practice.

An important milestone in the recognition of equal rights for **women**, particularly concerning the access to economic opportunities, is the adoption of the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), an international instrument that also addresses the reproduc-

tive rights of women. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their right to work, states parties must act to prohibit dismissals on the grounds of pregnancy or maternity leave and discrimination on the basis of matrimony. Furthermore, states are called upon to introduce maternity leave with pay or with comparable social benefits without the loss of former employment.

While gender equality in the workplace has made significant progress in recent decades, gender equality and equal treatment has by no means been achieved. Women still suffer discrimination in terms of job access, benefits and working conditions and access to high-level decision-making positions. Furthermore, the wages of women are on average 70-90% of that of men and discrimination relating to pregnancy and maternity is still common.
(Source: ILO. 2011. *Equality at work: The continuing challenge. Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*.)
☺☞ *Human Rights of Women*

As stated by the ILO 2011 Global Report on equality at work, discrimination based on **ethnicity** (and sex) is addressed in almost all anti-discrimination legislation at work. However, racism at work still occurs in various forms due to the lack of access to the labour market, bullying at the workplace, discriminatory job advertisements, the refusal to recognise foreign diplomas, etc. The most vulnerable groups are people of African and Asian descent, indigenous people and ethnic minorities, and above all the women within these groups, who suffer from intersectional discrimination.

In 2009, 45% of all complaints concerning discrimination in employment received by the Centre for Equal Opportunities and Opposition to Racism in Belgium were related to racism. Similarly, the Australian Human Rights Commission reported that 44% of its complaints related to racism concerned the area of employment, and 40% of the complaints at the New Zealand's Human Rights Commission. Unemployment rates can be used as further indicators for racism and racist discrimination in the area of employment: The unemployment rate in the United States, for example, among black people remains almost twice as high as among the white people and the gap has widened since the beginning of the economic crisis. Data in Europe are similar. Further, as noted by the European Roma Rights Centre (ERRC) "*racial discrimination against Roma is still a common and persistent problem all around Europe. […] Many Romani remain uneducated and unemployed, […].*
☺☞ *Non-Discrimination*
Minority Rights

The 1980s were proclaimed as the UN "Decade of Disabled Persons" by the General Assembly. The World Programme of Action Concerning Disabled Persons was initiated to enable governments and organisations to implement measures to improve the life of **persons with disabilities** all over the world. In 2006, the Convention on the Rights of Persons with Disabilities was adopted. Article 27 constitutes "*the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive*

and accessible to persons with disabilities". The implementation of the Convention by the states parties is monitored by the Committee on the Rights of Persons with Disabilities.

However, work-related discrimination against persons with disabilities still exist for many of the 650 million people with disabilities (about 10 % of the world's population), as indicated by their low employment rate.

Levels of Obligation

The ultimate effectiveness of international instruments is always contingent on the measures taken by governments to give effect to their international legal obligations.

Duties of States relating to the aforementioned rights include:

- **the obligation to respect:**
  The most basic obligation is that states respect the freedom from slavery and forced labour. Another important aspect is the respect of freedom of association, to join and form trade unions. These rights are frequently violated as they have the potential to pressure a state to implement other important workers' rights.

- **the obligation to protect:**
  States parties are obliged to lay down minimum standards, below which the working conditions of no worker should be allowed to fall. Furthermore, the right to work requires protection against unfair dismissals and in any case, states must assure protection against discrimination regarding access to work.

- **the obligation to promote:**
  With regard to work, this obligation can be understood as an obligation to facilitate access to work by providing vocational guidance and training facilities.

- **the obligation to fulfil:**
  Although the right to work is often misunderstood in this regard, it does not require states to guarantee a job to everyone, but

calls on states to pursue policies to achieve steady economic, social and cultural development and full and productive employment (e.g. policy of full employment).

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

Within the international legal framework, implementation activities must take into consideration the large number of ways in which people from culturally and ethnically diverse backgrounds approach and experience the world of work. The well-known parable of the fisherman is a good illustration for the fact that "work" has a different value in different cultural settings and those chances in working patterns must be balanced with cultural expectations and affinities.

A Parable: The Fisherman

One late morning a fisherman was lying on a beautiful beach, with his nets dispersed in the sand. He was enjoying the warmth of the sun, glancing at the sparkling blue surf now and then.

A tourist came walking down the beach. He noticed the fisherman sitting on the beach and decided to find out why this fisherman was relaxing instead of working hard to make a living for himself and his family.

"You're not going to catch many fish that way," said the tourist, "You should be working harder rather than lying on the beach!"

The fisherman looked up, smiled and replied, "And what will my reward be?"

"Well, you can get bigger nets and catch more fish!" was the tourist's answer.

"And then what will my reward be?" asked the fisherman, still smiling.

The tourist replied, "You will make money and you'll be able to buy a boat, which will then result in larger catches of fish!"

"And then what will my reward be?" asked the fisherman again.

The tourist was beginning to get a little irritated with the fisherman's questions. "You can buy a bigger boat, and hire some people to work for you!" he said.

"And then what will my reward be?"

The tourist was getting angry. "Don't you understand? You can build up a fleet of fishing boats, sail all over the world, and let your employees catch fish for you!"

Once again the fisherman asked, "And then what will my reward be?"

The tourist was red with rage and shouted at the fisherman, "Don't you understand that you can become so rich that you will never have to work for your living again! You can spend all the rest of your days sitting on this beach, looking at the sunset. You won't have a care in the world!"

The fisherman, still smiling, looked up and said, "And what do you think am I doing right now?"

4. IMPLEMENTATION AND MONITORING

Conventions ratified by states are binding upon them. However, the effectiveness of international instruments depends on the willingness of states to both enforce the instruments through national laws as well as conforming to the findings of the monitoring authorities. There are limited possibilities of sanctions against a state in breach of its obligations. Often the enforcement depends on the "mobilisation of shame". Such weak enforcement mechanisms have led to calls for linking human rights, and par-

ticularly labour rights, with trade. This would open the possibility of trade sanctions against states violating international standards. This issue, however, is highly controversial. Trade sanctions would force states to legislate against certain practices, e.g. the prohibition of child labour, but in general, the problems require much more complex solutions.

For the enforcement of international standards, the ILO and the UN have developed various **supervisory and complaints procedures.** States parties to ILO Conventions have to submit periodic reports which are analysed and commented on by **the Committee of Experts on the Application of Conventions and Recommendations**. The Reports of this Committee are consequently submitted to the annual International Labour Conference. Each year, the Conference goes through a peer review exercise and issues conclusions concerning the application of the Conventions by a number of member states. Although this procedure may seem a rather toothless instrument of implementation, more than 2.000 changes in national labour and social legislation in over 130 countries have been noted since 1967.

Besides this supervisory mechanism, the ILO provides **two separate complaints procedures** for the implementation of labour standards. The first allows employers' or workers' organisations to file a complaint against a member state. The second one allows a member state and delegates at the International Labour Conference (government, worker or employer delegates) to make a complaint against another member state. Thereafter, a commission of inquiry may be appointed.

Apart from these mechanisms, a special **Committee on Freedom of Association** examines allegations of violations of trade union rights. Complaints may be made against *any* government whether it has ratified the relevant conventions or not. Since its inception in 1950

the Committee has experienced success ranging from the amendment of laws and the reinstatement of dismissed workers to the release of imprisoned trade union members.

The assigned UN body that monitors the appropriate implementation of the ICESCR is the **Committee on Economic, Social and Cultural Rights**. Unlike other human rights treaty bodies it was not established by a corresponding instrument but, in 1985, entrusted by the ECOSOC with the monitoring of the Covenant. The Committee now operates under the guidance of 18 independent experts. In November 2005, the Committee issued a General Comment on the right to work which explains and elaborates the content of this right and the measures tates should take to realise it. As the right to work correlates with the right to non-discrimination, other General Comments relate to work-related issues. For example the General Comment on the equal right of men and women to the enjoyment of all economic,

social and cultural rights includes the obligation for a progressive realisation of equal pay. States parties to the Covenant have to submit reports every 5 years, outlining the legislative, policy and other measures taken to guarantee economic, social and cultural rights. After an analysis of the reports by the Committee and discussions with delegates of the states concerned, the Committee issues its considerations in its "Concluding Observations". On several occasions the Committee has identified violations of the Covenant and subsequently urged states to desist from any further infringements of the rights in question.

It is not yet possible, however, for individuals or groups to submit formal complaints regarding the infringement of their rights to the Committee. An Optional Protocol to the ICESCR was adopted by the UN General Assembly on 10 December 2008; by January 2012 only five states have ratified the Optional Protocol, therefore it has not yet entered into force.

GOOD TO KNOW

1. GOOD PRACTICES

International Programme on the Elimination of Child Labour (IPEC)

In 1992 the ILO has developed the International Programme on the Elimination of Child Labour (IPEC). Working together with national governments, social partners, as well as NGOs, IPEC operates to develop special programmes, taking into account the complexity of the matter and the necessity for thoughtful and consistent methods of remedying the problem. For example in order to find alternatives to child labour, IPEC has launched programmes to withdraw children from the workforce and

provide them with educational alternatives, as well as providing their families with alternative sources of income and security. Since its foundation, IPEC has been able to enlarge its operational activities from the initial six countries to a current total of 88 countries, with an annual expenditure on technical cooperation projects reaching over US\$61 million in 2008. This makes IPEC the largest programme of its kind in the world.

In contrast to the positive trends of the previous study completed in 2006 entitled "The End of Child Labour: Within Reach", the 2010 ILO Report "Accelerating Action against Child Labour" shows growing concerns in respect

of the efforts to eliminate (the worst forms of) child labour. The report states that the global number of child workers has continued its declining trend, falling in total from 222 million to 215 million between 2004 and 2008 (3%). However, this decline has slowed to a worrying extent. The report also expresses concerns over the impact of the global economic crisis which may further inhibit progress towards the goal originally suggested by the 2006 Global Report on Child Labour: the elimination of the worst forms of child labour by 2016. As a result, at the International Labour Conference in June 2010, the Governing Body introduced the Global Action Plan, which provides a strategic agenda and action plan for the ILO and IPEC to pursue the above goal. It also incorporates the "Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016" adopted by more than 450 delegates from 80 countries at the Global Child Labour Conference in The Hague in May 2010.

Further, the 2011 World Day Against Child Labour provided a global spotlight on hazardous child labour, and called for urgent action to tackle the problem.

In partnership with the African Football Confederation and the organisers of the African Cup of Nations, IPEC carried out a major campaign to raise awareness for child labour issues on the occasion of the 2002 Championship in Mali. With the simple and straightforward message: "Red Card to Child Labour", a reference to the referee's red card in a football match, the campaign used a variety of media sources – video, popular music and print, distributed through television, radio, two international airlines and the football matches themselves – to reach millions of people in Africa and beyond. Activities were carried out in 21 African nations and the national media in several countries widely publicised the campaign. It is estimated that 12 million persons

in Kenya and 5 million in Zambia were aware of the campaign alone. In some African countries, such as Egypt and Ghana, enthusiasm for the campaign was so great that it continued to be part of many later national or local football competitions and other public events.

Did you know that…

- globally almost 306 million children between the ages of 5 and 17 are in employment.

- the number of child labourers (children who are either under the minimum age for work or above that age and engaged in work that poses a threat to their health, safety or morals, or are subject to conditions of forced labour) continues to decline, but to a lesser extent than some years before. Roughly 70% of all "children in employment" (see above), in total 215 million, are classified as child labourers.

- a little more than the half of all child labourers, in total 115 million children, are doing hazardous work. The number of children engaged in hazardous work has also declined, particularly among those aged below 15.

- an estimated 8.4 million children are exposed to the worst forms of child labour, including forced and bonded labour (5.7 million), prostitution and pornography (1.8 million), armed conflicts (0.3 million) and criminal activities (0.6 million).

- most child labourers aged 5 to 17 work in agriculture (60%), some 26% in the service sector and 7% in industry.

- only one in five working children is in paid employment, whereas the overwhelming majority are unpaid family workers.

- among girls there is a decrease in child labour numbers while male numbers have increased slightly.
- the largest number of child labourers is in the Asia-Pacific region (113.6 million), followed by sub-Saharan Africa (65.1 million), Latin America and the Caribbean (14.1 million) and other regions (22.4 million). However, child labour is also common in developed countries.

(Source: ILO. 2010. *Accelerating Action against Child Labour.*)

☺☞ *Human Rights of the Child*

Codes of Corporate Conduct regarding Labour and Human Rights

Multinational companies can no longer evade accountability for their activities anymore. Their (financial) power can be compared or is even exceeding those of states. States are no longer the only potential violators of human rights; interest is growing in the responsibility of private companies to respect human rights. Both consumers and international bodies, such as NGOs, have the capacity to change accepted practices within these corporations, through the exertion of political pressure on an international scale, or simple through the consumer's choice not to buy certain products. Increasingly, this pressure results in the adoption of codes of corporate conduct, including human rights, labour standards as well as environmental concerns.

Prominent examples, amongst others, are the "Gap Inc. Code of Vendor Conduct" or the "Levi Strauss and Co. Global Sourcing and Operating Guidelines". These self-imposed company codes are directed to the employees and/or company's contractors and suppliers. They cover, inter alia, standards for occupational safety and health, freedom of association, wages and benefits, working time, child labour, non-discriminatory hiring practices, etc. For more examples see http://www1.umn.edu/humanrts/links/sicc.html.

There is clear evidence to demonstrate that these efforts have a positive effect on social conditions. However, the standards embodied in these codes of conduct aim towards meeting lower national standards rather than the high level standards provided by the international human rights instruments. Furthermore, there is a lack of effective monitoring systems to oversee these codes, especially when no external monitoring is designated in the code of corporate conduct. It can be argued, therefore, that often they pay nothing more than lip-service to established standards. Or, as the International Council on Human Rights already stated in its publication "Beyond Voluntarism: Human Rights and the Developing Interna-

Table 1.5. Global trends in children's economic activity by region, 2004 and 2008 (5–14 age group)

Region	Child population ('000)		Children in employment ('000)		Activity rate (%)	
	2004	2008	2004	2008	2004	2008
Asia and the Pacific	650 000	651 815	122 300	96 397	18.8	14.8
Latin America and the Caribbean	111 000	110 566	11 047	10 002	10.0	9.0
Sub-Saharan Africa	186 800	205 319	49 300	58 212	26.4	28.4
Other regions	258 800	249 154	13 400	10 700	5.2	4.3
World	1 206 500	1 216 854	196 047	176 452	16.2	14.5

(Source: ILO. 2010. *Accelerating Action against Child Labour*.)

tional Legal Obligations of Companies": *"By definition, voluntary initiatives apply only to those who accept them."* Nonetheless, they are a step into the right direction to increased social accountability.

Multi-stakeholder Initiatives

Multi-stakeholder initiatives further contribute to meeting the social (and ecological) challenges of global development. Such initiatives bring together different stakeholders, including representatives of government, trade unions, companies and civil society, in an effort to find joint solutions to complex problems.

A prominent example, among others, is the Clean Clothes Campaign (CCC), an alliance of organisations in 15 European countries, aimed at improving working conditions in the global garment and sportswear industries. The CCC relies on a partner network of more than 200 allied organisations, including both unions and NGOs in garment-producing countries. These organisations identify local problems and help to promote strategies to support workers in their fight for their rights, if positive intervention and resolution with respective companies and public authorities fail (e.g. press releases, remonstrative letters, demonstrations, public campaigning to mobilise consumers and activists around the world). Through evaluation, monitoring and public campaigning in case of human rights violations, the CCC pressures companies to give these codes of corporate conduct real meaning. The alliance has taken up more than 250 cases of worker's rights violations, involving cases of discrimination against union members, unsafe working conditions, violence against workers, withholding of wages, etc.

Another well-known multi-stakeholder initiative is the Ethical Trading Initiative (ETI). The initiative differs from others such as the CCC as besides trade unions and labour rights organi-

> *"Let us choose to unite the powers of markets with the authority of universal principles."*
>
> **Kofi Annan.**

sations, also certain private companies (over 70 in 2010) are part of this alliance. Besides adopting the ETI Base Code, a model code of labour practice derived from the Conventions of the ILO and signing up to ETI's Principles of Implementation, member companies must play an active part in ETI projects working in conjunction with trade unions and NGOs. Furthermore, annual reports have to be submitted to the ETI Board; 20 % of these are conducted by random validation visits. Trends in company performance are monitored by an independent body, and membership may be terminated if company performance drops. A comprehensive assessment carried out between 2004 and 2006 confirmed that ETI members' activities helped to make workplaces safer, stamping out child labour and encouraging suppliers to pay workers their statutory entitlement. However, many issues remain.

Labelling of Items

Labelling items produced in conformity with good social practices is a recent step to contributing to better social practices and the protection of human rights. It permits consumers to influence production practices by using their purchasing power in support of good practices. Today, there are labelling initiatives in many countries, predominantly throughout Europe and North America, and the product range includes inter alia coffee, cocoa, chocolate, orange juice, tea, honey, sugar and bananas. Good Weave, formerly known as RugMark, is an example of a global non-profit

organisation working to end child labour in the carpet and rug industry in South Asia. The Good Weave label assures that no illegal child labour was employed in the manufacture of a carpet or rug.

Good Weave uses the sales from rugs and carpets as well as donations, to provide support and education to former victims of child labour practices. Since the foundation of Rug-Mark International (RMI) in 1995 the number of child labourers in the carpet and rug industry has decreased from 1 million to 250.000.

The **Fairtrade Labelling Organizations International (FLO)** exists to ensure a better deal for marginalised and disadvantaged producers in developing countries. The FLO awards a consumer label, the FAIRTRADE Mark, to products which meet internationally recognised standards of fair trade. This label may be found in most major European supermarket chains and replaced individual national labels. It is only in the United States that one FLO member still uses its original labels. There, the Fair Trade Certified labels are the indicators that Fairtrade standards have been met. Fairtrade has experienced an impressive growth through growing consumer support. Fairtrade products are sold in 70 countries; in some national markets Fairtrade products account for between 20 to 50% of market share in certain sectors.

The UN Global Compact

The UN Global Compact (GC) is based on an idea launched by the former UN Secretary-General Kofi Annan in an address to the World Economic Forum on 31 January 1999 calling on the business community to comply with certain universally supported values and to bring companies together with UN agencies, labour groups and civil society. Annan argued that the emerging trend of corporate social responsibility (CSR) lacked an international framework to assist companies in the development and promotion of global, values-based management. The Global Compact acts to close that gap and received great acceptance from the business community.

It lays down **10 core principles in the areas of human rights, labour, environment and anti-corruption**. As for labour, it includes commitments to the compliance with the most basic labour standards of the ILO, which include:

- freedom of association and the effective recognition of the right to collective bargaining;
- the elimination of all forms of forced or compulsory labour;
- the effective abolition of child labour and;
- the elimination of discrimination in respect to employment and occupation.

The ILO assists in formulating concrete measures to promote and apply these standards effectively.

The website http://www.unglobalcompact.org provides easy access to information on the principles of this initiative, including a list of participating entities. Since the launch, hundreds of companies, UN agencies, business associations, labour organisations, civil society organisations, academic participants and cities have engaged in the Global Compact.

The Global Compact is a voluntary set of principles. Although it has been widely recognised as a positive step in encouraging corporations to act responsibly, some questions remain as to whether its implementation can be effective. Critics argue that its lack of legally enforceable standards, independent monitoring and enforcement mechanisms, along with a lack of clarity about the meaning of the standards themselves are challenges to the initiative's effectiveness.

2. TRENDS

Export Processing Zones (EPZs)
To attract foreign investors, an increasing number of countries have established so-called free trade zones that offer exemptions not only from fiscal levies but also from the obligation to comply with international labour and environmental standards. In general, the multinational corporations benefit from low labour costs, however, high numbers of workers flow into the zones because the salaries are still higher than for corresponding jobs outside the zones. As a result, the working conditions may be less satisfactory, like, for example, safety and health issues. Disregard of fire prevention rules, failure to install first aid facilities and unsafe machinery are only some of the problems that may occur in the EPZs. The conditions have certainly improved with increased publicity; yet, problems remain. According to estimations of the World Bank (2008) there are 3.000 zones in 135 countries and zone firms employing 68 million people.

Decline of Trade Unions
In some developed countries, labour union membership is at an unprecedented low. In the US, for example, only about 11.4% (in 2010) of workers are members of trade unions. Furthermore, trade unions have lost much of their power in the developed world, due predominantly to the increase in political power held by multinational corporations. Meanwhile in most developing countries, freedom of association for labour unions scarcely exists. Obstacles of various kinds are placed in the way of organising workers and, in certain countries, violence, torture, arbitrary killings and arbitrary arrests are routinely used to prevent workers from uniting to claim their rights. According to the Annual Survey 2011 of the International Trade Union Confederation (ITUC) in the year 2010, 90 people were killed due to their involvement in trade union activities. A further 75 trade unionists were subjected to death threats, some 2.500 arrested and 5.000 dismissed. The estimated number of unreported cases is much higher.

Increasing International Mobility: The Migration of Workers
Today, poverty and violence are the tragic reasons behind millions of people leaving their home countries in search of a better future. Disparities in economic and industrial development are further leading to an increase in this practice. In total, there were 214 million international migrants in 2010, making up 3% of the world's population, almost 50% of them were women. The majority of people leaving their home countries are migrating for work. Migrant workers and their families account for about 90% of total international migration. According to the ILO figures of 2010, approximately 105 million of the migrants were economically active. The contribution of these migrant workers to the world economy is enormous; however, many migrants have to work in terrible conditions. All too often, migrant workers are subject to all kinds of discrimination and exploitation, have no access to social protection and are denied their labour rights. Furthermore, migrant workers, among other vulnerable groups, are most affected by economic downturns. They are often employed in the construction or tourism sectors, which are the first to become destabilised in times of crisis.

The relevant ILO Conventions on Migrant Workers (Conventions 97 and 143) have regrettably received relatively few ratifications since states fear international scrutiny of their immigration policies.
A positive development is the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which entered into force

on 1 July 2003. The Committee on Migrant Workers (CMW) monitors the implementation of the Convention. A further development is the Multilateral Framework on Labour Migration as part of a plan of action for migrant workers, adopted in the year 2004 by the International Labour Conference.

Youth Unemployment

One of the most daunting problems facing developed and developing countries alike is the large and growing number of unemployed youth. The level of uncertainty among young men and women toward finding decent work is high as the economic crisis has further exposed the fragility of youth in the labour market as revealed by the 2010 ILO Report "Global Employment Trends for Youth: Special issue on the impact of the global economic crisis on youth". The 2011 update of this report draws the unfortunate conclusion that in the current context of economic instability the situation does not improve and future prospects are not much better. According to the report

- 75.1 million young people were unemployed throughout the world, which are 4.6 million more than in 2007;
- between 2008 and 2009, the global number of unemployed youth increased by 4.5 million (the average increase of the pre-crisis period (1997-2007) was less than 100.000 persons per year);
- the youth unemployment rate rose sharply during the crisis, from 11.6 to 12.7 %;
- for example at the end of 2011 the youth unemployment rate in the EU amounted 21 %, in Spain even almost 50 %;
- in most developed economies the share of unemployed persons looking for a job for 12 months or longer is much higher for young people than for adults. In Greece, Italy, Slovakia and the United Kingdom, young people were between two and three times as likely to be long-term unemployed compared to adults;
- between 2007 and 2010 part-time employment rates for youth increased in all developed economies, except Germany.

Long-term unemployment within certain sectors of the population is known to affect social cohesion and stability, while also contributing to widening economic and social divides within societies. Youth unemployment is often associated with serious social problems such as violence, crime, suicide and abuse of drugs

"Youth make up more than 40 per cent of the world's total unemployed. There are an estimated 66 million unemployed young people in the world today – an increase of nearly 10 million since 1965. Under-employment is also another growing concern. The majority of new jobs are low-paid and insecure. Increasingly, young people are turning to the informal sector for their livelihood, with little or no job protection, benefits, or prospects for the future."

Kofi Annan. 2001.

and alcohol, which consequently perpetuates a vicious circle of unemployment.

Any policy or programme aiming at effectively tackling youth-unemployment must address the social, cultural and economic roots of the issue, while also focusing on the differences in needs and capabilities of that society's unemployed youth. The UN, the ILO and the World Bank have created a Youth Employment Network to address this problem at a global level. (Source: ILO. *The Youth Employment Network*, http://www.ilo.org/public/english/employ ment/yen/)

HIV/AIDS and the World of Work

The HIV/AIDS problem is an issue which affects almost all sectors of society and, in particular has made a significant impact on the world of work.

According to UNAIDS the overall growth of the global aids epidemic has stabilised as the number of new HIV-infections has steadily fallen since the late 1990s. The mortality rate has also reduced significantly and today more and more people are living with HIV, mostly due to greater access to medical treatment. Globally an estimated 34 million people were living with HIV at the end of 2010; the majority of which are employed (90%).

With these statistics in mind, it is clear that the HIV/AIDS problem is a workplace issue not solely due to its effect on labour capacity, job attendance and productivity. Rather, the workplace has a greater role to play regarding the overall struggle to limit both the spread and economic and social effects of the epidemic. HIV/AIDS threatens the livelihoods of many workers and those who depend on them – families, communities and enterprises. Discrimination against and stigmatisation of women and men with HIV threaten fundamental principles and work-related rights, which consequently undermines efforts for prevention and care.

In 2001 the ILO adopted a Code of Practice on HIV/AIDS and the world of work which provides a framework to help prevent the spread of HIV/AIDS, while also mitigating its effects on the workplace, on both a local and national level. Among the Code's key principles are non-discrimination in employment, gender equality, a healthy working environment, no HIV testing for purposes of employment, confidentiality and the continuation of the employment relationship.

In 2010, the International Labour Conference adopted the first international labour standard on HIV and AIDS: the Recommendation concerning HIV and AIDS and the World of Work (No. 200). The Recommendation contains inter alia the protection against discrimination in both recruitment and the terms and conditions of employment. Furthermore it prohibits termination of employment on the basis of real or perceived HIV infection.

(Source: ILO. *ILO Programme on HIV/AIDS and the world of work*, http://www.ilo.org/public/english/protection/trav/aids)

3. CHRONOLOGY

1919 Foundation of the ILO as part of the Treaty of Versailles, which ended World War I

1930 ILO Forced Labour Convention

1948 ILO Freedom of Association and Protection of the Right to Organise Convention

1949 ILO Right to Organise and Collective Bargaining Convention

1951 ILO Equal Remuneration Convention

1957 ILO Abolition of Forced Labour Convention

1958 ILO Discrimination (Employment and Occupation) Convention

1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), Art. 6, 7, 8

1966 International Covenant on Civil and Political Rights (ICCPR), Art. 8

1969 ILO rewarded with the Nobel Peace Prize

1973 ILO Minimum Age Convention

1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

1989 Convention on the Rights of the Child

1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (entered into force in 2003)

1992 Foundation of the International Programme for the Elimination of Child Labour (IPEC)

1998 ILO Declaration on Fundamental Principles and Rights at Work

1999 ILO Worst Forms of Child Labour Convention

2001 Creation of the Special Action Programme to combat Forced Labour (SAP-FL) by the ILO Governing Body

2008 Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) (not yet in force)

2010 Global Child Labour Conference in The Hague, adoption of the "Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016"

SELECTED ACTIVITIES

ACTIVITY I
YOUR BABY OR YOUR WORK!

 1

Part I: Introduction
This activity involves a role-play about the issues of women's reproductive rights at the workplace. Reproductive rights include the right to choose whether to have or not to have children.

Part II: General Information
Type of activity: Role play
Aims and objectives: To develop knowledge about women's reproductive rights, to give participants a feeling of what it feels like to be discriminated against, to promote equality, justice and responsibility
Target group: Young adults, adults
Group size: 15-25
Time: 90 minutes
Skills involved: Critical thinking, opinion building, linguistic and empathetic skills

Part III: Specific Information on the activity
Introduction:
"Ms. M. has been unemployed for almost a year and is looking hard for a new job. Ten days ago she went for an interview for her dream

job. Everything went well and she was offered the position. The company asked her to have a meeting with Mr. W., the personnel officer, in order to sign the contract. She had already discussed her duties and other job-related issues at the interview but just as Ms. M. was to sign the contract, Mr. W. said that a condition of the job was that she signs a declaration that she will not have a baby for the next two years."

Performance of the role-play:

- Divide the group into smaller groups (4-6 each).
- Read out the scenario and give each small group twenty minutes to decide on an ending for the story and to develop it into a role play. The role play should start with the meeting between Ms. M. and Mr. W. and should not last for more than 5 minutes.
- Invite each small group to present their role play. You might use the following methods during their performance:
- Role Reversal: Without warning, stop the action, ask actors to exchange roles and continue the action from that point. Debrief thoroughly.
- Replay: After a role play, change the situation (e.g. Ms. M. is unable to get pregnant, Ms. M. is already pregnant, etc.) and ask the actors to replay the same scene with this change.
- Note possible comments of the participants for debriefing.

Feedback:

- Begin with feedback from each small group (how did they develop the role play; was it difficult?), then talk about the implications and what should be done about discrimination of this sort.
  Starting points for the discussion:
- Was anyone surprised at the situation?
- On what kind of outcome did the groups decide (realistic endings? good points – weak points? is it better to be assertive, aggressive or submissive?)
- What rights do women have in your coun-

try (especially when they get pregnant)?
- Why did the company react that way – was it fair?
- Were any human rights violated? If so, which ones?
- If Ms. M. were a man, would the same thing have happened to her?
- In what ways do men see this issue; differently from the way women do?
- What can be done to promote and protect women's reproductive rights?

Methodological hints:

Before starting the role play make sure that the group has understood reproductive rights. You might try to form single-sex groups, which may lead to more provocative endings.

Tips for variation:

- Start with two volunteers to play the role play, with the rest of the group as observers.
- Stop the presentation at intervals and ask for comments.
- Ask observers to change roles with the actors.
- Add other characters to the situation (husband, a trade union representative, etc.).

Part IV: Follow-up

Ask the group to do some research into reproductive rights in their countries (interviews, participate in human rights plays in public places – invite observers to take part).

Related rights/further areas of exploration: social rights, gender equality, discrimination.
(Source: Adapted from: Council of Europe. 2002. *Compass: A Manual on Human Rights Education with Young People.*)

ACTIVITY II
FAIRLY DRESSED-UP?

Part I: Introduction

The distribution of wealth and power within societies usually affects a person's opportuni-

ties to achieve full human rights and live a life in dignity. In this case study the participants examine the concept of "fairness" and reflect on their own situations. They make connections between their own clothes and the people who make them.

Part II: General Information
Type of activity: Case study
Aims and objectives: This activity helps participants to make connections between their own clothes and the people who make them. In addition, it poses questions about our responsibilities in a globalised economy.
Target group: Young adults to adults
Group size: About 25
Time: 90 minutes
Material: Flip chart paper or blackboard, markers or chalk; discussion questions
Handout: T-Shirt Math
Skills involved: Analysing, reflection, linguistic and critical thinking skills

Part III: Specific Information on the Activity
Introduction:
Handout: T-Shirt Math
A T-shirt that sells for US$20 in the United States is manufactured by an international corporation in one of its factories in El Salvador. This factory is an example of a maquiladora, which is a foreign owned factory that assembles goods for export. The Salvadoran workers producing the shirt were paid US$0.56 an hour. On average, a worker is able to sew approximately 4.7 shirts per hour.
In 1994, the Salvadoran government calculated that it would take about four times the wages provided by a maquiladora worker to support a family at a bare subsistence level.

Distribute the handout and ask the participants to calculate the following (alone or in pairs):
- How much does a worker receive per T-shirt?

- If the workers' wages were quadrupled, how much would they make per hour?
- How much would they earn per T-shirt?
- If the company passed on this increased cost to the consumer, how much would a T-shirt cost?

Now imagine that the workers' wages were increased by ten times:
- What would be their hourly rate?
- How much would they earn per shirt?
- If the company passed on this increased cost to the costumer, how much would you pay for the shirt?

Instruction for the case study:
Ask the group members to check the labels they can find on all their clothing. Then make a list (chart paper, blackboard) and record all the information about the labels and countries where apparel is made. Once this list is completed, ask the participants to analyse the results. In almost every case, the majority of the garments will indicate that they were made in poorer countries. Discuss with the whole group the following questions:
- Who do you think made your clothes, sunglasses, shoes, buttons, zippers, etc.?
- Was it more likely a man, a woman, a child?
- What do you imagine were these workers paid?
- What kind of working conditions do they face?

List the results on the flip chart/blackboard.

Evaluation of the case:
When approached about requiring better wages for the workers who make our clothes clothing retailers often assert that wages must be held low so that consumers can have inexpensive products.
Discuss the following questions with the group:
- Would you be willing to pay more for a shirt? If yes, how much?

- Are any human rights of the Universal Declaration of Human Rights violated? Cite specific articles.
- Why do manufacturers sell their goods in western countries but produce them in countries such as El Salvador, Bangladesh, China?
- Who should be responsible for seeing that workers receive wages that are sufficient to support themselves and their families?

Feedback:

Pose a summarising question and ask the participants to respond in turns:

- Which of the remarks that you have heard here today will you especially remember as meaningful?
- Try to think of a word or phrase that sums up your feelings.

Methodological hints:

Case studies are often used to set up effective debates. In this particular case, it is necessary to create an environment of trust and respect to have participants take part in the discussion. Therefore, the whole group should think of some principles for the discussion which they think everyone should follow. List all these suggestions and place them somewhere where everybody can see them.

Tips for variation:

As an ice-breaker hand out labels that quote the sex, the age and how much a person gets paid for his work (e.g. 10 sweets for five minutes of work; 2 sweets for 10 minutes, etc.). Ask the whole group to do one (senseless) exercise, e.g. to draw triangles on a sheet of paper, etc. When the task is completed, pay each person according to age, sex and as laid out on their labels. Count the "money" (= sweets) out loud so that everyone is aware of how much each other is getting for the SAME work they ALL did. Discuss their feelings.

Part IV: Follow-up

Related rights/further areas of exploration: social, political, and economic rights.

(Source: Adapted from: David A. Shiman. 1999. *Economic and Social Justice. A Human Rights Perspective.*)

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www.antislavery.org

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www.chinalaborwatch.org

Clean Clothes Campaign (CCC):
www.cleanclothes.org/

CSR worldwide, Multistakeholder Initiatives: www.csr-weltweit.de/en/initiativen-prinzipien/multi-stakeholder-initiativen/index.nc.html

Ethical Trading Initiative (ETI):
www.ethicaltrade.org/

European Roma Rights Centre:
www.errc.org/

Fairtrade Labelling Organization International: www.fairtrade.net

Global Compact: www.unglobalcompact.org

Global March Against Child Labour:
www.globalmarch.org

Good Weave International:
www.goodweave.net/

Human Rights Watch: www.hrw.org/

International Confederation of Free Trade Unions: www.icftu.org

International Labour Organization:
www.ilo.org

International Organization for Migration:
www.iom.int

International Programme on the Elimination of Child Labour (IPEC): www.ilo.org/ipec/programme/lang--en/index.htm

Labour Rights Now:
www.laborrightsnow.org

Organisation for Economic Cooperation and Development (OECD): www.oecd.org

The Concerned for Working Children (CWC): www.workingchild.org/htm/cwc.htm

The Fairtrade Foundation:
www.fairtrade.org.uk

United Nations Children's Fund (UNICEF): www.unicef.org/crc

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http://hdr.undp.org/en/reports/

United Nations Global Compact:
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RIGHT TO PRIVACY

THE RIGHT TO PRIVACY IN DEMOCRATIC SOCIETIES

THE RIGHT TO PRIVACY IN THE INTERNET

THE RIGHT TO PRIVACY WHILE COUNTERING TERRORISM

»No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.«

Article 12, Universal Declaration of Human Rights, 1948.

ILLUSTRATION STORY

In August 2008 the Irish Data Protection Commissioner received a complaint regarding the alleged disclosure of personal information by an airline. The complainant stated that in June 2008, in response to a phone call, the airline disclosed by email a travel itinerary for herself and her husband to her husband's employer and on foot of this disclosure, her husband was dismissed from his employment. The complainant stated that her husband's employer had made a written statement to the effect that the email in question was disclosed by the airline on the provision of a surname only. A copy of this statement was provided to the Data Protection Commissioner.

In the course of this investigation, the airline informed the Data Protection Commissioner that security questions were asked prior to the email in question being issued to the third party. It did not dispute that it sent the email. However, as the airline did not record the telephone call requesting the information, nor were its security questions system prompted and logged, it was not able to provide any evidence to prove that the appropriate security questions were asked in this instance.

The Data Protection Commissioner also took into consideration that the booking was made from the complainant's own computer using a personal email address rather than from an email address at her husband's workplace.

On the basis of the information presented, together with the fact that the airline could not provide evidence that its own security measures were in fact used on this occasion, the Data Protection Commissioner arrived at the decision, following the investigation of this complaint, that the airline had contravened the law by further processing the complainant's personal data and that of her husband when it disclosed to her husband's employer their travel itinerary in an email.

(Source: Irish Data Protection Commissioner. 2009. *Case Study 1: Disclosure of personal data due to inappropriate security measures.*)

Discussion questions
1. Which rights are at stake here?
2. Discuss the problems concerning disclosure of sensitive data.
3. Which international protection system could be used in such cases?

NEED TO KNOW 😐‼️

1. INTRODUCTION

Historical Development of the Right to Privacy

The concept of privacy (Latin: *privates*, that means separated from the rest) denotes that a person can separate herself/himself from the rest and so reveal herself/himself. While the boundaries of privacy differ among different cultures, they share a common basic understanding.

The first article on privacy in the US was published by Warren and Brandeis in 1890. The core of the **liberal concept of freedom** is spelled out in the right to privacy, as it was developed throughout the late 18th and the entire 19th century. Through its historical development privacy in the sense of an isolated zone manifested itself in structures like the protection of the home, the family and the secrecy of correspondence. Due to the establishment of 'new media' the secrecy of telecommunication was added.

Since then, the way how to secure and protect privacy has changed immensely due to technical improvements and especially since the broad use of the internet. Especially within the last decade the meaning and understanding of privacy has changed because of the Web 2.0 and the extensive use of social networks.

Privacy and Human Security

A person whose privacy is massively infringed cannot live a life free from fear and free from want. The guarantee of basic protection of privacy rights is implicit to living a life of human security.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

On the international level privacy is protected within two major instruments, the **Universal Declaration of Human Rights (UDHR)** and the **International Covenant on Civil and Political Rights (ICCPR)**.

Article 12 of the UDHR reads:
"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."
Article 17 of the ICCPR stands as the major international provision regarding privacy. It reads:
"1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks."

The **Human Rights Committee** has the task to monitor the implementation of the ICCPR. Furthermore, it issues General Comments on specific issues concerning the Covenant. Especially **General Comment No. 16** on the right to respect privacy, family, home and correspondence, and protection of honour and reputation (Art. 17) of 1988 and **General Comment No. 19** on the protection of the

family, the right to marriage and equality of spouses (Art. 23) of 1990 are relevant for the area of privacy protection.

As mentioned in General Comment No. 16, Art. 17 protects the right of every person against arbitrary or unlawful interference with her/his privacy. According to the Human Rights Committee these rights have to be protected against **interferences by the state** but also against **violations by other natural or legal persons**. The Committee sets out a broad understanding of the term **'family'**, so not only the 'typical' family of a married couple with children is comprised, but also other types of families. Article 17 of the ICCPR does not contain a specific limitations clause.

Contents of the Right to Privacy
The right to privacy according to Article 17 ICCPR can be split up in several **subgroups**, i.e. privacy, identity, integrity, intimacy, autonomy, communication, and sexuality.

• **Privacy:**
The right to privacy in the narrow sense, as adopted from Article 12 UDHR, protects that specific field of individual existence which does not touch the sphere of privacy of others. It can also be understood as this part that does not fall in any of the other categories mentioned below.

• **Identity:**
Identity includes personal 'features' like one's name, appearance, clothing, hair, gender, genetic code as well as confession or belief.

• **Integrity:**
Personal integrity is also protected by Article 17 ICCPR, this means that for example medical treatment without consent or even against the will of a patient is to

be understood as an infringement of the right to privacy.

• **Intimacy:**
Intimacy is first and foremost secured by the protection of the home and of correspondence as well as by data protection. A person is protected against publishing of her or his personal details without prior consent.

• **Autonomy:**
This covers the area of self-realisation of human beings. It is the right to one's own body, which gives also the right to act against one's own body, also including committing suicide.

• **Communication:**
This area covers interaction with other persons and gives – apart from the special protection of the family – a right to develop relationships with other people.

• **Sexuality:**
Sexual autonomy is a special and particularly important part of the right to privacy. Any regulation of sexual behaviour constitutes an interference of the right to privacy. Interference is only allowed if it is absolutely necessary for the protection of those people affected (e.g. children). (Source: Manfred Nowak. 2005. *CCPR Commentary, Art. 17 CCPR.*)

Especially Vulnerable Groups
• **Persons with disabilities**
Persons with disabilities who need special care and help often are likely to suffer interference with their rights to privacy, e.g. if they are kept in closed facilities.
• **People affected by diseases and the elderly**
Persons affected by diseases or the

elderly living in hospitals, caring or nursing homes are at particular risk of infringements of their right to privacy.

- **Children**
  Concerning the new media children are likely to suffer infringements of their right to privacy if they disclose personal information on social networks or the internet in general.

☺☞ *Human Rights of the Child*

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

The Erosion of the Right to Privacy by Counter-Terrorism Policies

While dealing with current counter-terrorism policies, states often emphasise that there are mainly **two new dynamics** which must be considered together with the protection of the right to privacy. Firstly, states demand that their ability to prevent and investigate terrorist acts is strongly connected, almost solely with **increased surveillance powers**. Therefore the vast majority of counter-terrorism legislation after the terrorist attacks of 11 September 2001 has focused on increasing governments' powers to conduct surveillance. Secondly, states hold the view that because terrorism is a worldwide issue, the search for terrorists cannot be bound by **national borders**. The help of third parties, which are potentially in possession of extensive amounts of intelligence on individuals, constitutes a rich resource for identifying and monitoring terrorist suspects. As a result of these views, states which lack constitutional or statutory legal safeguards have been able to radically transform and expand their laws concerning surveillance with only a few restrictions. In countries which have such constitutional and legal safeguards, governments have put the protection of the right to privacy on the line by not applying and transforming these existing safeguards to their cooperation with such third countries as well as private actors, or by replacing domestic surveillance systems by extraterritorial ones.

States can make use of legal targeted surveillance measures, but only if it is a **case-specific interference**, on the basis of probable cause or **reasonable grounds** and **fully respects human rights**. The rule of law requires that there must be some factual basis, related to the behaviour of an individual, which justifies the suspicion that she/he may be engaged in criminal activities.

The developments within the last years show that there has been a disproportionate rise in communications surveillance, by intelligence and law enforcement agencies worldwide. There is an undeniable focus on new technologies (e.g. "bugs" and tracing technologies that can access the geographical position of mobile phones, technology that reports to governments the contents of private text conversations of users of Voice over Internet Protocol (VoIP), or that installs spyware on suspects' computers in order to enable remote computer access). In some countries, encryption technologies that make communications more secure but more difficult to intercept haven even been banned.

(Source: United Nations. 2009. *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*.)

☺☞ *Rule of Law and Fair Trial*

Types of Surveillance Used, Arrests, and Convictions for Intercepts installed January 1 until December 31, 2011, US

Reporting Jurisdictions	Orders with intercepts installed	Wire (inclusive any type of telephone: Standard, Cell, Mobile)	Oral (inclusive Microphone)	Electronic (inclusive Digital Pager, Fax, Computer)	Combination	Persons arrested	Persons convicted
Total	2189	2092	6	4	87	3547	465
Federal	367	358	0	1	8	1006	47

(Source: US Courts Statistics 2011, www.uscourts.gov/uscourts/Statistics/WiretapReports/2011/Table6.pdf.)

Extended Powers to Stop, Question, and Search

Under the excuse of "counter-terrorism measures", states have increased their activities to identify, scan, and tag **the general public**. Therefore they use various techniques, which can violate an individual person's right to privacy: When surveillance is done at public places concerning larger groups of people, these surveillance measures are typically subject to weaker regimes of authorisation and judicial oversight. The existing human rights standards have been stretched, twisted and breached through the use of stops and searches, through increased **surveillance** of financial, communications and travel **data**, through the use of **profiling** to identify potential suspects, through the compilation of various lists and **databases** to calculate the probability of suspicious activities and identify individuals seen as worthy of further scrutiny. During the last years even more advanced techniques were applied, for example the collection of **biometrics** or the use of **body scanners** that can see through clothing.

The overall trend affirms the alarming development that states have increased their powers to stop, question, search, and identify individuals, while reducing their domestic legal controls to prevent the **misuse of these powers**. These powers have given cause for concern regarding **ethnic profiling and discrimination** in various countries and concerns that these newly increased powers cause serious tensions between citizens and the state.

(Source: United Nations. 2009. *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*.)

☺☞ *Anti-Racism and Non-Discrimination*

The Use of Biometrics and Dangers of Centralised Identity Systems

The use of **biometric techniques,** such as facial recognition, fingerprinting, and iris-scanning, constitutes a key component to new identity policies.

Due to the increasing collection of biometric information, failure rates and flaws may rise significantly. This can result in the **wrongful criminalisation** of individuals, as well as social exclusion. Furthermore, unlike other identifiers, biometrics cannot be revoked. Once copied and misused by a party, it is not possible to give an individual a new biometric signature. Linked to this issue, it has to be noted that, contrary to its scientific objectivity, DNA evidence can also be falsified. The centralised collection of biometrics presents a risk of causing miscarriages of justice, which

can be illustrated by the following example:

"Following the Madrid bombings of 11 March 2004, the Spanish police managed to lift a fingerprint from an unexploded bomb. Fingerprint experts from the United States Federal Bureau of Investigation (FBI) declared that a lawyer's fingerprint was a match to the crime-scene sample. The person's fingerprint was on the national fingerprint system because he was a former soldier of the United States. The individual was detained for two weeks in solitary confinement, even though the fingerprint was not his. Examiners failed to sufficiently reconsider the match, a situation that was made worse for him when it was discovered that he, as a lawyer, had defended a convicted terrorist, was married to an Egyptian immigrant, and had himself converted to Islam."

(Source: United Nations. 2009. *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*.)

Circulation of Watch Lists

Another available technique is **watch-list monitoring**. Starting with United Nations **Security Council Resolution 1267,** which has been adopted unanimously in 1999 after recalling several other Resolutions (1189 (1998), 1193 (1998) and 1214 (1998)) on the situation in Afghanistan. The Council established a sanctions regime to cover individuals and entities associated with Al-Qaida, Osama bin Laden and/or the Taliban wherever located, which is best known as "**the Al-Qaida and Taliban Sanctions Committee".** The regime has since been reaffirmed and modified by a dozen further UN Security Council Resolutions (including Resolutions 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009)) so that the sanctions measures can now be applied to designated individuals and entities associated with Al-Qaida, Osama bin Laden and/or the Taliban wherever located. Since the US Invasion of Afghanistan in 2001, the sanctions have been applied to individuals and organisations in all parts of the world. (Source: United Nations Security Council Counter Terrorism Committee, http://www. un.org/en/sc/ctc/rights.html.)

On 19 December 2006 the Security Council adopted **Resolution 1730 (2006)** in order to establish a **de-listing procedure**. Those who found themselves on the list could ask the Committee to consider their case. The listing procedure also remained undefined until 22 December 2006 when the Security Council adopted **Resolution 1735 (2006)**. This Resolution also provided a series of forms which countries should fill out, in order to put names of people and entities that have connection to the Taliban onto the list.

In addition, the Security Council by Resolution 1904 (2009) established the **Office of the Ombudsperson,** to assist the Committee in considering de-listing requests.

(Sources: Tessa Van Lieshout. 2006. *The United Nations and the fight against terrorism.*; United Nations Security Council Committee pursuant to Resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities.)

☺☞ *Rule of Law and Fair Trial*

Collecting Data in Centralised Databases

Despite that new biometric techniques can, in some circumstances, be a legitimate tool for the identification of suspects, the issue of storing biometrics not in an identity document, as for example a passport, but in a **central database** constitutes reasons for concern. This course of action increases **information security risks** by leaving individuals vulnerable in comparison to the states.

Therefore, in 2009, the United Nations were

requested by several Data Protection and Privacy Commissioners to '*prepare a **legally binding instrument** which clearly sets out in detail the rights to data protection and privacy as enforceable human rights*'. Meanwhile, governments are invited to adopt legal instruments accordingly, as well as the Council of Europe (CoE), in accordance with Article 23 of the Council of Europe Convention on Data Protection which is in the process of being reviewed. However, they have to make a serious attempt to move forward on the international level to improve universal standards of privacy protection, not solely in the interest of protecting individual rights, but also – although not equally – in the interest of lowering barriers to transborder data flows.

On the other hand, there have been certain developments on the national level, which have given rise to concern even in some of the most liberal societies. For example the UK House of Lords Select Committee on the Constitution noted: *"Surveillance is an inescapable part of life in the UK. Every time we make a telephone call, send an email, browse the internet, or even walk down our local high street, our actions may be monitored and recorded. To respond to crime, combat the threat of terrorism, and improve administrative efficiency, successive UK governments have gradually constructed one of the most extensive and technologically advanced surveillance systems in the world. At the same time, similar developments in the private sector have contributed to a profound change in the character of life in this country. The development of electronic surveillance and the collection and processing of personal information have become pervasive, routine, and almost taken for granted. Many of these surveillance practices are unknown to most people, and their potential consequences are not fully appreciated."*

(Sources: Peter Malanczuk. 2009. *Data, Transboundary Flow, International Protection*; 31st International Conference of Data Protection and Privacy Commissioners. 2009. *Standards on Privacy and Personal Data*.)

Privacy on the Internet– Social Networks

In view of the rapid development of information technology and the expansion of **global communication networks** (e.g. Facebook had 901 million members in April 2012), the appropriate international regulation of transnational data flows and the harmonisation of respective national laws will remain high on the law-making agenda in years to come. There are multiple legal questions linked with the issue of rapid growth of social networking sites, one of them is the **protection of personal data** and the topic of **privacy** in general.

Social networking sites (e.g. Facebook, Twitter, Friendster, etc.) offer their users an easy way to share information about themselves and others. However, many users realise quickly that the information they intend to share only with their friends might find its way into the **hands of the authorities, strangers, the press, and the public at large**. For example, **job recruiters** check such sites for the purpose of background checks on potential employees. Performing a search through using these sites may result in a substantial amount of personally identifiable information about a person. The vigorously enforced real-name policy of some social networking sites add to the problem. Closely linked to this issue is the possibility that anyone of a user's several hundred "friends" can download all the information they want and use it wherever and however they wish (for example pictures). Reality shows that access is extended beyond friends and members. Users need to realise that anyone, like prospective employers, law enforcement, etc. can gain access to photographs, comments and information posted on profile pages. However, this information comports with the image one would like to portray

to the world outside the network. Often users who expect their information to be viewed only by people they know are surprised how broadly their personal data is disseminated. The main problem is that once it is **published** online, they retain poor or even **no control** over it.

Default privacy settings on individual accounts allow a great deal of information to be displayed to anyone who views a profile. Therefore 'privacy by design', i.e. appropriate privacy settings as default settings and already included in designing websites and programmes, would be the preferred solution to provide sufficient protection of personal data.

Personal features such as blogs and comments can be accessed by anyone viewing a profile page. If the operator of social networking sites would set the default settings at a higher level, users would immediately gain more control over their personal data. Privacy policies, like all agreements, should be clear and easy to follow, so that users have a firm grasp on what they are signing-up for. Unfortunately, web sites' privacy policies, and terms of use often seem overly cross-referenced and unnecessary complicated. This makes the task of reading through the information more difficult than it needs to be.

In April 2012 the Council of Europe's Committee of Ministers adopted a **Recommendation on the protection of human rights with regard to search engines,** stating that member states should look after transparency regarding the way information is accessed via search engines, enhance transparency in the collection of personal data, etc.

(Sources: Council of Europe. 2012. *Recommendation on the protection of human rights with regard to search engines.*; Peter Malanczuk. 2009. *Data, Transboundary Flow, International Protection.*)

Child Pornography

The **Convention on the Rights of the Child** which entered into force in 1990 was the first legally binding document on the human rights of children. **Article 16** adopts the same language as the UDHR, for granting privacy rights to children.

In supplementing the Convention, which requires governments to protect children from all forms of sexual exploitation and abuse and take all measures possible to ensure that they are not abducted, sold or trafficked, the **Optional Protocol** to the Convention on the Rights of the Child on the **Sale of Children, Child Prostitution and Child Pornography** requires states parties to prohibit the sale of children (also for non-sexual purposes – such as other forms of forced labour, illegal adoption and organ donation), child prostitution and child pornography and make such offences punishable by appropriate penalties. Currently there are 143 states parties to this Optional Protocol (May 2011).

☺☞ *Human Rights of the Child*

4. IMPLEMENTATION AND MONITORING

In most countries, basic human rights provisions are laid down in the constitution. The constitution usually also provides for possibilities to invoke human rights provisions before domestic **courts** in case of an alleged violation of these rights. On the international level, **human rights treaties** have been concluded to protect human rights. Once a state becomes a party to such a treaty, it is obliged to implement and guarantee the enforcement of the provisions at the domestic level. International law does not prescribe how the state has to implement such provisions, it depends on the organisation of the domestic legal order.

United Nations

For monitoring the implementation of the human rights provisions some of the human rights treaties like the UN Covenant on Civil and Political Rights (ICCPR) provide for a supervisory mechanism. This mechanism consists of a **reporting system** whereby states parties are obliged to report at regular intervals to an international monitoring body on how they have implemented the treaty provisions.

The **Human Rights Committee** is a body of **independent experts** which monitors the implementation of the ICCPR by the states parties to the Covenant. All states parties are obliged by the Covenant to submit regular **reports** to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Covenant and then whenever the Committee requests a report (usually every four years). The Committee examines each report and addresses its concerns and recommendations to the state party in the form of "**Concluding Observations**".

In addition to the reporting procedure, Article 41 of the Covenant provides for the Committee to consider so-called **inter-state complaints.** Furthermore, the **First Optional Protocol to the Covenant** gives the Committee competence to examine **individual complaints** too, with regard to alleged violations of the Covenant by states parties to the Protocol.

Furthermore, the Human Rights Committee publishes its interpretation of the content of human rights provisions, in the form of General Comments on specific thematic issues. For example, in its **General Comment No. 16: The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Art. 17)** it stated the following:

"Even with regard to interferences that conform to the Covenant, relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted. A decision to make use of such authorized interference must be made only by the authority designated under the law, and on a case-by-case basis. Compliance with article 17 requires that the integrity and confidentiality of correspondence should be guaranteed de jure and de facto. Surveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire-tapping and recording of conversations, should be prohibited. Searches of a person's home should be restricted to a search for necessary evidence and should not be allowed to amount to harassment. The gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law. Effective measures have to be taken by States to ensure that information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it, and is never used for purposes incompatible with the Covenant. Every individual should also be able to ascertain which public authorises or private individuals or bodies control or may control their files. If such files contain incorrect personal data or have been collected or processed contrary to the provisions of the law, every individual should have the right to request rectification or elimination."

The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

The different developments of the human rights situation worldwide since 11 September 2001 have been well documented. The 9/11 attacks were followed by a wave of racist attacks against Muslims and Arabs just based on their appearance, all around the world. Governments also responded with wide-ranged legislative measures. Many states adopted laws formulating new crimes, banning certain organisations, freezing assets, restraining civil liberties and reducing the safeguards against human rights violations. This caused a dangerous tendency to legitimise human rights violations under the pretext of fighting terrorism. States which overreacted to the threat posed by terrorism risked violating human rights not only of the alleged terrorists but also of their own citizens, whose rights and liberties may therefore be diminished.

With the establishment of the Counter-Terrorism Committee Executive Directorate (CTED) by Security Council Resolution 1535 (2004), the Committee began moving toward a more proactive policy on human rights. CTED was mandated to liaise with the Office of the UN High Commissioner for Human Rights (OHCHR) and other human rights organisations in matters related to counter-terrorism, and a human rights expert was appointed to the CTED staff. Additionally, in April 2005, the Commission on Human Rights, in Resolution 2005/80, decided to appoint a **Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.** In his 2009 Report he very extensively dealt with the right to privacy and its erosion by counter-terrorism measures: Once an individual is being formally investigated or screened by a security agency, personal information is shared among security agencies for reasons of countering terrorism and the right to privacy is almost automatically affected. These are situations where states have a legitimate power to limit the right to privacy under international human rights law. However, countering terrorism is not a trump card which automatically legitimates any interference with the right to privacy. Every instance of interference needs to be subject to critical assessment. Article 17 of the ICCPR is the most important legally binding treaty provision on the human right to privacy at the universal level.

(Sources: OHCHR. 2007. *Human Rights, Terrorism and Counter-terrorism.*; Tessa van Lieshout. 2006. *The United Nations and the fight against terrorism.;* United Nations. 2009. *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.)*

Regional Conventions and Monitoring Bodies
European Union Efforts

Already in 1995 the Council of the European Union ("EU Council") and the European Parliament adopted Directive 95/46/EC on Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of such Data **("Data Protection Directive")** in order to harmonise laws in EU Member States.

The Data Protection Directive had two purposes, one was to offer **data protection** to individuals and the other was to remove obstacles to the **free flow** of personal data among EU member states. The Data Protection Directive applies to the processing of personal information in electronic as well as manual files.

Rights include

- the right to correct inaccurate data,
- the right to prevent unlawful processing, and
- the right to opt out free of charge from being sent direct marketing advertisements.

The express consent of the individual is required for the commercial and government use of sensitive personal data relating to health, sex life, or religious or philosophical convictions. This Directive had created increasing pressure on countries outside of the EU to adopt similar strict personal data protection laws, to ensure that certain types of information flows will continue with Europe.

In 1997 the supplementing Directive 97/66/EC of the European Parliament and the EU Council concerning the Processing of Personal Data and the Protection of Privacy in the Telecommunications Sector **("Telecommunications Privacy Directive")** was adopted, covering telephone, digital television, mobile networks, and other telecommunications systems. By this Directive carriers and service providers are obliged to ensure the privacy of the communications of users, including internet communications and activities. The Telecommunications Privacy Directive restricts access to billing data and limits marketing activity, which means that once a call is completed, information collected in the delivery of a communication must be deleted.

In 2002 the European Parliament and the EU Council adopted Directive 2002/58/EC concerning the Processing of Personal Data and the Protection of Privacy in the Electronic Communications Sector **("E-Privacy Directive")**. Member States have to adopt legislation requiring the retention of the traffic data and location data of all communications taking place over mobile phones, SMS, fixed telephone lines, faxes, e-mails, chat rooms, the internet, or any other electronic communication device. These measures can be implemented for a variety of reasons, including national security, crime prevention and law enforcement. The E-Privacy Directive includes new definitions for protecting calls, communi-

cations, traffic data and location data to provide for a broader enhancement of privacy. All information transmitted over the Internet ("traffic") is covered, but "spam", i.e. unsolicited commercial marketing via e-mail without consent is prohibited, and mobile phone users are protected from exact location tracking and surveillance by state agencies.

In 2006 the EU followed up with **Directive 2006/24/EC** of the European Parliament and of the Council on the Retention of Data Generated or Processed in Connection with the Provision of Publicly Available Electronic Communications Services or of Public Communications Networks, which amended the E-Privacy Directive. This very controversial Directive requires providers to store data for a period between six months and two years.

In 2007, an agreement was reached between the EU and the US on the transfer of personal financial data from the Brussels-based banking consortium Society for Worldwide Interbank Financial Telecommunication **("SWIFT")** to the US Department of Treasury, and SWIFT therefore joined the safe harbour principles. Additionally, the EU and the US agreed on a mechanism for the transfer of **passenger name record data** (Agreement between the European Union and the United States of America on the Processing and Transfer of Passenger Name Record [PNR] Data by Air Carriers to the United States Department of Homeland Security). In 2006, a similar agreement on the same matter had been struck down by the European Court of Justice (European Parliament v Council of the European Union and Commission of the European Communities [30 May 2006]).

In 2012 a **Draft Regulation on the protection of individuals with regard to the processing of personal data and the movement of such**

data and a **Draft Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data** are being discussed. Article 16 of the Draft Directive foresees a right to erasure of personal data for individuals, when the processing of data does not comply with the provisions.

(Sources: European Commission. 2012. *Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).*; Peter Malanczuk. 2009. *Data, Transboundary Flow, International Protection.*)

European Convention on Human Rights (ECHR)

Article 8 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms provides for the following:

> *"(1) Everyone has the right to respect for his private and family life, his home and his correspondence.*
> *(2) There shall be no interference by a public authority with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health of morals, or for the protection of the rights and freedoms of others."*

The Convention created the European Commission of Human Rights and the **European Court of Human Rights** to monitor enforcement. Both have been active in the enforcement of privacy rights and have consistently interpreted Article 8 expansively and restrictions narrowly. In the case of X v. Iceland (5 Eur. Comm'n H.R. 86.879) the Commission found in 1976:

"For numerous Anglo-Saxon and French authors, the right to respect "private life" is the right to privacy, the right to live, as far as one wishes, protected from publicity... In the opinion of the Commission, however, the right to respect for private life does not end there. It comprises also, to a certain degree, the right to establish and develop relationships with other human beings, especially in the emotional field for the development and fulfilment of one's own personality."

(Source: Magdalena Sepulveda, Theo van Banning et al. 2009**.** *Human Rights References Handbook.*)

Council of Europe Convention on Automatic Processing of Personal Data and Additional Protocol

The Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 1981 which entered into force in 1985 is open for signature by any country in the world. The Convention, which has been ratified by 44 states as of June 2012 was the **first legally binding international instrument** with global significance on data protection. Under this Convention, member states are required to take the necessary steps in their domestic legislation to apply the principles of the Convention, for ensuring the fundamental human rights of all individuals with regard to the processing of personal data.

Furthermore, the Council of Europe is launching a **modernisation campaign** for the Convention. In times when personal information is constantly recorded, communicated and analysed,

often without our consent and our knowledge, it is a necessity to determine legal protection of our fundamental rights. At a time when the boundaries between privacy and freedom have become blurred, to revise the Convention will be a necessary but demanding process.

With the increase of exchanging personal data across national borders, it is necessary to ensure the effective protection of human rights and fundamental freedoms and in particular the right to privacy. Therefore **the Additional Protocol** to the Convention, for the *Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows*, entered into force in 2004 (32 member states by June 2012). The Additional Protocol requires Parties to set up **supervisory authorities**, exercising their functions in complete independence of state authorities, which are an element of the effective protection of individuals with regard to the processing of personal data.

American Convention on Human Rights

Article 11 of the American Convention on Human Rights describes the right to privacy in terms similar to the Universal Declaration of Human Rights. In 1965, the Organization of American States (OAS) proclaimed the American Declaration of the Rights and Duties of Man, which called for the protection of numerous human rights, including privacy. The **Inter-American Court of Human Rights** has begun to address privacy issues in its cases (e.g. Rivas Quintilla v El Salvador, Oscar Elias Biscet at al. v Cuba).

(Source: Magdalena Sepulveda, Theo van Banning et al. 2009. *Human Rights References Handbook*.)

OECD Guidelines Governing the Protection of Privacy and Transborder Data Flows of Personal Data

The OECD Guidelines on the Protection of Pri-

vacy and Transborder Flows of Personal Data, adopted on 23 September 1980, represent international consensus on general guidance concerning the collection and management of personal information. By setting out core principles, the guidelines play a major role in helping governments, business and consumer representatives in their efforts to protect privacy and personal data.

The OECD guidelines set out specific non-binding rules covering the handling of electronic data. These rules describe that personal information has to be protected at every step, from collection to storage and dissemination. The principles and expression of data protection varies in different declarations and laws, but all require that personal information must be:

- obtained fairly and lawfully;
- used only for the original specified purpose;
- adequate, relevant and not excessive to purpose;
- accurate and up to date;
- accessible to the subject;
- kept secure; and destroyed after its purpose is completed.

African Charter on the Rights and Welfare of the Child

The Charter foresees the protection of privacy in its **Article 10** stating *"No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks."*

GOOD TO KNOW

1. GOOD PRACTICES

Privacy.Org

Privacy.Org is the site for daily news, information, and initiatives on privacy. It offers an overview on actions regarding privacy, on groups concerned with privacy issues and on publications. This web page is a joint project of the Electronic Privacy Information Centre (EPIC) and Privacy International (PI).

Electronic Privacy Information Centre (EPIC)

EPIC is a public interest research centre in Washington, D.C. It was established in 1994 to focus public attention on emerging civil liberties issues and to protect privacy, the First Amendment, and constitutional values.

Privacy International (PI)

Privacy International is a human rights group formed in 1990 as a watchdog on surveillance by governments and corporations. PI is based in London, England, and has an office in Washington, D.C. PI has conducted campaigns throughout the world on issues ranging from wiretapping and national security activities, to ID cards, video surveillance, data matching, police information systems, and medical privacy. (Source: Peter Malanczuk. 2009. *Data, Transboundary Flow, International Protection.*)

2. TRENDS

Watch-lists, "No-fly" lists

The most common type of watch-list monitoring is the "no-fly/selectee" list. Normally such lists are circulated to airlines and security officials, with instructions to detain and question any passenger with a certain name. The extent to which these lists are being used is still secret, but where these systems are publicly overseen, a number of errors and **privacy concerns** have arisen, particularly in the United States and Canada. Data integrity issues remain, even if these lists are continually checked for errors and the identification processes must be performed with great care.

The official explanation why these lists are frequently kept secret is that they could tip off suspected terrorists. However, at the same time this secrecy gives rise to problems of individuals being continually subject to scrutiny without knowing that they are on some form of list, and **without effective independent oversight**. Such **secret surveillance** constitutes a **violation of the right to privacy** under Article 17 of the ICCPR. If such anti-terrorist lists have been made public, Article 17 of the Covenant is triggered in another form: The Human Rights Committee has concluded that *"the unjustified inclusion of a person on the United Nations 1267 Committee's Consolidated List constituted a violation of article 17. It considered that the dissemination of personal information constituted an attack on the honour and reputation of the listed persons, in view of the negative association that would be made between the names and the title of the sanctions list."*

Public and secret watch lists can often breach fundamental principles of data protection. Information once generated for one purpose is reused for secondary purposes, and in some cases even shared with other institutions, without the knowledge or consent of the individuals concerned. Wrong information is used to make decisions about people, which mostly result in **restrictions on travel**; these individuals may be refused a visa, turned away

at a border or prevented from boarding a plane, without having been presented with evidence of any wrongdoing.
(Source: United Nations. 2009. *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*.)

One example is the story of Mr. Abousfian Abdelrazik:

"Abousfian Abdelrazik, a man from Montreal, who was put on the United Nations' terror watch list in 2006, but never charged with a crime, is continuing to take his case to the streets. Abdelrazik was arrested, but not charged, during a 2003 visit to Sudan to see his ill mother. He was finally cleared to return to Canada last summer after six years in Sudan, which included two stints in prison and 14 months in the lobby of the Canadian Embassy. Unable to work because of the sanctions, Abdelrazik said he has been in limbo since coming home.

"I did nothing wrong", he told reporters, „One morning, I find myself in this situation without any kind of charges, without any kind of evidence."

Under a UN Security Council resolution, Ottawa has the power to punish anyone who provides Abdelrazik with material support. Even if he got a paycheque, he couldn't withdraw funds from his bank account. After a court battle, he won an injunction that allowed him limited monthly withdrawals from his credit union account.

Both CSIS and the RCMP have acknowledged they have no evidence against Abdelrazik. He was exonerated of any ties to al-Qaeda by the Sudanese Justice Department in 2005. But efforts to have his name removed from the list have been
unsuccessful. The federal government and other authorities have continued to apply the sanctions. Ottawa cited the list while refusing to grant Abdelrazik travel documents after he was released from a Sudanese prison, where he alleges he was tortured. He spent months in legal limbo at the Canadian Embassy in Khartoum.

Mary Foster, who accompanied Abdelrazik on a countrywide speaking tour, said his troubles are part of a larger struggle against Islamophobia, racism and "arbitrary government power". "It's not just about one individual, it's about many individuals, about whole countries full of individuals", she said.

Abdelrazik's lawyers, with the support of civil liberties groups, have filed a constitutional challenge against the watch list, known as the UN 1267 list. He has already filed a lawsuit against Foreign Affairs Minister Lawrence Cannon and the federal government for $27 million. His lawsuit alleges the government arranged for his arbitrary imprisonment by Sudanese authorities, encouraging or condoning his torture at the hands of Sudanese authorities, and actively obstructing his return to Canada for several years.

Melissa Lantsman, a spokeswoman for Cannon, said she couldn't comment on the specifics of his case because it's before the courts. But she said "it's incumbent on Mr. Abdelrazik" to follow the proper channels to get himself off the watch list. Canada tried to have Abdelrazik's name removed from the UN list in 2007 but was rebuffed. Any member of the Security Council can veto a de-listing request without offering an explanation."
(Source: CBC News. 2010. *Montreal man on watch list rallies supporters*.)

Google Street View

When Google began its Street View project in 2007, many privacy concerns were raised, but the debates focused almost exclusively on the collection and display of images obtained by the Google Street View digital cameras. As it turned out, Google also obtained a vast amount of **Wi-Fi data** from Wi-Fi receivers that were concealed in the Street View vehicles. Independent investigations were initiated, and Google conceded that it had gathered MAC addresses and network SSIDs (the user-assigned network ID name) tied to location information for private wireless networks.

Due to numerous protests around the world, Google ended its illegal collection of Wi-Fi data transmissions. Eventually, Google admitted after the investigations continued, that it has intercepted and stored Wi-Fi transmission data, which includes email passwords and email content: "*[…] in some instances entire emails and URLs were captured, as well as passwords.*"

In January 2011, investigations were conducted in at least 12 countries; furthermore at least 9 countries have found Google guilty of violating their laws. **A Swiss Court** for example found that Google Street View violates privacy rights. Switzerland's top Court ruled against Google's Street View mapping service, forcing Google to blur faces and license plate numbers before putting images on the Internet. The Swiss Court stated, "*The interest of the public in having a visual record and the commercial interests of the defendants in no way outweigh the rights over one's own image.*" More countries, such as the U.K., France, and Spain, have found that Google broke privacy laws when Street View cars collected Wi-Fi data from private wireless networks.

France's National Commission for Computing and Civil Liberties fined Google 100.000 Euros for violating French privacy rules when Google's Street View cars collected peoples' e-mails and passwords without their knowledge. The Commission cited the "*established violations and their gravity, as well as the economic advantages Google gained*", as reasons for the highest fine it has ever given. After levying the fine, CNIL criticised Google for its conduct during its investigation: "*They were not always willing to co-operate with us, they didn't give us all the information we asked for, like the source code of all devices in the Google cars*", said Yann Padova, CNIL's executive director. "*They were not always very transparent.*"

Several other countries, including the U.K., Canada, Germany, and Spain have conducted similar investigations and determined that Google violated their privacy laws.
(Source: BBC. 2011. *France fines Google over Street View data blunder.*)

Social Networks

Social networking Web sites, such as Facebook, MySpace, Twitter, Google Buzz, LinkedIn and Friendster are well established forums for keeping in contact with old friends and meeting new ones, for sharing personal information, and for establishing mobile communication capabilities. While these Web sites are useful tools for exchanging information, there has been growing concern over breaches of privacy, caused by these social networking services because many users feel that their personal details are being circulated far more widely than they would like.

Some providers restrict who can join, and therefore access a user's information. Many websites include age stipulations in their terms of use (Friendster, for example, requires that all its users must be over 16, Facebook and MySpace both require that users are at least 13 years of age). Still, digital information can be copied and distributed easily to anyone within the authorised group who may pass the information along to others. Moreover, websites are **routinely sharing user information**

with third parties for advertising purposes.
(Sources: BBC. 2008. *Facebook 'violates privacy laws'.;* EPIC, Social Networking Privacy, http://epic.org/privacy/socialnet/default.html; Irish Data Protection Commissioner. 2011. *Facebook Ireland Ltd – Report of Audit.*)

National DNA Database - United Kingdom
During the last years, the UK House of Lords Select Committee on the Constitution found an expansion in the National DNA Database (ND-NAD), as well as the introduction or development of new databases for a variety of public services, and a steady increase in the use of Closed Circuit Television (CCTV) in both the public and private sector. There has been a far-reaching and continuous expansion in the surveillance apparatus of both the state and in the private sector. In the past decades, computer databases and data sharing, the monitoring of electronic communications, electronic identification, and public area CCTV surveillance were relatively uncommon. Today these technologies are omnipresent and exert an influence over many aspects of our everyday lives. Furthermore, surveillance continues to exert a powerful influence over the relationship between individuals and the state, and between individuals themselves. The selective way in which it is sometimes used threatens to discriminate against certain categories of individuals.
(Source: Peter Malanczuk. 2009. *Data, Transboundary Flow, International Protection.*)

Joint Declaration on Freedom of Expression and the Internet
In June 2012 the Special Rapporteurs of the four international organisations dealing with freedom of expression, namely the UN, the Organisation for Security and Co-operation in Europe (OSCE), the Organization of American States (OAS) and the African Commission on Human and Peoples' Rights (ACHPR) issued a **Joint Declaration on freedom of expression**

and the internet, emphasising certain key principles for freedom of expression online. It declared, for example, that approaches to regulations for other means of communication cannot simply be transferred to the internet, but, rather, need to be specifically designed for it.
(Sources: OAS. 2012. *Press release - Freedom of expression rapporteurs issue joint declaration concerning the internet.*; Matthias C. Kettemann. 2012. *5 punchy principles for regulating the internet.*)

Offline and Online Protection of Human Rights
In July 2012 the UN Human Rights Council finally confirmed that there is no difference between offline and online protection of human rights (UN Doc. A/HRC/20/L.13). The resolution confirms the meaning of universality and openness of the internet. The resolution refers to the Universal Declaration of Human Rights and the ICCPR.

3. CHRONOLOGY

1966 International Covenant on Civil and Political Rights (ICCPR), Article 17

1980 OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data

1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

1988 UN Human Rights Committee's General Comment No. 16 on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Art. 17)

1989 UN Convention on the Rights of the Child

1996 EC Data Protection Directive 95/46/EC

2001 EC Data Protection Regulation 45/2001/EC

2002 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

2002 EC ePrivacy Directive 2002/58/EC

2003-2005 World Summit on the Information Society

2004 Additional Protocol to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows

SELECTED ACTIVITITES

ACTIVITY I: PRIVATE DATA PUBLIC DATA

Part I: Introduction

This activity aims to help understanding the necessity of privacy protection in the internet.

Part II: General Information

Type of activity: Group work

Aims and Objectives: Distinguishing private data from public data; reflecting about the use and sharing of private data in social networks, etc.

Target group: Adolescents and young adults

Group size: 6 +

Time: 30-60 minutes

Material: Copies of the working sheet

Skills involved: Reflection and analytical skills

Part III: Specific Information on the Activity

Instructions:

1. Explain to the participants what is meant by personal/private data. Afterwards the participants fill out the working sheet in small groups of 2 or 3 persons. Together they should discuss and write down which data should be absolutely private and which data can be shared. In this regard, arguments should be brought forward.

2. Each group presents their results to the others, and the facilitator creates one common list. In case of disagreement, the different approaches should be discussed within the group. In the end the results of the common list should be reflected.

Handout:

1. Read through this list carefully:

My age, my address, the time when I'm not at home, my shoe size, my school/workplace, medical information (allergies, diseases, etc.), my telephone number, my hobbies, my weight, which cosmetics I use, my favorite dish, my favorite TV-series, the name of my best friend, the color of my underwear, my favorite musician, my boy-friend/girl-friend/spouse/fiancée, my religion, a picture of me in the bathtub, my e-mail address, a picture showing my face, the amount of my salary/pocket-money, the name of my pet, my nick-name, my birthday.

2. Fill out the table with the data found under point 1:

absolutely private	only for friends	not clear	always public

Follow-up:

Discuss the separation of private and public data, and why it is important to make a distinction between them. How can personal information be protected in the internet?

Related rights: Freedom of Expression and Freedom of the Media; all other human rights.

ACTIVITY II:
THE STORY OF MARIANNE K.

Part I: Introduction

We grew used to video surveillance in the public space; we even do not notice surveillance cameras any more. But what does it mean to our right to privacy if each and every move can be followed, by the police, by security officers, even by private persons?

Part II: General Information

Type of activity: Exercise and group discussion

Aims and Objectives: To sensitise participants for possible threats to the right to privacy; to discuss the pros and cons of video surveillance in the public space

Target group: Adolescents and adults

Group size: 10 +

Time: 30-60 minutes

Materials: A copy of Marianne's story; a picture of the village K. (copied or drawn), a photo of surveillance cameras; cards of two different colours for the follow-up exercise

Skills involved: Reflection and analytical skills, arguing

Part III: Specific Information on the Activity
Instructions:

Draw a picture of the village K. on a large chart

of paper or copy the picture below and fix it in the classroom so that all participants can see it while you read aloud the following story:

Marianne K. leaves the café on the village main square together with a man. She wipes some tears from her face. Then she hugs the man who whispers something in her ear. The man leaves; when he turns around to look back Marianne waves him good-bye. Then she enters the pharmacy. Coming out again she carefully puts several boxes into her handbag. Having done so Marianne moves on to the building with the sign "Advocate" beside the entrance door. When she comes out again after some time she carries a folder and goes to the village church. Again some time passes by until she comes out of the parson's office and makes her way to the cemetery. At last, she goes to the supermarket next to the café and comes out again with two bottles of red wine and two bottles of white wine.

Give the audience a few minutes to reflect Marianne's moves. Ask them to speculate about the background and reasons for her activities. Then have them exchange their ideas in a full group session and note the presumptions on a blackboard or a flipchart.

To wind up read aloud the whole story:

Marianne K. lives in the village K. together with her husband, Martin, and her children Mary and Marcus. She has lived in K. most of her life, spent her school-time in K. and some relatives also live in this place. Marianne's husband, Martin, grew up in the city of L. He works as a manager for an international company and therefore daily commutes between K. and the larger city of I. Recently, he had to take over more and more business trips abroad, additionally he holds weekend seminars for company employees and trainees. Therefore he doesn't spend much time with his wife and his children, and Marianne isn't very happy about that. What's more: She has been searching a

job for quite some time after having been on motherhood leave for some years and having cared for her mother after her father had died a short time ago. Marianne is a social worker, and it's not easy to find a job in K. or in the neighbouring villages.

After having received some more letters of refusal Marianne meets her classmate and close friend in the village café. They talk about her problems, and Marianne is overwhelmed with emotion. When her classmate has to go they leave the café together, and Marianne wipes the tears from her face. They hug to say good-bye, and her classmate tries to comfort Marianne by saying that everything will be good in the end. As he leaves Marianne looks after him and waves goodbye when he turns around.

Then she goes to the pharmacy to fill a pre-

scription for her mother. Coming out again she stores the pill boxes in her handbag and goes to the lawyer's office for consultations on an inheritance Martin came into. Coming out of the lawyer's office she carries a folder with legal information for Martin. She goes to the village church to enroll her daughter Mary for the first communion class. When she comes out of the parson's office she makes her way to the cemetery to look after her father's grave. At last, she goes to the supermarket next to the café to buy some bottles of red and white wine for a dinner with friends.

Now get up and pin a photo of surveillance cameras to the picture of the village main square before reading the last sentence:

It's been a long time since Marianne last noticed the surveillance cameras in the middle of the main square…

Point out to the audience the presumptions they had made by interpreting Marianne's behaviour. The villagers of K. know her situation all too well… What would, for example, the police officer in front of the monitor think? Could interpretation and presumptions on Marianne's behaviour have any consequences for her? If yes: which consequences?

Follow-up:

You might continue with a group work to collect and discuss the pros and cons of video surveillance in the public space. Ask participants to split into groups of three to five persons and give each group a set of cards of different colour (e.g. green for the pros, red for the cons). Give them 15 minutes time to find arguments for or against video surveillance and to agree on the points in the small groups.

Then call the participants back to the full group and ask them to group their cards on the pin board or wall and to discuss the arguments. If necessary, you might complement the participants' findings with the following arguments:

- PRO: to eliminate hot-spots of petty crime, to resolve crime more easily, to warn off prospective offenders, to detect and fight threats against public safety, to contribute to higher efficiency in police work, to strengthen people's sense of security, to foster the reconstruction of events, to identify offenders, etc.

- CON: gradual erosion of the presumption of innocence, systematic desensitisation of society, fostering a homogenous society – loss of diversity through the observer effect, gradual erosion of the rule of law, slippery slope to a surveillance state, strengthening people's sense of insecurity, high costs, insufficient monitoring and supervision, etc.

Related rights: Freedom of Expression and Freedom of the Media, Rule of Law and Fair Trial
(Source: Translated and adapted from: Stephanie Deutinger, Lina Dornhofer. 2012. *!?!… is watching you. Menschenrechte und Überwachung.*)

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Electronic Privacy Information Centre (EPIC), Investigations of Google Street View: http://epic.org/privacy/streetview/

Electronic Privacy Information Centre (EPIC), Social Networking Privacy: http://epic.org/privacy/socialnet/default.html

European Court of Human Rights: http://echr.coe.int/echr/

Max Planck Encyclopaedia of Public International Law: www.mpepil.com

OECD: www.oecd.org/

Privacy International (PI): www.privacyinternational.org

Privacy.Org: http://privacy.org/

UN Committee on the Rights of the Child: www.ohchr.org/english/bodies/crc

UN Human Rights Committee: www2.ohchr.org/english/bodies/hrc/index.htm

UN Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities: www.un.org/sc/committees/1267

UN Security Council Counter Terrorism Committee: www.un.org/en/sc/ctc/rights.html

US Courts Statistics 2011: www.uscourts.gov/uscourts/Statistics/WiretapReports/2011/Table6.pdf

FREEDOM OF EXPRESSION AND FREEDOM OF THE MEDIA

SUBSTANTIAL ELEMENTS OF THE RIGHT
LEGITIMATE AND ILLEGITIMATE RESTRICTIONS
PROHIBITION OF HATRED AND VIOLENCE ADVOCACY
IMPORTANCE FOR DEMOCRACY AND SOCIETY
HUMAN RIGHTS IN THE INFORMATION SOCIETY

»*Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*«

Article 19, Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORIES

Sri Lanka: Dr. Manorani Saravanamuttu is the mother of Richard de Zoysa, a journalist who was abducted and killed in Sri Lanka in February 1990. Dr. Saravanamuttu campaigned to bring to light the truth about her son's murder. She provided the authorities with information to obtain an investigation of the killing, but the only thing she ever received was a letter stating: "Mourn the death of your son. As a mother you must do so. Any other steps will result in your death at the most unexpected time […]. Only silence will protect you."
(Source: Jan Bauer. 1996. *Only Silence Will Protect You, Women. Freedom of Expression and the Language of Human Rights.*)

Egypt: Reports without Boarders condemned the accelerating deterioration in the media freedom situation in Egypt in the run-up to the elections. The Supreme Council of the Armed Forces had just ordered a 15-day extension of the pre-trial detention of blogger and activist Alaa Abdel Fattáh.
(Source: Reporters without Borders. 2011. *International Community Urged to React as Situation of Free Expression Worsens in Egypt.*)

Croatia: According to information before SEEMO, on 14 December 2011, Drago Hedl, the editor of the Croatian weekly Feral Tribune, received new death threats one day after he had been awarded for defending human rights by the Croatian president. He had received such death threats already in the past, inter alia for a series of articles he had published in Feral Tribune on the torture and killings of Serbian civilians in Osijek in 1991.
(Source: SEEMO. 2011. *SEEMO Condemns New Death Threats against Croatian Journalist Drago Hedl.*)

Discussion questions

1. Which human rights have been violated by whom in the above stories?
2. What reasons may justify limitations of the freedom of expression and the freedom of the media?
3. What should be done to protect these freedoms in a better way?
4. What can victims of a violation do?
5. What are the obligations of responsible journalists?

*"We have a natural right
to make use of our pens as of our tongues,
at our peril, risk and hazard."*

Voltaire. 1764. Liberty of the Press.

NEED TO KNOW 😐‼️⁉️

1. PAST AND PRESENT RELEVANCE

The freedom of opinion and expression – including the *"freedom to receive and impart information and ideas through any media and regardless of frontiers"* (Article 19 of the Universal Declaration of Human Rights of 1948) – is one of the basic civil and political rights, which is laid down in all respective human rights instruments. It has its roots in the struggle for personal freedoms in the 18th and 19th centuries, when it was enshrined in the US and European constitutions. The British philosopher John Stuart Mill called the liberty of the press *"one of the securities against corrupt and tyrannic government"* (Mill, John Stuart. 1859. *On Liberty*.) It is also a constitutive right for a democratic system in which everyone, not only the citizens of a state, have the human right to say what they think and to criticise the government. In January 1941, President Roosevelt announced the freedom of speech and expression as one of the four freedoms on which to base a future world order after World War II. The access to, and the free flow of, information across frontiers is a major element of an **open and pluralistic society**.

Human Security, Freedom of Expression and of the Media

"Freedom from fear" also includes the freedom of expressing one's opinions and the freedom of the media. Since the concept of human security is also based on the right of the individual to seek and receive information and ideas of any kind, including those critical of the ruling powers, intimidation of journalists and control of the media constitute major threats against human security. New threats to human security but also new opportunities arise with the "new technologies". The new "connectivity" can be used for educational purposes as well as for organised crime. International campaigns against landmines and for human rights or environmental concerns are made easier, but new risks appear in the form of "cyber crimes". As economies and services become more dependent on the new technologies, new forms of inclusion and exclusion evolve. For example, the Vienna-based South-East Europe Media Organisation (SEEMO) complained that Telekom Serbia was applying "limitations" on leased Internet lines in order to force the media and others to change from a private Internet provider to Telekom Serbia Internet service.

The "CNN factor" of bringing any conflict "right into the living room" has changed the role of the media. Because of the importance of public opinion, the media have become an important part of warfare as could be seen in the case of Iraq. "Info-wars" and "infotainment" stand for the trend that information is subordinated to other objectives, in particular political or economic interests.

"No security without free media."

Dunja Mijatovic, OSCE Representative on Freedom of the Media. 2011.

Old and New Challenges

The freedom of information, expression and the media proved to be of particular importance during the **Cold War** when people in the socialist countries of Eastern Europe did not have access to foreign or independent newspapers and magazines. Today, certain countries are limiting the access to satellite TV or to the Internet in order to prevent their citizens from reaching websites they consider undesirable. Some countries also censor popular Internet services, including Facebook, Twitter and Google; then again some Internet companies exercise self-censorship in order to be able to operate in countries with less freedom of expression.

The **media** can have a **dual role:** as beneficiaries and as violators of the freedom of expression. Its role can be one of informing on global problems and strengthening global solidarity. It can also be an instrument of state propaganda, for particular economic and other interests. According to the UNESCO Commission on Culture and Development, modern communication technologies have made control of information flows more difficult, thereby creating **new opportunities** but also **new threats,** especially if the media become a target either of attack or of political control. The diversity and quality of programmes may be reduced as a result of commercialisation, eager to gain always wider audiences or to compete for a higher share of readers and viewers by concentrating on sex and crime-stories.

A major threat to the freedom of the media has been the **concentration of the media,** which exists both on the local and the global level. Therefore, in many countries and in the European Union there are laws against media concentration in order to preserve media pluralism.

New challenges of the freedom of information and of the media are also brought about by **technological developments** such as satellite communication or increasing access to the Internet. Quite often, states try to restrict access to the **new media** because of views or contents they fear to be critical of national policies, as well as on religious or moral grounds. Since there are plenty of websites disseminating racist and xenophobic propaganda or child pornography, such concerns are indeed not always unjustified. The question arises, however, how the fragile balance between freedom of expression and legitimate restrictions in the interest of a democratic society can be kept. Due to the borderless nature of the Internet, answers are to be found mainly at the international level. In its **Convention on Cybercrime** of 2001, the Council of Europe already condemned child pornography and tried to enhance domestic criminal liability as well as international cooperation for prosecution although with limited human rights guarantees. An **Additional Protocol** on **Acts of Racist and Xenophobic Nature Committed through Computer Systems** has been adopted in 2003. Accession by the non-European countries was made possible, and the Convention has also been ratified by countries like Canada, Japan, the Republic of South Africa and the USA. As of January 2012, the Convention has 32 ratifications, while the Additional Protocol has 20 ratifications.

The **World Summit on the Information Society (WSIS)** in Geneva in 2003 and in Tunis in 2005 dealt with yet another issue of substantial importance: inclusion and exclusion in an age of communication, also called the *"digital age"*. The freedom of expression is essentially affected by the problem of access to the information infrastructure (☺☞ *Good to Know)*. One major aim was to develop an action plan on how to close the digital and the knowledge gap between the "haves" and "have-nots" of access to information and communication technologies, the so-called *"digital divide"*. Missing or

denied access results in a restriction of freedom of expression, because the Internet today is key to access to and dissemination of information and ideas. The WSIS showed that an underlying conflict exists between a technological and a value and human rights-oriented approach. The final documents contain only few references to human rights.

Since 2006 the **Internet Governance Forum (IGF)**, organised as a multi-stakeholder forum of governments, international organisations, business, NGOs and academia, depicts human rights as an important cross-cutting issue. In so-called "Dynamic Coalitions" – such as those for Internet Rights and Principles or on Freedom of Expression – progress has been made in working on the human rights guidelines for the Internet. Major results are the *"Charter on Human Rights and Principles for the Internet"* and the *"10 Internet Rights and Principles"* (available at: www.internetrightsandprinciples.org). One major principle is that human rights that apply offline also apply online. Since 2008 there is also the European Dialogue on Internet Governance (EuroDIG) and other regional and national dialogues, which help clarify the relationship between human rights and the Internet.

2. CONTENTS AND THREATS

The freedom of expression is a framework right containing several elements, including the freedom of information and the freedom of the press and the media in general. It is based on the freedom of opinion. Its manifestations range from the individual expression of opinions to the institutional freedom of the media. Freedom of opinion is an absolute civil right whereas freedom of expression is a civil and political right which can be subjected to certain restrictions.

Freedom of expression is a dual right in the sense of the freedom to impart, i.e. express opinions and ideas of all kinds, and the freedom to seek and receive information and ideas, both in any form – orally, in writing or in print, in the form of art, or through any other media, including new technologies. Frontiers must not be used to interfere with the right. Consequently, the freedom of expression would also be an integral part of a proposed "right to communicate". However, a draft declaration on this right, completed on a private basis, has so far not found general support.

Main Elements of the Freedom of Expression:
- freedom to hold opinions without interference (freedom of opinion);
- freedom to seek, receive and impart information and ideas (freedom of speech, freedom of information);
- orally, in writing, or in print, in the form of art;
- through any media (freedom of the media);
- regardless of frontiers (freedom of international communication).

(Sources: Article 19 of the Universal Declaration of Human Rights (UDHR); Article 19 of the International Covenant on Civil and Political Rights (ICCPR); Article 10 of the European Convention on Human Rights; Article IV of the American Declaration of the Rights and Duties of Man; Article 13 of the American Convention on Human Rights; Article 9 of the African Charter on Human and Peoples' Rights; Article 11 of the Charter on Fundamental Rights of the European Union.)

Certain **elements** of the freedom of expression are also **connected with other human rights**, such as:

- the right to freedom of thought, conscience and religion (Article 18 of the UDHR);
  ☺☞ *Religious Freedoms*
- the right of authors to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production, i.e. the copyright (Article 15 (2) of the ICESCR);
- in relation to the human right to education (Art. 13 of the ICESCR), the freedom of expression also includes the academic freedoms and the autonomy of institutions of higher learning to protect those freedoms.
  ☺☞ *Right to Education*

A major qualification of the freedom of expression is contained in Article 20 of the ICCPR which prohibits **war propaganda** and any advocacy of **national, racial or religious hatred** that constitutes incitement to discrimination, hostility or violence. The state is under an obligation to enforce those prohibitions by national legislation.

☺☞ *Non-Discrimination*

Violations of the Right, Threats and Risks

In practice, we witness widespread violations of this basic human right through restrictions of the freedom of expression in its various forms in many countries of the world, as can be seen from the yearly reports of several NGOs. *Reporters without Borders* reported that, as in 2011, 66 journalists were killed (16% more than in 2010), 1.044 journalists were arrested, 1.959 physically attacked or threatened, 499 media censored, 199 bloggers or netizens arrested, 62 physically attacked, 5 killed and 58 countries subject to Internet censorship. The organisation therefore proposed special legal in-

struments, such as the *"Charter for the Safety of Journalists Working in War Zones or Dangerous Areas"*. Reporters without Borders in late 2006 also lobbied the UN Security Council to pass Resolution 1738 about protecting journalists in war zones. But the resolution, which obliges UN member states to protect journalists and investigate cases of violations, had only limited effect. (see: Reporters without Borders, Charter and Resolution, available at: http://en.rsf.org/charter-and-resolution-17-04-2007,21745.html). What is positive, however, is that the Security Council referred to the importance of the protection of media personnel in both of its 2011 resolutions during the Libyan crisis.

The *"War against Terror"* that followed the terrorist attacks of 11 September 2001 has brought new threats to the freedom of information by various governments. For example, the association of writers, PEN, urged a review of the US PATRIOT Act in this respect. The freedom of expression and of the media may also be misused to instigate hatred and conflict as has been documented by the *International Helsinki Federation* in its publication on *"Hate speech in the Balkans"*.

There is the threat of **censorship**, which may occur in the form of state censorship or censorship through economic or other means. This can mean that articles can be published only after approval by an authority as has been the practice in most socialist countries of Eastern Europe before the end of the Cold War in 1989. This can also mean that economic interests prevent the publication of certain opinions, for example if the military industry prevents articles with a critical attitude towards war. Censorship may also occur through **self-censorship**, when political or other interests are already taken into account by the journalist or media director. Finally, the decision on what is newsworthy and *"fit to print"* may exclude

information not considered opportune, seen as minority views or what does not sell well. Decisions on what to publish and how will often be disputable. **Codes of good practice** can give orientation. Otherwise, the purpose of **media pluralism** is to assure that different views can be read, heard and seen.

Legitimate Restrictions of the Right
There can be **no freedom without responsibility,** as unlimited freedoms may lead to violation of other human rights, like the right to privacy. (☺☞ *Right to Privacy*) But restrictions need to be justified by the government with legitimate reasons, which can be scrutinised by public opinion and, as a last resort, judicial institutions.

According to Article 29 of the Universal Declaration of Human Rights, the exercise of rights and freedoms of everyone is subject to limitations as are determined by law, in particular „*for the purpose of securing due recognition and respect for the rights and freedoms of others [...]"*. Article 19 (3) of the International Covenant on Civil and Political Rights reminds that the rights enumerated carry **special duties and responsibilities**. This shows that the freedom of expression and the media is not an absolute right. The duties and responsibilities are not indicated in the Covenant but usually found in codes of professional ethics or state legislation, which, however, must not infringe upon the content of the human right. Typical duties and responsibilities relate to the duty of objective information, in particular, the obligation to report truthfully and, at a minimum, allow for different opinions.

There is a limited number of **legitimate restrictions** of the freedom of expression, whereas there are **no legitimate restrictions** for the freedom of opinion.

According to the **ICCPR's Article 19 (3)**, three types of restrictions are possible, provided they are imposed through legislation and considered necessary:

• for the respect of the rights and reputation of others;
• for the protection of national security or of public order;
• for the protection of public health or morals.

The restrictions must be necessary for a legitimate purpose. Laws must be sufficiently precise and accessible to the public.

According to legal interpretation rules, limitations of rights have to be interpreted restrictively. The main right should not be undermined and the restriction should not be larger as necessary to protect the rights of others and the basic public concerns mentioned.

In **Article 10 (2) of the European Convention on Human Rights**, the list of possible restrictions is even longer, though, more precise. It states that the exercise of the freedom of expression may be subject to *"[…] conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society […]"*. Such restrictions may be justified by:

• *interests of national security, territorial integrity or public safety,*
• *for the prevention of disorder or crime, for the protection of health or morals,*
• *for the protection of the reputation or rights of others,*
• *for preventing the disclosure of information received in confidence, or*
• *for maintaining the authority and impartiality of the judiciary.*

No other right has such a long list of reasons for exceptions. However, two major preconditions have to be met in order to legitimise the restriction of the right. The restriction has to be:

• prescribed by law and
• necessary in a democratic society.

"Prescribed by law" means that the restriction has to be an act of parliament and not an executive order by the government. Of particular importance is the qualification *"necessary in a democratic society"*. This links the freedom of expression and the media to the concept of an open and pluralist society which is governed by democratic means. The European Court of Human Rights has been very strict on these requirements as can be seen from the so-called *Lingens* case. In 1986, the European Court of Human Rights decided that a politician has to accept a higher degree of criticism than an ordinary person and cannot silence a journalist with reference to the need to protect his reputation. Accordingly, the **laws on libel** which allow the persecution of journalists who criticise persons in public positions have to be balanced with the freedom of the press. In this context, the principle of proportionality always needs to be taken into account.

According to **Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)** of 1965, the dissemination of racist ideas, incitement to racial discrimination, or financing of racist activities shall be made a punishable offence by state parties, which shall also declare illegal and prohibit organisations and propaganda activities which promote and incite to racial discrimination. As of January 2012, the Convention has 175 parties.

In 2008 the Council of the European Union adopted a **Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law** according to which serious acts of racism and xenophobia have to be made punishable by effective, proportionate and dissuasive criminal penalties in the European Union.

☺☞ *Non-Discrimination*

3. IMPLEMENTATION AND MONITORING

A wide variety of instruments and procedures exists to implement the human right of freedom of expression and its component rights. First, it is the obligation of states to incorporate the freedoms in their domestic law and provide legal remedies in cases of alleged violation. In fact, the right can be found in most constitutions as part of the catalogue of fundamental rights and freedoms. The minimum standards derive from international obligations on the universal and, where existing, the regional level.

The various **media and communication laws** and regulations are very important, too. They further specify the right and its restrictions in daily practice in conformity with international obligations and national constitutional law. They may set up **national monitoring bodies** to regulate or self-regulate the press and electronic media, such as press or media councils, which are often composed of experts and/or representatives of civil society. In order to regulate the media sector, to ensure quality standards and to stimulate competition, the state may issue **licenses** which have to be made available on a non-discriminatory basis.

The task of several control or monitoring mechanisms is that of monitoring compliance by the state. For example, under the International Covenant on Civil and Political Rights (ICCPR), states have the obligation to submit **state reports** in regular intervals (every 5 years) on the implementation of their obligations, which are considered by the *Human Rights Committee*. It gave an interpretation of Article 19 in its General Comment No. 10 of 1983, which in 2011 was replaced by General Comment No. 34. The Committee may also receive **communications**, i.e. complaints by individuals, if the respective state has ratified the First Optional Protocol to the ICCPR of 1966 (114 parties, as of January 2012).

Regional monitoring mechanisms like the Inter-American and the African systems provide for individual communications to *Commissions* which can issue conclusions and recommendations. In the African, Inter-American and European system, the *Court* may give decisions which are binding on states and also grant compensation. All these procedures also provide for complaints by states against other states, which are, however, only rarely used in practice. In the Inter-American (OAS) and the African (AU) systems, regional special rapporteurs have been established on freedoms of expression in 1997 and 2004 respectively.

On the universal level, there are also so-called "charter-based" procedures like the *Special Rapporteur on the Promotion and Protection of the Freedom of Opinion and Expression,* who annually reports to the UN Human Rights Council on the situation of the freedom of expression worldwide, visits countries and provides observations, recommendations and a commentary on elements of the human right. For example, in his annual report of 2011, the UN Special Rapporteur on Freedom of Opinion and Expression, Frank La Rue, focused on the challenges created by the Internet. He found increasing violations in the form of blocking and filtering by states, which also criminalise legitimate expression, disconnect users and do not provide adequate protection of data and privacy. He emphasised the need to provide access to the Internet as an "enabler of other human rights", like the right to education.

☺☞ *Right to Privacy*
 Right to Education

For the 56 members of the **Organization of Security and Cooperation in Europe** (OSCE), the *Representative for the Freedom of the Media* has been introduced in 1997. The Representative's mandate is to follow the developments in the media sector of the participating states in order to promote free, independent and pluralistic media, which are crucial to a free and open society and an accountable system of government, based on the international obligations and the OSCE standards adopted in a series of follow-up conferences and expert meetings since the Helsinki Final Act of 1975.

The four international mechanisms for promoting freedom of expression since 1999 also issue a yearly joint statement like the "**Joint Declaration on Freedom of Expression and the Internet of 2011**" (available at: http:www.osce.org/fom/78309).

The Parliamentary Assembly of the Council of Europe also appointed a *Standing Rapporteur on Freedom of the Media* in 2001.

The Role of Professional Associations and Other NGOs

Professional associations like the *International Federation of Journalists*, the *International Press Institute (IPI)*, *P.E.N. International* or the *International Publishers Association (IPA)* collect comprehensive information on the state of the freedom of the media in different countries or regions of the world and support their members against restrictions. They draw attention to situations where those freedoms are violated, denounce restrictions, launch campaigns or urgent action appeals and prepare reports on particular problems like media concentration, corruption, state secrets and transparency according to Freedom of Information regulations. In doing so, they are supported by NGOs specialised in the protection of the freedom of the press and the media such as the organisation *Article 19* or *Reporters without Borders* as well as general human rights NGOs like *Amnesty International* or the *International Council on Human Rights Policy*. Furthermore, they cooperate with inter-governmental organisations and their special institutions, like

the *UN Special Rapporteur on Freedom of Expression* and the *OSCE Representative for the Freedom of the Media*.

On the national level, institutional monitoring bodies such as independent media commissions or professional associations like press councils and NGOs aim at the prevention of violations of the human rights in question, excessive libel laws and practices which may silence critical journalists. They also watch over the respect for professional codes of ethics in this field.

4. INTERCULTURAL PERSPECTIVES

Cultural differences lead to pluralism in the implementation of the freedom of expression. Compared to the USA, Europe and other states take a different attitude concerning hate speech which attacks the dignity of a group. Europe does not tolerate the advocacy of national, racial or religious hatred, in particular anti-Semitism, Nazi propaganda or the denial of the Holocaust and other forms of right-wing extremism, while the concept of the freedom of expression in the Constitution of the United States (First Amendment) at least partly also allows for such forms of expression. For example, the sentencing of the British author David Irving in Austria to three years of prison for denial of the holocaust in 2006 has been criticised even by Jewish authors in the United States as a violation of their understanding of freedom of speech, which should include also

> *"To speak is not an easy thing, to remain silent is dangerous."*
>
> **Proverb from Mali.**

the "freedom for the thought we hate". (Jeff Jacoby. *The Boston Globe*. 3 March 2006.)

The sometimes **subtle distinctions** have been exemplified in the case *Jersild v. Denmark* before the European Court of Human Rights when the Court found that the punishment of a journalist who had broadcasted an interview with youngsters making racist statements had been a violation of the freedom of information in Article 10 of the ECHR, whereas those who had made the statements were not protected by Article 10.

According to the European Court of Human Rights' "margin of appreciation doctrine" there is room for differences between European states. This is of particular relevance for the protection of morals with regard to speech, literature or broadcasting considered to be pornographic. The question of decency or protection of minors, as well as other harmful contents, are left to the state, which often uses independent institutions to guide the media in this respect.

Different standards also exist regarding public criticism of politicians or religious institutions. For example, what is **artistic freedom** for some may be considered to be blasphemy by others. Consequently, the freedom of expression and of the media is a very sensitive right which has to respect certain limits but also has to be protected against the tendency of the state and influential persons to silence their critics.

The cartoons of the prophet Mohammed, which were first published by a Danish newspaper in 2005 and subsequently reprinted in a number of western countries, have provoked violent reactions in several Islamic countries as well as a boycott of Danish goods. The Danish government was forced to apologise. This event led to a world-wide debate on limitations of the freedom of the press and freedom

of expression out of respect for religious feelings as part of the freedom of religion, which is of relevance not only on the national level but has nowadays gained a global dimension.

In Asian countries, severe restrictions of the freedom of expression and of the media have long been justified on the grounds of maintaining the stability of the country, which was threatened by the "irresponsible reporting" of the press, instigating political conflict. However, as an Asia-Europe-Meeting (**ASEM**) held in 2000 found, governments tend to overreact and to curtail the freedom of the media more than necessary. Common problems like media concentration or the lack of independence of journalists were found in a much larger extent than regional differences.

In cases of dispute, it is the responsibility of the independent judiciary to draw the fine line between freedom of expression and of the media and legitimate restrictions for the sake of the stability of a democratic state and the moral integrity of a person who has become subject to unjustified allegations in the media. For example, in Banja Luka in Bosnia and Herzegovina few years after the end of the war, a newspaper published lists of persons alleged to have committed war crimes. This was legitimately interdicted by the authorities because of the danger that these persons, who had not (yet) been officially indicted, could become subject to personal revenge.

In the case of *Constitutional Rights Project, Civil Liberties Organisation and Media Rights Agenda v. Nigeria,* the *African Commission on Human and Peoples' Rights* had to deal with the proscription of newspapers by way of an executive decree by the military government of Nigeria which was directed against the opposition. The Commission found: *"Decrees like these pose a serious threat to the public of the*

right to receive information not in accordance with what the government would like the public to know. The right to receive information is important: Art. 9 (of the African Charter on Human and Peoples' Rights) does not seem to permit derogation, no matter what the subject of the information or opinions and no matter the political situation of a country. Therefore, the Commission finds that the proscription of the newspapers is a violation of Art. 9 (1)."

With regard to measures against journalists after a coup in the Gambia, the African Commission found: *"The intimidation and arrest or detention of journalists for articles published and questions asked deprives not only the journalists of their right to freely express and disseminate their opinion, but also the public, of the right to information. This action is clearly a breach of the provision of Art. 9 of the Charter."*
(Source: African Commission on Human and Peoples' Rights. 2000. Thirteenth *Activity Report of the African Commission on Human and Peoples' Rights 1999-2000, Annex V, Paras. 38 and 65.*)

In 2002, in Banjul, the *African Commission on Human and Peoples' Rights* adopted a **Declaration of Principles on Freedom of Expression in Africa**, which emphasised an obligation of the authorities to take positive measures to promote diversity as well as the independence of regulatory bodies for broadcast and telecommunications.

"Information is the oxygen of democracy."

Article 19 - Global Campaign for Free Expression.

"Journalists are the guardians of democracy."

Maud de Boer-Buquicco, Deputy Secretary General of the Council of Europe. 2002.

The **Marrakesh Declaration** adopted by the conference "The Role and Place of the Media in the Information Society in Africa and the Arab Region" of 24 November 2004 reaffirms that "*freedom of expression and press freedom are at the core of construction of the information society in Africa, the Arab region, and throughout the world.*" (Source: Soul Beat Africa – Communication for Change, available at: www.comminit.com/en/node/215350/print)

5. CHRONOLOGY

1948 Universal Declaration of Human Rights (UDHR), Art. 19
1966 UN Covenant on Civil and Political Rights (ICCPR), Art. 19
1978 UNESCO Declaration of Fundamental Principles concerning the contribution of the Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War (Declaration on Media)
1983 General Comment by the UN Human Rights Committee on Art. 19 of the ICCPR
1993 UN Special Rapporteur on Protection and Promotion of the Right to Freedom of Opinion and Expression

1997 OSCE Representative for the Freedom of the Media
1997 OAS Special Rapporteur for Freedom of Expression
1999 Resolution of the Commission on Human Rights on Freedom of Opinion and Expression (1999/36)
2001 Council of Europe Convention on Cybercrime and Additional Protocol 2003
2003 World Information Summit, first part, in Geneva: Declaration on Principles and Plan of Action
2004 Special Rapporteur on Freedom of Expression in Africa
2005 World Information Summit, second part, in Tunis: Tunis Commitment and Tunis Agenda for the Information Society
2005 Council of Europe Declaration on Human Rights and the Internet
2006 First Internet Governance Forum (IGF) in Athens
2011 Sixth Internet Governance Forum in Nairobi (Kenya)
2011 General Comment No. 34 by the UN Human Rights Committee on Article 19 of the ICCPR

"The media have a central role in democracy to inform the public and to scrutinise the conduct of public affairs without fear of being prosecuted, sued or suppressed."

Kevin Boyle. 2000.
Restrictions on the Freedom of Expression.

*"Sir, I do not share your views, but I would risk
my life for your right to express them."*

Voltaire (1694-1778).

GOOD TO KNOW

1. THE ROLE OF FREE MEDIA FOR A DEMOCRATIC SOCIETY

Media pluralism is an indispensable element of a pluralistic democracy. The importance of the role of the media as a so-called *"**fourth power**"*, besides the legislative, executive and judiciary powers, requires also particular care and responsibility from journalists and media owners not to violate human rights of others by exercising their freedoms.
☺☞ *Right to Democracy*

The freedom of a particular society can easily be determined by the freedom of the press and the media. The first step authoritarian governments or dictatorships usually take is to curtail or abolish the freedom of expression and the freedom of the media. For the reconstruction and rehabilitation of democratic societies after war and conflict, a pluralistic media system which works on the basis of respect and tolerance of other opinions and refrains from instigation to hatred and violence is of utmost importance.

This requires an appropriate legal framework which assures the independence of the public media and pluralism among the private ones and monitors the activities of the media with regard to the standards of objectivity, fairness and decency.

In 2011, the Human Rights Council of the United Nations, in its resolution 16/18 on *"Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief"* recognised the positive role the exercise of the right to

*"When war is declared,
truth is the first casualty."*

Arthur Ponsonby,
British Politician and Writer. 1928.

*"Words kill first,
bullets only later."*

Adam Mihnik, Polish Writer.

freedom of opinion and expression as well as to information can play in strengthening democracy and combating religious intolerance. While expressing deep concern about derogatory stereotyping of religious groups (one example in case would be Islamophobia) it does not call for measures against defamation of religions, which were feared to have a chilling effect on freedom of expression by civil society and certain governments, but recognised *that the open public debate of ideas, as well as interfaith and intercultural dialogue […] can be among the best protection against religious intolerance […]".*

☺☞ *Religious Freedoms*

2. MEDIA AND MINORITIES

Minorities often face problems in terms of access to the media and in having media in their own language. In Europe, specific standards, such as Article 9 of the **European Framework Convention for the Protection of National Minorities** of the Council of Europe of 1995, attribute persons belonging to national minorities the freedom of opinion and of expression. Their freedom to seek, receive or impart information or ideas in minority languages regardless of frontiers must be respected by public authorities. Governments have to ensure that persons belonging to national minorities are not discriminated against in terms of access to the media, which should indeed be facilitated. They must not be prevented from creating their own print media and, within the law, also their own electronic media. Further standards exist in the framework of OSCE.

The situation, however, is often more problematic regarding the so-called "new minorities" that have their origins in international migration flows. In contrast to the national or "old" minorities, they usually do not have any

legally guaranteed rights ensuring their access to the media. This is especially worrying when taking into account the rather xenophobic way in which they are sometimes portrayed in conventional media, while their possibilities of expression are limited.

Article 11 of the 1992 Council of Europe's **European Charter for Regional and Minority Languages** commits states parties to make adequate provision that broadcasters offer programmes in the regional or minority languages or ensure, encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages.

3. FREEDOM OF THE MEDIA AND ECONOMIC DEVELOPMENT

Freedom of the media and economic development is as much linked as are freedom from fear and freedom from want. The interdependence and indivisibility of all human rights requiring a holistic approach to human rights in general can also be seen in the importance of the freedom of expression and the freedom of the media for economic development, alleviation of poverty and for meeting basic social and economic rights of the people. Without the reporting by the media, shortcomings in access to or redistribution of resources and corruption may remain unnoticed.

4. WAR PROPAGANDA AND ADVOCACY OF HATRED

Pursuant to Article 20 (1) of the ICCPR, any propaganda for war shall be prohibited by law, whereas Article 20 (2) requires also the **prohibition of incitement to discrimination, hostility or violence** through any advocacy of national, racial or religious hatred. The media

were found to carry part of the responsibility for the wars in former Yugoslavia by propagating the war or instigating hatred and ethnic cleansing. The transmissions of *Radio Mille Collines* had a major role in the genocide in Rwanda in 1994 during which about one million people were killed. *"Do not kill those inyenzi (cockroaches) with a bullet – cut them to pieces with a machete"* was one of the broadcast statements, calling Hutus to slaughter Tutsis and Hutus who were sympathetic to the Tutsi cause. The radio station itself was founded in 1993 by family members of Hutu President Habyarimana, whose death was one of the main reasons for the outbreak of the genocide. The radio's responsibility has been established by the *International Criminal Tribunal for Rwanda* based in Arusha (Tansania).

5. GOOD PRACTICES

- UNESCO has initiated a World Press Freedom Day to be held on the 3rd of May and a World Press Freedom Price.
- Reporters without Borders in 2008 launched an annual World Day against Cyber-Censorship, which is held on the 12th of March.
- Ireland as the new chair of OSCE in 2012 announced that the promotion of Internet freedom will be one of its major priorities.
- The Crimes of War Project brings together journalists, lawyers and academics to raise awareness of the laws of war among the media, government and human rights and humanitarian NGOs.
- In the case of Kosovo, an Independent Media Commission (IMC) and a Press Council were established, which monitor the implementation of the standards contained in the regulations and law on the media.
- P.E.N. International in 1999 introduced a "Writers in Exile Network", which with the help of co-operating cities provides a temporary safe haven for authors or journalists in exile. For example, the Tunisian writer Sihem Bensedrine was invited to stay in Graz and Barcelona, before she could return home as a result of the Arab spring in 2011.
- The Yemeni journalist and human rights activist Tawakkol Karman became the youngest winner of the Nobel Peace Prize in 2011, which was awarded to her for her role in the Arab spring in Yemen, where she headed the group "Women's Journalists without Chains".
- South-East Europe Media Organisation (SEEMO) is a Vienna based regional network of journalists founded in 2000. Its main activity is protecting press freedom by helping journalists and media outlets in South-East Europe. SEEMO leads missions to countries where press freedom is under threat, meets with government officials, diplomats, NGOs, and provides legal representation and support in court cases.
- In the beginning of 2011, the European Commission requested changes to the new media laws of Hungary, which had just assumed the rotating presidency of the European Union, criticised the introduction of strict controls over foreign media by new registration requirements and raised concern about the independence of the newly created Media Council, which can fine media for "unbalanced reporting". The Hungarian government agreed only to introduce some changes, but the Hungarian Constitutional Court in December 2011 suspended part of the media law for similar reasons.
- To improve the safety of the Internet for children, the European Union supports the European network "ins@fe", which coordinates various activities for online safety.

6. FREEDOM OF THE MEDIA AND HUMAN RIGHTS EDUCATION

"Within journalism there is a serious lack of knowledge of what human rights are. Many journalists – like many politicians and others working in civil society – are not familiar with the Universal Declaration of Human Rights and the international human rights treaties and mechanisms. Often they do not understand the difference between human rights law and the laws of war. As a result, human rights are often erroneously regarded as relevant only to reporting of conflict."
(Source: International Council on Human Rights. 2002. *Journalism, Media and the Challenge of Human Rights Reporting.)*

7. TRENDS

The Internet and Freedom of Expression/Information

According to the UNESCO Report "**Towards Knowledge Societies**" the Internet has grown exponentially during the last years, from 16 million users in 1995 to more than 500 million in 2004, approximately one billion in 2007 and 2.3 billion in 2011. It is estimated that by 2015 the goal of the World Information Summit can be achieved to have half of the human population connected to the Internet. But, still more than five billion people worldwide lack access to the Internet. In Africa, less than 1‰ of the total population has access, which demonstrates the problem of the "**digital divide**" and raises the question of "**digital solidarity**". Nevertheless, the rise of the Internet, social media and citizen journalists, has had a significant impact on the media, offering a variety of new options to both journalists and ordinary citizens to read and publish worldwide – such as through blogs. Even smaller media enterprises have a chance to reach the global public now. However, some states apply control and censorship of the Internet by blocking access to certain web pages. In 2005, certain search engines such as Yahoo! and Google came under attack from NGOs for assisting the Chinese government in tracing political dissidents. As a reaction, *Amnesty International* started a campaign against online repression under www.irrepressible.info. In the meantime, Google has terminated part of its operations in mainland China in order to avoid the conditions of the Chinese government. Google also publishes the number of requests for blocking or filtering received by governments in its transparency reports.

A new report on **Freedom of the Net 2011** showed growing threats to Internet freedom by blocking content, cyberattacks against regime critics and censorship. While the least interference is reported for Estonia, USA, Germany and Australia, the situation is worst for Iran, Burma, Cuba and China (PRC). (See: Freedom House: Freedom on the Net, available at: www.freedomhouse.org/freedomonthenet2011)
WikiLeaks is an international non-profit media organisation dedicated to bringing important news and information to the public, by exposing oppressive regimes in Asia, the former Soviet bloc, Sub-Saharan Africa and the Middle East. More recently it has published classified information from US military sources, which raised strong controversies. Wikileaks describes itself as an "uncensorable system for untraceable mass document leaking".
WikiLeaks has received an Amnesty International's UK Media Award in 2009. In response to some of the negative reactions by states, the *UN High Commissioner for Human Rights* has expressed her concern over the "cyber war" against WikiLeaks, which was confronted with a financial embargo. (See: WikiLeaks, available at: wikileaks.org; UN News Centre. 2010. *UN human rights chief voices concern at reported 'cyber war' against WikiLeaks.*

Available at: www.un.org/apps/news/story. asp?NewsID = 37009&Cr = leaked&Cr1)

In **Venezuela**, which has one of the highest Internet penetration in Latin America, president Hugo Chavez decreed in 2009 that the Internet in the public sector was a luxury and amounted to superfluous spending. Since then, a tendency to control the Internet for political purposes has evolved. (See: Global Information Society Watch, available at: www.giswatch.org/)

The international campaign network **"Avaaz"**, meaning "voice", started in 2007 with the objective to mobilise people through the Internet to support petitions for human rights issues, the environment and against corruption, poverty and war. In 2011 it already counted more than 10 million members and had organised numerous successful campaigns. (See: Avaaz, available at: http:www.avaaz.org)

Facebook, which started in 2004 and in 2011 reached more than 750 million members, was forced by the complaint of one Viennese student in 2011 to change its privacy and data protection policy in Europe.

The **Council of Europe** has taken the lead in elaborating declarations and guidelines for the application of human rights in the Internet like the *"Declaration on Human Rights and the Internet"* of 2005 or the *"Declaration on the Protection of Freedom of Expression and Freedom of Assembly and Association with regard to privately operated Internet platforms and online service providers"* of December 2011. Human

Rights Guidelines for search engines and social networks are also about to be adopted.

The **European Commissioner for Justice and Fundamental Rights** in response to international discussions in 2011 suggested that the new EU regulation on general data protection should also contain a "**right to be forgotten**", which should allow Internet users to keep better control over their data.

The transformation of the information society to **knowledge societies** is based on the increased availability of information and communication technology. In the context of the freedom of expression the state is under a positive obligation to provide access to information technology which is indispensable for gaining access to knowledge, which is of particular relevance for the South. For this purpose on the occasion of the World Summit on the Information Society in 2003 an initiative was launched for the creation of **Community Multimedia Centres (CMCs)** in order to narrow the digital divide for communities still excluded from the access to information technology. The approach adopted links access, learning and the combination of new and old technologies by combining local neighbourhood radio with community telecentre infrastructures like computers connected to the Internet, e-mail services, telephone, fax and photocopy. The aim is to allow community members to become regular users of the new technologies and gain access to information available worldwide.
(Source: UNESCO. 2005. *Towards Knowledge Societies.*)

"There has never been a substantial famine in a country with democratic form of government and relatively free press."

Amartya Sen, Amartya Sen, Nobel Prize-winning Economist. 1999.

SELECTED ACTIVITIES

ACTIVITY 1: WHICH HAT DO YOU WEAR?

Part I: Introduction

The activity provides an opportunity for the participants to practise discussing and expressing their opinions freely but in a responsible way. In addition, it offers a method to discuss complex issues or provoking statements under different aspects thus finding a solution that meets the interests of all parties.

Part II: General Information on the activity

Type of activity: Discussion

Aims and objectives:

- To facilitate critical thinking and problem solving
- To express one's opinion in a responsible manner

Target group: Young adults and adults

Group size: 18-30

Time: About 90 minutes

Preparation: Chair circle for the plenary session

Material: Six hats of different colours (white, red, black, yellow, green, blue; can be made from paper or cardboard)

Skills involved: Communication, creative, analytical and critical thinking skills

Part III: Specific Information on the activity

Provoking Statement: We live in a free country and everyone has the right to freely express her/his opinion. So why should we prohibit or censor racist or hate speech?

The facilitator introduces the provoking statement to the participants in the plenary. The participants reflect upon the statement from all possible perspectives by using the "thinking hat" method: Only the person who has the hat in her/his hand speaks. When a speaker has finished s/he hands the hat over to the next person. Each colour stands for another approach:

The **white hat** stands for information: objective view, considering purely what information is available, what are the facts?

The **red hat** stands for emotions: subjective view, instinctive gut reaction or statements of emotional feeling (but not any justification)

The **black hat** stands for negative aspects: logic applied to identifying flaws or barriers, seeking mismatch

The **yellow hat** stands for positive aspects: logic applied to identifying benefits, seeking harmony

The **green hat** stands for creativity: change for the better, alternatives, seeing where a thought goes

The **blue hat** stands for thinking and facilitating: moderation tasks, discussing and summing up, measures

Participants one by one comment on the provoking statement. The first round has always to be dedicated to the white hat to collect information and facts. The last round has to be the blue one, the other colours might be used in any order.

Feedback:

After the discussion ask the participants to reflect upon their emotions and thoughts. Was the problem-solving method new to them? Does anybody know similar approaches?

Methodological hints:

The facilitator has to take care that the speak-

ers stick to the approach of the hat they wear on their heads (or hold in their hands). For example: If a participant holds the yellow hat s/he must not address any negative aspect or any emotion. The advantage of the method is to prevent speakers from wandering from the subject and to grant each person an adequate ratio of speaking time. The method is suited for all complex issues or problems where an easy solution seems impossible.

The provoking statement can easily be adapted to different social and cultural backgrounds.

Related rights/further areas of exploration: Non-discrimination, equality

(Source: Adapted from: Edward de Bono. 1990. *Six Thinking Hats*.)

ACTIVITY 2: THE IMPACT OF THE INTERNET

2

Part I: Introduction

This activity involves both small group and plenary discussions to analyse the positive and negative aspects of the use of the Internet, its implications on the freedom of expression and challenges for the future of the internet.

Part II: General Information on the discussion

Type of activity: Discussion

Aims and objectives:
- To raise awareness about the implications of the Internet and access to information worldwide
- To identify the impact of the Internet on human rights
- To explore phenomena related to the Internet

Target group: Young adults and adults
Group size: Any
Time: About 45 minutes
Material: Flipchart, markers
Skills involved: Analytical skills, expressing different points of view on the issue, team-building skills

Part III: Specific Information on the discussion

Introduction to the topic: Introduce the activity by providing some basic knowledge, give the group a few facts about the Internet as laid out in the module; and then ask the participants to talk in pairs about their own experiences with the Internet and the advantages and disadvantages of using/not using it. Allow about ten minutes for this.

Then call all participants to gather in a plenary session and ask them to discuss the impact of the Internet, its advantages and disadvantages. You might use the following questions:

- Do you know about human rights violations through the Internet (such as child pornography, cyber crime)?
- Why do these violations have an increasing impact on society?
- To what extent should there be rules to prevent such things from happening?
- Should Internet governance rather be implemented by means of state and/or international regulations or by means of voluntary commitments and codes of conduct of all actors or by some model of co-regulation?

Ask one or two of the participants to write up the key points on the flipchart.

Feedback:

What did the participants learn about the Internet in the discussion? Take a look at the notes on the flipchart and reflect on the issues: Do the advantages of using the Internet outweigh the disadvantages? What needs to be done to countervail the disadvantages?

Methodological hints:

Assess how familiar participants are with the

Internet prior to the activity so that you can pitch the level and the overall approach.

Part IV: Follow-up
Encourage the participants to visit the web sites of human rights organisations and compare the organisations' activities and their promotion via the Internet. Based on these findings they could then go on to reflect on a project to

•   use available Internet resources to increase awareness about human rights issues in their neighbourhood;
•   create their own web site, Facebook entry, blog or the like and link it to other organisations to fight for a human right which is in particular danger in their community.

Related rights/further areas of exploration:
Media, globalization
(Source: Adapted from: Council of Europe. 2002. *Compass: A Manual on Human Rights Education with young people.*)

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ADDITIONAL INFORMATION

Amnesty International: www.amnesty.org/

Article 19: www.article19.org

Asia Media Information and Communication Centre: www.amic.org.sg

Association for Progressive Communications (APC): www.apc.org

Crimes of War Project:
www.crimesofwar.org

Communication Regulation Agency (CRA) of Bosnia-Herzegovina:
www.cra.ba/eng/

Council of Europe – Media Division:
www.coe.int/t/e/human_rights/media

Dynamic Coalition on Internet Rights and Principles:
www.internetrightsandprinciples.org

Freedom House: Freedom of the Press 2011: http://freedomhouse.org/report/freedom-press/freedom-press-2011

Freedom House: Freedom on the Net 2011: www.freedomhouse.org/report/freedom-net/freedom-net-2011

Global Information Society Watch (GIS-Watch): www.giswatch.org/

Ins@fe: www.saferinternet.org

Independent Media Commission (Kosovo): www.kpm-ks.org/?gjuha = 3

International Federation of Journalists: www.ifj.org

International Freedom of Expression Exchange: www.ifex.org

International Publishers Association (IPA): www.internationalpublishers.org/

Media Foundation for West Africa: www.mediafound.org/

OSCE Representative on Freedom of the Media: www.osce.org/fom

PEN International: www.pen-international.org/

Soul Beat Africa – Communication for Change: www.comminit.com/africa

South East Europe Media Organisation (SEEMO): www.seemo.org

UNESCO Advisory Group for Press Freedom: www.unesco.org/webworld/wpfd/group.html

RIGHT TO DEMOCRACY

REPRESENTATION AND PARTICIPATION

PLURALISM AND INCLUSION

HUMAN DIGNITY AND FREEDOM

» *Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. Everyone has the right to equal access to public service in his country. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.*«

Article 21, Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORY

Democratic transition: A revolution's legacy is forged after the struggle has ended

The Arab revolutions of 2011 are beginning to destroy the cliché of an Arab world incapable of democratic transformation. But the enduring legacy of the Arab Spring will be forged after the struggles have ended, as liberated countries like Tunisia and Egypt confront the task of building stable, democratic societies. Seen in light of the experiences of Afghanistan and Iraq over the past decade, this challenge seems forbidding. But we should take heart from transitions elsewhere that have transformed failing states into promising democracies in relatively short order. The Baltic states and post-dictatorship Latin America offer some examples of fast progress. The Republic of Georgia, in the Southern Caucasus, is a more recent case. While cultures and contexts might differ, there is a great deal to be learned from these stories of relatively successful transformation.

Perhaps the biggest lesson is this: We must not underestimate the potential for change. Transitions can happen more quickly than conventional wisdom would have us believe. Georgia's government understands well that the country has a long way to go before we are a robust democracy. But Georgia's case also underscores that revolutionary moments matter – above all – because they seize the imaginations of the broad public. Ordinary people see that values can become the basis of politics, and that they themselves can take responsibility for their future.

Put differently, we should be careful not to fall victim to our own low expectations of others. After all, this is what led to the international community's outright failure to foresee the events of the Arab Spring. We had convinced ourselves that the people of Egypt, Tunisia and other countries were somehow (culturally and otherwise) incapable of such an uprising. We should not make the same mistake twice.

Many observers were similarly resigned around the time of the 2003 Rose Revolution in Georgia. Just as in other countries rattled by momentous political upheavals, the Georgian state had to be rebuilt almost from scratch. Yet, being forced to begin with a clean slate was in many ways a blessing, not a curse.

Not unlike the dictatorships in North Africa, the essence of the Soviet Union was control and corruption. Immediately after the Rose Revolution, therefore, Georgia put a definitive end to the era of state domination. Our first comprehensive reform – the complete transformation of our law enforcement bodies – is especially illuminating. We started by firing our entire traffic police force. The police had long been a centerpiece and symbol of the state's corruption and intimidation. Georgians lived for three months without traffic police – and amazingly, during this period, crime rates went down by 70 percent. Why? One explanation is that in this way the Georgian people were given – and seized – direct responsibility for the success of the revolution.

The fight against corruption is the cornerstone of any effort at real, enduring transformation – and it should be the foundation of reform in North Africa. In its absence, these societies will again quickly be at risk of disempowering their populations. Corruption, after all, knows no ideological bounds. The fight against graft liberates institutions that

have been seized by a small elite and used to exact bribes from the average citizen.

Another lesson from the Georgian experience is that only a whole-of-government and whole-of-society approach to reform can bring tangible, enduring results. The reforms of the judiciary, police, tax collection, customs, the political class, electoral code or education system should not be implemented individually, but as part of a comprehensive project of social and political transformation. Of course, this ups the ante – especially in a state with limited talent and resources. It cannot be done alone and in isolation.

No matter how beautiful and moving popular demands for freedom and democracy are, the real revolution consists in the long and difficult process of reform that follows. It is incumbent on all established democracies to share their experiences – successes and failures – with the nations that have just liberated themselves. Perhaps it is no surprise

that this is a learning experience for all of us, since the essence of democracy is that it must constantly adapt and improve.

(Source: Temuri Yakobashvili. 2011. *Arab Spring, Act II. Analysis by Georgia's Ambassador in Washington.*)

Discussion questions

1. Are the post-1989 democratic revolutions in Eastern Europe and the former Soviet Union comparable to the Arab revolutions of 2011? Are these events simply chapters of the same grand story of democracy?
2. Do you know of other states struggling for democracy? What are the problems they face?
3. What main elements should a democratisation process feature and foster?
4. How can active citizens contribute to the process of democratisation in their countries? Try to make concrete suggestions!

NEED TO KNOW

1. DEMOCRACY ON THE RISE?

The right to participate is at the heart of human rights and is a foundation of the principles, visions and values reflected by the Human Security Network. The specific policy agenda followed by its member countries, the advancement of human security, relies on both participation and democracy.

Democracy is usually translated as **rule of the people.** However, democracy is more complex in its definition. It is a form of government; it is also an idea which underlines

the socio-political and legal organisation of the state; it can be seen as an ideology; it appears in the form of many different models both in reality and in theory – altogether it encompasses countless different meanings.

Yet, in its essence, democracy is strongly related to the principles of human rights and cannot function without assuring the full respect and protection of human dignity. Apart from **participation** and **representation**, it is also about **inclusion** – understood as the right to be fully included in the civic life of one's community, one's region or one's state.

How fully an individual citizen exercises the right to be included and to participate is at the citizen's own discretion, yet, the right cannot be denied. Along with inclusion, the notion of **pluralism** is at the heart of democratic governance. Pluralism means overcoming "otherness" and affirming that people with different currents of human experience can live together in dignity, under the rule of law, with diversity seen as a source of strength and resiliency. In essence, nobody with a justified claim to citizenship or other forms of legal residence can be denied inclusion and human dignity. This is the litmus test of democracy.

There is an apparent **link between undemocratic structures and human rights violations.** Yet, even established democracies can be weak if they condone the denial of human rights. A violation is a specific breach, but the denial of human rights – which can often be the denial of genuine **inclusion** and pluralism – is societal and systematic. Even an advanced democracy like Canada, for instance, a perpetual leader in the United Nations Human Development Index, acknowledges that inclusion has not been fully achieved for its aboriginal population. In many advanced democracies, the full inclusion of women in circles of power and spheres of influence continues to be denied. In the United States, a country often labelled the "world's oldest democracy", the issue of inclusion remains an ongoing theme for minority populations and minority genders such as homosexuals and lesbians.

Conversely, the failure of inclusion and deficiencies in the practice of pluralism can have grave consequences; as could be seen, for example, in the widespread and violent civil unrest in France in late 2005. To this date, democracy is indisputably the system most conducive to guaranteeing the protection of human rights and human security. This, however, should not distract from the fact that a full understanding of the twin challenges of pluralism and inclusion is essential to the healthy evolution of a democratic society.

Democracy depends on the interest and active participation of its beneficiaries. Being informed and having access to knowledge is a precondition to meaningful participation in a democratic system. Only those with a basic understanding of how the system works and knowledge of the mechanisms and institutions of a democratic society can contribute to and benefit from it. Imparting this knowledge is one of the most important functions of democratic education aimed at the formation of responsible citizens.

This module aims at sketching out a picture of democracy and human rights that makes it clear that democracy is not something that is achieved once and for all but is a process that requires permanent work and commitment.

DEMOCRACY INDEX 2010 (by regime type)			
	No. of countries	**% of countries**	**% of world population**
Full democracies	26	15.6	12.3
Flawed democracies	53	31.7	37.2
Hybrid regimes	33	19.8	14.0
Authoritarian regimes	55	32.9	36.5
(Source: Economist Intelligence Unit.2010. *Democracy Index 2010.*)			

GLOBAL DEMOCRATIC PROGRESS	GLOBAL FRAGMENTATION
Since 1980, countries in all regions of the world have taken significant steps towards democracy, with numerous military or otherwise authoritarian regimes having been replaced by civilian governments.	Not all states, which label themselves "democratic", are indeed fully democratic. Many are still in transition to democracy or have lapsed back into authoritarianism or conflict.
144 of the world's nearly 200 states now hold multiparty elections – more than at any time in history.	Only 26 countries can be considered full democracies, 53 countries may be termed "flawed democracies". There are still around 55 authoritarian regimes and more than 30 "hybrid regimes".
133 countries, with 67% of the world's population, have a free or partly free press.	63 countries, with 32% of the world's population, still do not have a free press.
The number of states parties to the six main human rights conventions and covenants has increased dramatically since 1990. Ratifications of the ICESCR and ICCPR have grown from 90 to 160 and 167, respectively.	Many countries still restrict important civil and political freedoms. 25 countries have not ratified or signed the ICCPR, and 32 have not ratified or signed the ICESCR.
In 26 countries, more than 30% of parliamentarians are women.	Worldwide, only 19% of parliamentarians are women – and in 9 countries none are.
(Source: Freedom House. 2011. *Freedom in the World 2011.; Economist Intelligence Unit. 2010. Democracy Index 2010.; Inter-Parliamentary Union (IPU). 2011. Parline database on women in parliament.)*	

Democracy and Human Security

The human security agenda focuses on attaining freedom from pervasive threats to people's lives or livelihood, be they political, social or economic, and starts with the notion that respect for human rights and democratic freedoms as well as empowerment for human development are indispensable for safeguarding and promoting human security. The advancement of human rights, human development and human security – three overlapping and interlinked concepts that are at the core of a vision for an innovative world order – can only take root in societies in which the democratic values are not only propagated but also practiced.

The respect for human rights implies freedom from fear and from threats to one's fundamental existence; human development asserts a claim to the resources and freedoms needed to fully develop one's human potential; human security evokes freedom from hunger, war, ecological disaster, corrupt governance and other impediments to a life lived in justice and solidarity, with equality of opportunity for all.

Eventually, only equal, free and democratic participation in the political, social and economic life of a state or community can promote human security. Only the full guarantee of human rights, participatory governance, rule of law, sustainable development, and equal access to resources can assure that human security turns from a new diplomatic catch word to a broadly accepted basis for democratic decision-making and international co-operation.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

What Is Democracy and How Did it Develop?

Democracy is a form of government in which state authority is derived from the people. The word "democracy" originates from the ancient Greek words *demos* – meaning "people" – and *kratos* – meaning "power". The principles of *modern* democracy gradually developed out of the Calvinist religious movement during the 17ᵗʰ century, especially in Scotland, England and Holland where communities began sharing and supporting not only religious but also political ideas. The philosophy of freedom and equality for all emerged and was further enhanced during the period of Enlightenment. Gradually, it came to be recognised as the core of any notion of democracy.

The first modern democratic state was established in the USA, whereas France was the first European state to be founded on democratic principles following the French Revolution.

After 1945, there has been a spread of liberal democracy both in Europe and across the world, often replacing the alternative: authoritarian government. Following the defeat of fascist governments, it seemed as if the crisis of democracy, witnessed in the first half of the 20ᵗʰ century, had been overcome. To some extent, this was also underscored by the long and troublesome decolonisation process, which was based on the recognition of self-determination as a legal entitlement of all peoples and which resulted – at least initially – in the establishment of various forms of (procedural) democracy in many of the former colonies. Moreover, authoritarian regimes in Spain, Portugal, Greece, Argentina and Uruguay all turned into democracies during the 1970s and 1980s. With the fall of the Berlin Wall in 1989 and the collapse of communism in Central and Eastern Europe, it finally seemed that democracy had indeed "succeeded". However, not all of the countries which theoretically endorse democracy as a form of government do indeed respect the full range of democratic principles or live democracy in practice. This rather paradoxical situation demonstrates that holding a critical debate on democracy and democratisation is still of utmost importance.

Core Elements of Modern Democracy

It is difficult to measure how democratic a society is. However, there are a number of key elements which are widely recognised as constituting the basis of every democratic society.

- **Equality:** The principle of equality means that all human beings are born equal and should therefore enjoy equal opportunities and participation in the political life of the community as well as equal treatment before the law. This also includes social and economic equality between women and men.

  ☺☞ *Human Rights of Women Non-Dicsrimination*

- **Participation:** Democracy is meaningless without participation. Participation in community and political affairs is a precondition for building a democratic system. Democracy requires participation, which is as such a broader concept that does not only have strong political implications but also social and economic ones. Participation alone, however, is no guarantee for the existence and endurance of democracy.

- **Majority rule and minority rights:** Even though democracy is per definition the rule of the people, it is, in fact, the rule of the majority. This also means an obligation of the majority to take into account the rights

and different needs of minority groups. The extent to which this obligation is met is an indicator for further enhancement of democratic values in a society.

☺☞ *Minority Rights*
   Non-Discrimination

- **Rule of law and fair trial:** Democracy is meant to prevent a single person or a small group from ruling over the people in an arbitrary manner. The rule of law ensures that a state has an autonomous legal order ensuring equality before the law, limiting the power of public authority and providing equitable access to an independent and fair judiciary.

☺☞ *Rule of Law and Fair Trial*

- **Commitment to human rights:** Accepting that "*all human beings are born equal and free in dignity and rights*" is the basis of a functioning democratic society that ensures the respect, protection and fulfilment of all human rights in order to enable its citizens a life *free from fear* and *free from want*. With respect to democracy, special focus should be laid on those rights crucial for civic participation, such as freedom of assembly, freedom of speech, freedom of thought, conscience and religion. Still, civil and political rights alone cannot guarantee peace and human security. Only if the basic economic, social and cultural needs are likewise taken into account, a favourable environment for democracy can be fostered.

- **Political pluralism:** Traditionally, it is the task of political parties to consolidate the diversity of ideas and opinions and to represent them in the public debate. Only political pluralism can secure structures which are flexible enough to adapt to changing needs but still remain a stable ground for democratic governance. However, political freedom can also be misused for spreading ideas that incite hatred or provoke

violence and thus pose a threat to the democratic society and order. The challenge is to handle such tendencies democratically, without infringing the general principle of freedom of expression, while also protecting the interests of the society at large. Up to a certain extent, however, democracies also need to protect themselves (this is often referred to as the principle of "militant democracy").

☺☞ *Freedom of Expression*
   and Freedom of the Media

- **Free and fair elections:** Elections are generally viewed as a democracy's most fundamental and unique characteristic. No other type of regime leaves the decision on political leadership to those primarily affected by the governmental system – the people. In elections, they can express their desire for change as well as their consent to current policies and participate in a permanent process of evaluation. However, history has shown that the answer to the question as to who exactly should have the right to participate is not always self-evident. Thus, while it is generally uncontroversial to exclude minors from participation in the electoral process, it is still debatable if the right to vote may also be restricted in case of persons convicted of certain (serious) crimes by a court of law (a practice followed by many states). As already mentioned, women have been excluded from participation in elections for a very long time. In Appenzell-Innerrhoden, a part of Switzerland (a country well-known for its highly developed democratic structures), women acquired voting rights only at the beginning of the 1990s. As a general matter, therefore, it is essential to ensure that the right to vote is guaranteed without unreasonable restrictions and that elections are free, equal, secret, direct and by universal suffrage.

- **Division of powers:** The division of powers, introduced as a concept by John Locke ("Two Treatises of Government " 1690) and furthered by Charles de Montesquieu ("De l'esprit des lois" – "The Spirit of the Laws" 1748), was originally directed against the all-encompassing power of the absolutist state. Today, it is a fundamental principle of modern democracy. According to this principle, state power is divided into legislative, executive and judicial branches of government which, while functioning independently, remain accountable to each other and to the people. This system of checks and balances provides for adequate control mechanisms and as such prevents the misuse of state power.

Theories of Democracy

The dazzling complexity of democratic reality has produced a vast array of theories and models. According to Abraham Lincoln's famous 1863 Gettysburg Address, democracy can be defined as "*government of the people, by the people, for the people*". It goes without saying that these words have come to mean different things to different people.

From a historical perspective, a fundamental distinction can be drawn between identity and competition theories of democracy. In short, the **identity model** of democracy is based on the idea of an identity of the rulers and the ruled; it denies the existence of legitimate political differences and strives to find what Jean-Jacques Rousseau has called the "*volonté générale*", subsequently to be put down in legislation. The **competition model** of democracy, on the other hand, allows for different legitimate opinions to compete with each other, with the competition usually being settled along the lines of majority rule.

Another – more modern – distinction that is often referred to in theoretical discourses over democracy is the distinction between **procedural democracy** and **substantive democracy**. The debate here centers primarily on the question whether democratic procedures (e.g. elections) and institutions (e.g. elected legislative bodies) or widely-beneficial policies promoting human welfare, security, social equality and peaceful conflict resolution are more relevant when evaluating the democratic (or non-democratic) character of a regime.

Forms of Democracy

Modern democracies differ a great deal in their design and structure. The traditional distinction made with regard to liberal democracies is that between models of **direct and representative democracy**.

Direct democracy is a form of government in which the right to make political decisions is exercised directly by the whole body of citizens, acting under procedures of majority rule. This form is only feasible in small entities. Therefore, no modern democratic system is a purely direct democracy, though almost all of them feature elements of direct democracy. Institutions of direct democracy are popular assemblies, popular legislative initiatives, recalls, referenda, etc.

The second basic form is that of **representative democracy**. This is a form of government in which the citizens exercise the right to make political decisions not in person but through representatives who are chosen by and accountable to them. Two essential elements of representative democracy are the separation between the rulers and the ruled and periodical elections as a means of control of the rulers by the ruled.

Representative democracy is associated with two basic systems of government: parliamentary and presidential democracy.

- **Parliamentary democracy:** In this form of government, the parliament has a central role; the executive is headed by a prime minister or a cabinet leader and is depend-

ant on the confidence of the parliament; the head of state usually has little or no executive powers but only a representative function.

- **Presidential democracy:** The executive is headed by the head of state, who is directly elected by the people and does not depend on the parliament's confidence.

When the two models are put into contrast, differences that emerge include:

- In a presidential system, separate elections are held for the government and the parliamentary assembly, whereas in parliamentary democracies one election decides both (though the head of state can be elected separately).
- In parliamentary systems, the government is authorised by the parliament, which can also recall it. This option is not available to parliaments in presidential systems, which, however, usually provide for impeachment procedures.
- On the other hand, the head of state in parliamentary systems usually has the possibility to dissolve the parliamentary assembly under certain conditions.
- Membership of parliament is a condition for membership in the government in many parliamentary systems, whereas this is incompatible in most presidential systems.
- Parliament and government are usually more closely interlinked in parliamentary democracies, whereas presidential systems have a clearer separation of powers. Yet, in parliamentary systems the executive power itself is often split between a head of state on the one hand and a prime minister on the other hand.
- Legislative initiative in parliamentary democracies is to a large degree the responsibility of the government.
- Parties, in particular opposition parties, play a much stronger role in parliamentary democracies.
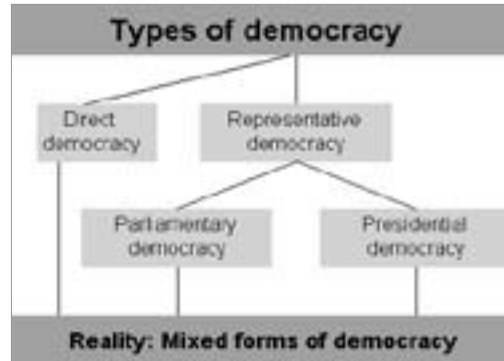
(Source: International UNESCO Education Server for Civic, Peace and Human Rights Education: www.dadalos.org/)

Forms of Democracy in Reality

Most existing democracies are combinations of these ideal types of representative democracy. Today, the most common model among the numerous mixed models is that of a parliamentary democracy with an enhanced role of the head of state. The distinction outlined above can usually be applied to democracies world-wide, though not all democracies do necessarily make use of all the traditions commonly associated with the notion of "liberal" democracy.

Examples: Parliamentary democracy is the model which underlies the systems of Great Britain and most Western European states; on the other hand, the United States of America is the best known example of a presidential democracy. However, even in Western Europe, there are various examples of peculiar models; including Switzerland (a consociational model with a strong emphasis on direct democracy) and France (a semi-presidential democracy).

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

Democracy takes many forms, has various manifestations and is understood differently in different cultures. While some democracies might put an emphasis on the **division of powers** and the **rule of law,** others might be predominantly founded on the concept of **participation**. The distinctions emerging are mainly based upon the different interplay of the core elements constituting democracy.

A major line of criticism in this context refers to the "Eurocentrism" involved in much of the political thought, theory and practice regarding democracy. Yet, the practice of democracy in itself is pluralistic. There are many forms of viable democracy which clearly are not "eurocentric". An extremely poor and overcrowded country such as Bangladesh, for instance, adheres to democracy in the face of formidable temptations to choose more authoritarian forms; yet, its democracy is organic and indigenous rather than an external imposition.

There is no such thing as a "perfect democracy", neither in the Eastern nor the Western hemisphere. There may be universal agreement today on several constitutive elements of democracy, but the importance placed on these elements and their concrete form of realisation often differ among cultures. The Western understanding of democracy is generally based on the notion of individuals who gain a maximum of freedom and voice in an overall free and liberal society. The overwhelming emphasis on civil and political rights underlying this model is a problem for some other countries.

The *"Asian Values"* Debate

China is a leading proponent of a socio-political model based on concepts of collective rights and societal well-being which differ significantly from a Western democratic notion of individual rights. They are based on a sense of community-orientation and traditional concepts of patriarchal leadership rather than on the idea of maximum freedom for the individual. Indeed, most democracies exist somewhere between the extremes of unfettered individual freedom and the supremacy of a well-ordered society. Canada, for instance, has "*peace, order and good government*" as its constitutional "leitmotif" whereas the US is founded on "*life, liberty and the pursuit of happiness*".

Asian models are not necessarily inconsistent with participation and democracy. East Asian models, such as those practised in Singapore, Malaysia and to a slightly lesser extent in South Korea and Japan, derive inspiration from foundational Confucian teaching and require active participation of a moral and rational ruling elite acting for the common good. Confucius' "great learning" posits that a harmonious individual begets a harmonious family, which begets a harmonious community, which begets a well-ordered polity, which begets a harmonious nation. The so-called clash between "*Asian*" and "*Western*" values and notions of democracy is mostly a matter of different interpretations of the actual meaning of participation and of individual vs. collective well-being. Rather than rejecting the concept as such, the Asian critique of democracy is often directed against the particular social and cultural order of the US and some other Western countries.

The Challenge of Democracy in the Muslim World

Defining the relationship between Islam and democracy has been problematic for both Muslims and non-Muslims. Commentators who assert that Islam and democracy are incompatible base their arguments on the Islamic understanding of the sovereignty of God,

who is the sole source of authority and from whose divine law all regulations governing the community of believers are derived. This is a too simplistic perception as the division of powers is not incompatible with Islam. In a number of Muslim states, Islam and democracy have proven to be able to coexist, while religious manifestations are also familiar to many Western constitutional orders. Despite the official separation of Church and state, the United States proclaims itself as *"one nation under God"*, as part of its foundational ethos. Similarly, the preamble to the Canadian Charter of Rights and Freedoms, the bill of rights in Canada's Constitution, begins with: *"Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law […]"*.

Muslim nations have been sharply divided over their understandings of and approaches to democracy, the denial of democracy having been most prevalent – at least until recently – in the Middle East. While leaders of mainstream Islamic movements and many scholars insist that Islam and democracy are compatible, those who uphold that divinely-ordained constructs are superior to human societal constructs propagate the opposite. The latter reject democracy by argueing that the concept of popular sovereignty denies the fundamental creed of Islam, which is God's sovereignty. They believe that the basic legislative framework has been provided by Allah and cannot be modified. Only his representatives can interpret and implement his laws. This traditional and conservative approach contradicts basic democratic values, such as openness, pluralism and the separation of powers.

However, despite this apparent division, there are various examples of democratic states in the Islamic world. Indeed, some of the most populous Muslim nations are electoral democracies. The world's most popu-lous Muslim country, Indonesia, is a young democracy founded on a commitment to inclusion and pluralism. The world's second largest Muslim population, in India, has been part of a democratic system since 1947. The third-largest Muslim country, Pakistan, has returned to democratic rule in 2008. Also, in 2005, a democratic parliament was established following elections in Afghanistan, which previously had been under the rule of the traditional and radically conservative Taliban.

Indeed, at the time of this writing in early 2011, most of the world's Muslims lived in democracies or in societies in transition to democracy. In South and Southeast Asia alone, more than 500 million Muslims are living in states possessing democratically elected governments, including India, Bangladesh, Afghanistan, Indonesia, Malaysia and the Maldives. For long, it was particularly the Middle East, which has a much smaller population of Muslims than the rest of Asia, where the absence of democracy was most clearly seen. However, with the recent democratic uprisings that arose independently in many parts of the the Arab world, this may now change. The so-called "Arab Spring" – which has started with the Jasmine Revolution in Tunisia in December 2010 and which since then has sparked political upheavals in countries such as Egypt, Libya, Syria, and Yemen – is a momentous (though certainly long-term) process, at the end of which the story of the purportedly troubled relationship between Islam and democracy might have to be rewritten altogether.

☺☞ *Religious Freedoms*

Discussion questions

- Is it acceptable to have different notions of democracy in different cultures?
- If different interpretations of democracy are inevitable and acceptable, where

are the limits, i.e. which core elements must be retained under any circumstances in order to perceive a state as "democratic"?

- What is the role of the media in shaping the notion of democracy in different cultures?
- Does modern information technology (internet, e-mail, satellite broadcasting, etc.) have the potential to further a common understanding of democracy across geographic and cultural borders?

A Few Further Points for Thought
- **The relationship between majority and minority** and, in particular, the protection of political, ethnic, religious and/or linguistic minorities, is a crucial issue. The holding of free and fair elections on the basis of majority voting means that minorities are often excluded from political decision-making. Generally, the minority has to comply with the majority's decisions. Minorities therefore require special protection in order to guarantee respect for their rights and a fair degree of consideration of their political will. ☺☞ *Minority Rights*
- **Civil society** has become one of the key topics in the debate on and practice of democracy. Democracy needs free and active human beings as well as responsible people. Bertolt Brecht once ironically suggested that the government, if dissatisfied with the people, should dissolve the people and elect a new one. Only free and active citizens can challenge their government and hold it accountable to its pre-election commitments.

- **Free and independent media** are an important pillar of every democracy. Control over the means of information is nowadays almost synonymous with control over decision-making in a democracy. The media plays a crucial role in the daily life of democracies, be it newspapers, television, radio, the entertainment industry or, of course, the internet.
  Individuals, societies and states have to be able to communicate with each other. To facilitate the electorate's decision-making, citizens have to be informed about the aims and objectives of those seeking to be elected. Freedom of expression is therefore another very basic and delicate human right necessary for the realisation of a functioning democracy.
  ☺☞ *Freedom of Expression and Freedom of the Media*
- **Democracy and human rights** are inseparable – the relationship varies from one of interplay to one of identity. In this sense, all human rights are of crucial importance for and in a democracy. The legal systems of many countries differentiate between citizens' rights and human rights, meaning that some rights, especially certain political rights, are guaranteed to citizens only and others to all human beings.
  Human rights can only be guaranteed in and through a functioning democracy, but formal democracy alone does not guarantee human rights and human security. The realisation of human rights is therefore an indicator for the vitality of a democracy.

4. IMPLEMENTATION
AND MONITORING

Perfect democracies have never existed nor do they exist today. Modern democracies integrate, to some extent, all of the core elements of democracy as part of a general quest for "good governance" aimed at equality, non-discrimination and social justice. Democracy is a process of constant interaction, perfection and adjustment, taking into account the basic needs of society and the social structures available to cater for those needs.

On the regional level, various mechanisms safeguarding the principle of democracy exist. The European Convention on Human Rights, which established a permanent European Court of Human Rights and offers the possibility to file complaints against member states for a breach of the Convention, is a good example. Since democracy is the only form of government considered in the Convention (as well as in the Charta of the **Council of Europe**, the organisation which initiated the drafting of the Convention), it is also the only form compatible with it. In 1967, Denmark, Norway and Sweden took the decision to file a complaint against Greece after a harsh military regime had taken control there. The Greek government thereafter denounced the Convention, but nonetheless, the trial was carried on and ended with Greece leaving the Council of Europe in order to avoid suspension. With the re-establishment of a democratic government in 1974, Greece rejoined the Convention and compensation had to be paid to the victims of the military regime.

Obviously, not all mechanisms are as effective as those established by the Council of Europe, but there are various other organisations struggling for the protection of democracy. In 1990, the OSCE established the **Office for Democratic Institutions and Human Rights (ODIHR)**

in Warsaw, which has the task, among others, to help OSCE participating states build, strengthen and protect democratic institutions. It is in charge of the observation of national elections, thus ensuring respect for democratic principles by OSCE member states. Specific mechanisms aimed at the protection of democracy and the rejection of unconstitutional changes of government were also introduced in recent years by the Organisation of American States (OAS), the African Union, as well as several sub-regional intergovernmental organisations and arrangements.

At the global level, the **Inter-Parliamentary Union (IPU)** deserves special mention. The IPU is composed of the parliaments of its member states and seeks to foster dialogue and co-operation among peoples for the strengthening of democracy worldwide. It was established as early as 1889 and is until today an important tool for facilitating the networking of national parliaments and promoting democracy.

The **United Nations Development Programme (UNDP)** has presented a number of objective **indicators** for measuring the advancement of democracy in its Human Development Report of 2002. These include:

- Date of most recent election;
- Voter turnout;
- Year women received right to vote;
- Seats in parliament held by women;
- Trade union membership;
- Number of non-governmental organisations;
- Ratification of the International Covenant on Civil and Political Rights;
- Ratification of the ILO Freedom of Association and Collective Bargaining Convention.

Additionally, a number of subjective indicators, among them civil liberties and political rights, press freedom and accountability, political stability and lack of violence, rule of law and corruption perception index, constitute a helpful means to assess democratic governance. All these indicators reflect the degree to which the core elements that form a democracy interact and develop over time. They provide a basis for comparing democracies and other regimes and for assessing progress towards democracy, as well as a qualitative and quantitative measure of the level of improvements reached or threats faced by a country.

In all genuine democracies, **popular vote**, nationally and locally, is the strongest monitoring mechanism, accompanied by **free and independent media** and a **vigilant civil society**. A change of government agendas and power-holding structures might result from such popular vote, which implicitly is also an evaluation of the implementation of the commitments undertaken by democratically elected representatives.

Not all democratic standards set out above are universally agreed upon. However, the standards upon which a broad consensus can be reached are those of **human rights**. Ensuring human rights, including the right to political participation, is thus a crucial part of ensuring democracy. Therefore, institutional guarantors of human rights are indeed guarantors of democracy.

The worldwide implementation of democracy depends on each and every individual and on state and international institutions which are required to breathe life into it and to help it withstand authoritarian developments. To make use of one's right to vote, to express opinions and thus participate in political life and decision-making is of crucial importance. Taking part in an active civil society is conducive to democracy as a whole. Education plays a key role in this process as it creates the knowledge that makes meaningful participation possible in the first place. It is to these grass-root elements of democracy-building that attention shall be drawn and that shall be further developed in order to allow democracy to flourish and bear results for all, equally and equitably.

GOOD TO KNOW

1. GOOD PRACTICES

On the Road to Democracy
In February 1990, in a historic speech, Fredrik Willem de Klerk spoke in favour of the end of the Apartheid regime and of a democratic **South Africa**. His policy was confirmed in a referendum, where 70 % of the white population supported his reforms. The first democratic elections in South Africa were held in April 1994, and in May 1994 Nelson Mandela became the first black President of South Africa. A new chapter in the country's development was opened.

Central and Eastern Europe: In the years after 1989, the former communist block countries experienced a wave of democratisation. New free and democratic parties were cre-

ated in Poland, Bulgaria, the Czech Republic, East Germany, Hungary, Romania, Slovakia and a number of ex-Soviet Republics, and a peaceful, democratic transition started to change their national political landscapes. Thereafter, democratic parliamentary and presidential elections took place at regular intervals on the basis of multi-party systems. The democratic transition in Central and Eastern Europe was greatly furthered by the policies of the European Union. In particular, the prospect of EU membership, which is dependent, among other things, on fulfillment of the so-called "Copenhagen Criteria" (including respect for democratic principles, human and minority rights, and the rule of law), has contributed significantly to the pace and sustainability of democratic reforms in the countries concerned (most of which have meanwhile joined the European Union as full members).

Chile: Unlike other South American countries, Chile has a history of over 150 years as a constitutional republic with democratically elected governments. The re-establishment of democracy in Chile in 1990 after 17 years of military rule under General Augusto Pinochet gave a new impetus to democratic dialogue and regional and international co-operation. Today, the Republic of Chile is consolidating democracy and actively promoting human rights and human security in the region.

Egypt: In mid-February 2011, following more than two weeks of protests, Egypt's long-term President, Hosni Mubarak, agreed to step down, ending three decades of iron fist rule. Power was provisionally turned over to the Supreme Council of the Armed Forces, which is expected to rule for six months until democratic elections can be held. The prior cabinet, including the former Prime Minister, continues to serve as a caretaker government until a new government is formed. With the previous constitution being under review, Egypt is now embarking on its own form of democratic governance.

2. TRENDS

Rise of Democracies

According to the **Human Security Report 2010**, the gradual post-World War II decline in the number of wars and civil conflicts coincides with a constant rise of the number of democracies. In 1946, 28% of the world's governments were democratic. By 2008, that share had more than doubled. This seems to confirm the so-called "democratic peace" thesis, according to which liberal democracies hardly go to war with each other and also exhibit a lower risk of civil war. However, the rise of the number of "anocracies" or "illiberal democracies" (regimes which are neither fully democratic nor autocratic) is a cause of concern.

(Source: Human Security Report Project. 2011. *Human Security Report 2009/2010: The Causes of Peace and the Shrinking Costs of War.*)

Women's Political Participation

The participation of women in political life is still highly disproportionate to that of men even though women form more than half of the world's population. This obvious imbalance points to gender-related deficits in a number of national institutions generally considered democratic. In order to remedy this situation, quotas are often used as a tool to enhance the participation of women in political life, particularly in national parliaments.

Discussion question

- Could you think of any other incentives and tools for bridging the representational gap between men and women in political life?

Women in Parliament

- The number of sovereign states having a parliament has increased **seven-fold** since 1945.
- The percentage of women MPs worldwide has increased by more than 40% in the past 10 years.
- If the current incremental rates continue, it will not be until 2040 that gender parity will be achieved in all parliaments.
- The number of parliaments with female membership less than 10% has decreased significantly from 63% in 1995 to 37% today.
- **Sweden** has got the highest representation of women with 45.3% of parliamentarians being women (in October 2005), followed by Norway, Finland, Denmark and Iceland. In contrast, women are still least represented in the **Arab States**, where the regional average in lower houses is less than 10%.

(Source: Inter-Parliamentary Union. 2006. *Women in Politics: 60 Years in Retrospect.*)

Women's political participation						
	Year of woman received right to vote	Year of woman received right to stand for election	Year first women elected for parliament	Women in government at ministerial level (% of total) 2009	Seats in Parliament – lower house 2011	Seats in Parliament – upper house 2011
Australia	1902, 1962	1902, 1962	1943	24.0	24.7	35.5
Austria	1918	1918	1919	38.0	27.9	29.5
Burkina Faso	1958	1958	1978	14.0	15.3	
China	1949	1949	1954	9.0	21.3	
Cuba	1934	1934	1940	19.0	43.2	
Georgia	1918, 1921	1918, 1921	1992	18.0	6.5	
Germany	1918	1918	1919	33.0	32.8	21.7
India	1950	1950	1952	10.0	10.8	10.3
Mali	1956	1956	1959	23.0	10.2	
Sweden	1862,1921	1862,1921	1921	48.0	45.0	
United Kingdom	1918, 1928	1918, 1928	1918	23.0	22.0	20.1
United States	1920, 1965	1788*	1917	24.0	16.8	17.0
Zimbabwe	1919, 1957	1919, 1978	1980	16.0	15.0	24.2

* No information is available on the year all women received the right to stand for election. The constitution does not mention gender with regard to this right.

(Sources: UNDP. 2005. *Human Development Report 2005.*; UNDP. 2009. *Human Development Report 2009.*; Inter-Parliamentary Union. 2012. *Women in National Parliaments.*)

Women in Parliament 1945- 2011									
Year	1945	1955	1965	1975	1985	1995	2000	2005	2012
Number of Parliaments	26	61	94	115	136	176	177	185	
% women representatives (lower house)	3.0	7.5	8.1	10.9	12.0	11.6	13.4	16.4	19.9
% women representatives (upper house)	2.2	7.7	9.3	10.5	12.7	9.4	10.7	15.0	18.2
(Sources: Inter-Parliamentary Union. 2006. *Women in Politics: 60 Years in Retrospect.*; Inter-Parliamentary Union. 2012. *Women in National Parliaments.*)									

☺☞ *Human Rights of Women*

Democr@cy Online

When the use of the internet began to spread in the mid-1990s, some obervers saw the dawn of a world where everybody could participate in political decision-making processes by making use of online communication, a world closer to Greek ideals of democracy than ever before. In reality, however, this vision has not come true yet.

Availability of internet access is no substitute for democratic structures and does not by itself create political awareness – but it still has its advantages. Information can be searched and retrieved worldwide in real time and, importantly, it can be exchanged and used for creating informal organisational structures. Take the US presidential elections in 2000 as an example. In some states (the so-called "*swing states*") the result of the elections was completely open. The critical factor was the number of votes for the Green Party's candidate Ralph Nader. Nader himself had no chance of being elected for president, and, when asked afterwards, a majority of people who had voted for Nader would have preferred the Democrats' candidate Al Gore to the Republican George Bush. This led to the strange situation that in all swing states, Nader voters involuntarily contributed to enhancing the chances of George Bush. To avoid this effect in ensuing elec-

tions, some promoted the noteworthy idea to create internet sites based on software that would allow citizens to exchange their votes. A Nader voter from a swing state could swap his vote with a Gore voter living in a Bush state; the Nader voter would then vote for Gore in a state where he had a real chance of winning, while the Gore voter would vote Nader in a state where the Gore vote would have no impact at all. Although possibly complicated, the idea of "vote-swapping" is a good example for new democratic potentials unlocked by informal civic organisation.

This is far from being the only example. The activities of NGOs all over the world have increased dramatically due to online communication establishing links between movements in all parts of the world. Campaigns can reach more people than ever before, mobilising new forms of issue-oriented cooperation across borders. Totalitarian regimes have only limited means to prohibit the exchange of "revolutionary" ideas online. Individuals can express their opinion more easily and make it widely available, thus finding support by like-minded people.

There are new potentials for democracy, but there are also new risks.

At present, approximately 1.3 billion people around the world are familiar with the use

of the internet; nearly 5 billion are not, or not adequately. The so-called **digital divide** between developed and developing countries (as well as between urban and rural areas within developed countries) has a serious impact on the democratic potential of the internet. If a major part of the population is computer illiterate, it can not easily, or can not at all, participate in online activities.

Democratic challenges are not only about ensuring access but also about contents. For example, the highly racist US-based Ku-Klux-Klan claims that since it has online presence, the number of its members has risen considerably. In France, the internet portal "Yahoo!" was sued for offering neo-Nazi memorabilia on its auction sites – but the offers were made in the US, where this behaviour is not illegal. "Yahoo!" has later declared its readiness to monitor and prohibit such activities on a voluntary basis.

Democracy is a complex process. The internet can be a medium to facilitate communication but it will never be a substitute for a lack of active engagement and personal commitment in the offline world.

☺☞ *Freedom of Expression and*
    Freedom of the Media

Globalisation and Democracy

Traditionally, political participation has its demarcation line at national boundaries, and decisions affecting peoples' lives are made with regard to specific territories.

In the age of globalisation, many decisions and their outcomes stretch beyond national frontiers. Furthermore, new global players such as multinational companies and international organisations are responsible for far-reaching socio-economic changes in our world.

The threat to democracy in a globalising world, where decision-making is often in the hands of trans-national economic forces or powerful undemocratic institutions, is responded to by one of the broadest international social movements of recent times – the **anti-globalisation movement**. Anti-globalisation adherents stand up for a variety of purposes including protection of the environment, debt relief, animal rights, the protection of children, anti-capitalism, peace, and human rights. What they have in common is the feeling that the globalised world lacks democratic fora.

The movement's key mode of campaigning is mass demonstrations. It first caught the attention of the international media in 1999 when 100.000 demonstrators disrupted the opening ceremony of the World Trade Organization's (WTO) third Ministerial Meeting in Seattle. Thereafter, similar protests have occurred at meetings of the World Bank and the International Monetary Fund (IMF) in Washington, D.C., the World Economic Forum in Davos (Switzerland), as well as at European Union and G8 summits in various cities.

While the majority of protesters are non-violent, there is a camp of radical protesters who misuse such demonstrations to actively incite violence. They turn away the focus from the movement's agenda by drawing the main attention of the media on themselves, which many think is unfortunate. Therefore, in February 2001, activists organised the first **World Social Forum** (WSF) in Porto Alegre, Brazil, as an alternative to explosive mass demonstrations. The Forum, which since then has become an annual event, defines itself as "*an open space and process – plural, diverse, non-governmental and non-partisan – that stimulates a decentralized debate, reflection, proposal building, experiences exchange and alliances among movements and organizations engaged in concrete actions towards a more solidary, democratic and fair world*".

By exercising their right of assembly, concerned citizens and non-governmental or-

ganisations from various backgrounds have triggered a public debate on democratic global governance, the "humanisation" of international economic relations and the participation of civil society in international institutions. The movement calls attention to the constant danger of economic liberalism undermining its own basis in human rights by deriding the importance of economic, social and cultural rights.

Even though changing the scenery in which international decision-making takes place is a complicated and long-term process, global players increasingly have to give account on their actions due to increased public attention and are forced to engage themselves with new ways of democratic representation, transparency and accountability.

☺☞ *Freedom from Poverty*
   Right to Work

Democratic Deficits in International Organisations, Multi-national Corporations and Non-governmental Organisations

The role of states on the national, regional and global level is changing. International organisations, multi-national corporations (MNCs) and non-governmental organisations (NGOs) have entered the scene as important actors in politics. Their decisions and agendas affect the policies of states and the lives

"My notion of democracy is that under it the weakest should have the same opportunity as the strongest."

Mahatma Gandhi. 1948.

of millions of people. Therefore, one of the key questions which needs to be answered is: How democratic/undemocratic are these (non-state) actors? Finding an answer to this question means exploring practices and policies as well as decision-making processes of international organisations, MNCs and NGOs and assessing whether the main principles of democracy – accountability, legitimacy, participation, representativeness and transparency – are fulfilled. Proposals for democratising these actors are widely discussed. Examples include: a reform of the UN Security Council; the creation of a Global Peoples Assembly; a more democratic and transparent decision-making system for the WTO, IMF and World Bank; and introducing Codes of Conduct and Codes of Ethics for NGOs and MNCs.

SELECTED ACTIVITITES

ACTIVITY I: YES, NO, OR SOMETHING IN BETWEEN?

Part I: Introduction

In this activity participants can learn how many different, yet justified and accepted opinions can exist in a democracy.

Part II: General Information

Type of activity: Sociometric positioning
Aims and objectives: Accepting different opinions, developing tolerance and respect
Target group: Young adults and adults
Group size: Any
Time: 60 minutes
Materials: Paper and colour pens to prepare the signs, tape, paper and pens for making notes
Preparation: Make two signs, "Agree" and "Disagree" and tape them onto either end of a long wall or to the floor.
Place two chairs in the centre of the room, leaving space around them in order to allow people to move around.
Skills Involved: Communicating, cooperating, expressing different points of view on an issue, respecting other opinions.

Part III: Specific Information on the Activity

Instruction:
Point out the two signs at either end of the wall/floor and explain that you are going to read out statements with which the participants may agree to a greater or lesser extent. Tell participants to position themselves along the wall between the two signs according to the degree to which they agree or disagree. Read the first statement from the list below out to the group. When people have positioned themselves ask them to reflect their position in relation to their colleagues' positions and invite them to explain why they stand at the chosen position. Participants are allowed to change their position when convinced by others' arguments but intensive discussions should be kept until the feedback session. Repeat the procedure for the other statements on the list.

Feedback:
Bring the group back in the plenary for the feedback session. Ask participants to talk about their emotions during the activity, especially when they had taken extreme positions or changed their positions. Then move on to reflect on the reasons for regarding a pluralist society as a high value. How to handle different opinions? Do we have to accept dissenting opinions? Why do people hold different opinions? Is this acceptable or should something be done about it in a democratic society? Should *all* opinions be tolerated in a democracy? Which opinions can be considered as being extremistic?

Tips for variation:
You can raise the issue of whether "pluralism" or freedom of expression should be subject to any limitations in a democratic society. Should, for example, racist or nationalist demonstrations be permitted? Where and how does a democracy have to draw the line between the acceptable and the unacceptable? In this context, you can discuss the notion of "tolerance" and how people understand it.

Part IV: Follow-Up

Select pictures from newspapers and magazines that show controversial issues featuring

in a current debate. Try to cover subjects such as discrimination against certain groups (children, women, immigrants, religious groups, persons with disabilities, etc.), pollution, unemployment, poverty, oppression through the state and violations of human rights in general. Clip the pictures out and show them to the participants. Let each of them choose one picture that they can still tolerate and one they cannot tolerate anymore. Participants should give reasons why they chose those particular pictures without starting a discussion. Each participant's opinion must be respected.

Statements that may be used for the discussion:
- We have a moral obligation to use our vote in elections.
- We should obey all laws, even unfair ones.
- The only people who have any power in a democracy are politicians.
- People get the leaders they deserve.
- *"In a democracy everybody has the right to be represented, even the jerks."* (Chris Patten, British Statesman and Governor of Hong Kong)
- 51 % of a nation can establish a totalitarian regime, suppress minorities and still remain democratic.
- *"The job of a citizen is to keep his mouth open."* (Günter Grass, writer, Nobel laureate)
- *"The best argument against democracy is a five minute conversation with the average voter."* (Winston Churchill, British Statesman and Author)

Note: You can find other statements related to any other human right. The statements should be formulated in such a way that they provoke the expression of different opinions.

Related rights/Further areas of exploration:
Freedom of expression and Freedom of the Media

(Sources: Adapted from: Council of Europe. 2002. *Compass - A Manual on Human Rights Education with Young People.*; Susanne Ulrich. 2000. *Achtung (+) Toleranz - Wege demokratischer Konfliktlösung.*)

ACTIVITY II: A MINARET IN OUR COMMUNITY?

Part I: Introduction
This activity simulates an open council-assembly in your community or a fictitious small village. In the scenario diverse interests and concerns of different societal and political movements collide over a so-called "hot topic". The press is attending and documenting the meeting.

Part II: General Information
Type of activity: Simulation game
Aims and objectives: Experiencing processes in a community; identifying and understanding political contexts and mechanisms; elaborating on and putting forward different viewpoints; identifying the limits of democratic and respectful behaviour; fostering sympathy for all sides that are party to a conflict.
Target group: Young adults and adults
Group size: 15-30
Time: 120 to 180 minutes
Preparation: Sheets of paper for name tags, a flip chart and paper, bell and watch for the mayor
Skills involved: Communicating, co-operating, expressing different points of view on the issue, respecting other opinions.

Part III: Specific Information on the Activity
Instructions:
Start introducing the activity by explaining the fictitious situation that the group will be taking part in: The intended construction of a minaret is moving your community. At short notice, an open community council is called to decide upon the claim of the Islamic com-

munity to build the minaret in its full height, which would be higher than the steeple of the church.

List on the flip chart the different roles you are going to allot to the participants. The following people can take part in an open council:

- The mayor of the community to chair the assembly;
- Town council members (3-5 persons) representing different parties;
- Members of the working group "For one world – against xenophobia" (3-6 persons);
- Members of the citizens' action committee "Welcome to our lovely village!" (3-5 persons);
- Members of the Islamic Community (3-5 persons);
- The press: Journalists of two local newspapers with opposite political approaches (1-2 persons each);
- Citizens who are going to take part in the assembly (if there are enough participants).

Note that the better you describe the diverse characters, the more effective the simulation will be. If you wish, you can write down some characteristics of the different people on the flipchart. Try to establish a set of roles that consists of a variety of contrasting characters in order to stimulate a better discussion.

Now sketch out a timetable: Before the actual simulation starts, participants will develop their personality and write it down in keywords (about 15 minutes). All participants have to stick to their assigned roles and mitigate their own positions.

Simulation:
Phase 1: Preparation (20 minutes)
Ask the participants to get together in the groups they have chosen. If possible, they should all be able to leave the classroom and

have enough space to be on their own. The characters shall get to know one another and decide and prepare their strategy for the open council. The press starts editing their newspapers and takes first interviews. During this phase you prepare the classroom for the meeting: The groups should be placed at four different tables. Nametags are put onto each table. The mayor should be seated in an elevated position and has a bell and a watch on his/her table. Explain the rules of procedure separately during the meeting to the person simulating the mayor.

Phase 2: Open Council Meeting (45 minutes)
The mayor is the head and chair of the assembly and opens the meeting with a small speech to introduce the topic and welcome the participants. Her/his main task is to moderate the meeting. The groups are successively asked to give their opinions and objectives. The prepared role-profiles should be their guidelines. Then, the mayor calls to the poll to decide if permission shall be granted to the Islamic Community for the construction of a full-size minaret.

Phase 3: Feedback (45 minutes)
Bring the participants back into a circle which enables a discussion and start the feedback round by greeting everybody by their real names. This is particularly important to allow the participants to give up the roles they performed and get back to behaving as their normal selves.

On the personal level, ask the participants:

- Does the result of the simulation reflect the objective of your role?
- How much influence did you (in your role) have on the result?
- Did interaction with the others necessitate changes in your strategy?

Try to avoid a pursuit of the simulation and to stick to the reflection itself.

To analyse the simulation in comparison to a real-life open council, ask:

- Was it easy or difficult to identify with your role?
- How close was the simulation to a real-life situation?

Methodological hints:

If possible, you should do this activity together with another trainer in order to be able to answer questions and to co-ordinate each step of the activity at the same time. When assigning the roles, note that the role of the mayor is highly demanding as it structures the course of the simulation. You should therefore go through the task with the participant playing the mayor before the simulation. Note that it is still you who leads the activity and that it might be necessary to intervene in the course of the simulation if participants start disrespecting each other. Also, interrupt if the simulation gets out of control (invention of new facts, changing of the topic). If the open council does not come to an agreement, point out that this can reflect a result in real life and does not mean that the activity has failed.

Tips for variation:

Depending on your community context, you can and should change the topic to "A Church in our Community" or a "Buddhist Temple in our Community" instead of a minaret.

Part IV: Follow-up:

If available, the persons representing the role of "the press" in the simulation could record or film the open council meeting and use this documentation as a basis for an analysis of the discussion and its rules one day later.

In an approach to the topic of local democracy in different environments, the participants can take a look into their own surroundings, find real-life cases and document them. Their results could be displayed in a map or a small exhibition.

Related rights/further areas of exploration:

Non-Discrimination, religious freedoms, freedom of expression and freedom of the media (Source: Adapted from: Susanne Ulrich. 2000. *Achtung (+) Toleranz - Wege demokratischer Konfliktlösung.*)

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ADDITIONAL INFORMATION

Bretton Woods Project:
www.brettonwoodsproject.org

Council of Europe, Education for Democratic Citizenship: www.coe.int/edc

Democracy Coalition Project:
www.demcoalition.org

Foreign Policy in Focus:
www.foreignpolicy-infocus.org

Freedom House: www.freedomhouse.org

International Institute for Democracy and Electoral Assistance (IDEA): www.idea.int

International Network "Education for Democracy, Human Rights and Tolerance": www.tolerance-net.org

Inspection Panel of the World Bank:
www.inspectionpanel.org
Inter-Parliamentary Union: www.ipu.org

One World Trust: www.oneworldtrust.org

Open Society Foundation: www.soros.org

United Nations: www.un.org

United Nations Development Programme:
www.undp.org

World Bank: www.worldbank.org

World Trade Organization: www.wto.org

MINORITY RIGHTS

RIGHTS OF MINORITIES AND INDIGENOUS PEOPLE

INDIVIDUAL AND COLLECTIVE RIGHTS

NON-DISCRIMINATION AND AFFIRMATIVE ACTION

AUTONOMY AND INTEGRATION

ETHNIC DIVERSITY AND PLURALISM

»In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.«

Article 27, International Covenant on Civil and Political Rights. 1966.

ILLUSTRATION STORY

In 2000, in the case of D.H. and Others v. the Czech Republic, eighteen Roma students who were placed in special schools for mentally and physically handicapped children in the city of Ostrava, Czech Republic, brought their case to the European Court of Human Rights (ECtHR). The pupils were represented by both local attorneys and attorneys from the European Roma Rights Centre who argued that the children had been placed in special schools with no objective justification other than their ethnic belonging to the Roma minority. In the city of Ostrava and throughout the Czech Republic the allocation of Roma children to special schools for mentally and physically handicapped children was particularly high. The probability that a Roma child would attend a special school for mentally and physically handicapped children was 27 times higher than in the case of non-Roma children. Thus, the ECtHR was asked to examine whether the disproportionately high placement of Roma pupils in "special schools" constituted a violation of the European Convention of Human Rights.

In 2007, the Grand Chamber of the ECtHR issued the final judgment – a landmark decision in which the Court found that the exceptionally high concentration of Roma pupils in schools for mentally and physically handicapped children violated the right to education in conjunction with the prohibition of discrimination (as laid down in Article 2 of Protocol 1 and Article 14 of the European Convention on Human Rights). The judgment is of crucial importance, as the ECtHR considered a nationwide pattern of discrimination and, for the first time explicitly recognised by name the concept of indirect discrimination. In addition, the Court took into considera-tion statistical data provided by the Advisory Committee (i.e. the monitoring body under the Council of Europe's Framework Convention for the Protection of National Minorities) which revealed that approximately 70% of all Roma children in the Czech Republic were taught in schools for mentally and physically handicapped children. The Czech government was unable to invalidate these arguments. Thus, the ECtHR found that the provisions of the European Convention on Human Rights had been violated.

(Sources: European Court of Human Rights. 2007. *D.H. and Others v. the Czech Republic, No. 57325/00 of 13 November 2007 (grand chamber)*; Jennifer Devroye. 2009. *The Case of D.H. and Others v. the Czech Republic. JIHR vol. 7/1.*)

Discussion questions
1. Which human rights had been violated?
2. Why did the ECtHR find that the provisions of the European Convention on Human Rights had been violated?
3. Regarding which aspects were the Roma pupils discriminated against?
4. Why is the judgement of importance for minority rights in general?

☞ *Right to Education*
   Non-Discrimination

"A country should be judged on how it treats its minorities."

Mahatma Gandhi.

NEED TO KNOW ☹‼?

1. THE STRUGGLE FOR PROTECTING MINORITY RIGHTS: THE HISTORICAL DEVELOPMENT

One may easily get the impression that human rights issues relating to minorities are a rather recent discovery and that they are mainly a concern in European policies. A closer look at the history of international law reveals a different picture. In its very beginnings, minority issues were closely linked to religious freedoms. The Treaty of Westphalia of 1648 granted rights to certain – of course not all – religious minorities. Educational freedoms of religious groups were linked to these religious rights agreed by the treaty parties. In the 17th century "minority protection" was of particular importance for religious minorities, whereas later on the focus shifted to ethnic or national minorities.

The end of **World War I** in 1918 led to the dissolution of the Ottoman Empire and the multinational Habsburg Empire. In Central Europe the principle of national self-determination emerged and new minority regulations were created. Furthermore **bilateral and multilateral peace treaties** were concluded that also contained specific provisions for the protection of minorities. After World War I, the **League of Nations** was tasked with monitoring the levels of protection afforded to minority groups. In addition, some states such as Finland or Estonia in 1921 and 1923 launched declarations for the protection of their minorities. These treaties already provided for the **right to use the minority language in private and public life** and also contained **non-discrimination clauses**. However, there was no specific human rights framework in place and the idea of group rights was disputed. Thus, after **World War II** the protection of minorities was replaced by instruments that provided for the protection of *individual* human rights and freedoms and that were based on the **principles of non-discrimination and equality**.

World War II marked an end to the minority regimes in Central Europe, which were supplanted by the communist ideology of the unity of the workers' state. Minorities were put under pressure to adapt themselves to the ideological regime culture of the communist states. After the events of 1989 and the consequent dissolution of the Soviet Empire, national and ethnic affiliation or attribution began to play an important role. National identity and the sense of belonging to an ethnic group or nation became, in some cases, the vehicle for the creation of new states or for reclaiming national independence. The protection of minorities and the recognition of their rights thus reemerged on the political agenda. Protection of minority rights became one of the conditions of membership to the Council of Europe. The European Union required the protection of minorities as a condition for diplomatic relations between the Union and the newly established states.

At the end of the twentieth century, a number of ambitious international instruments underlined the importance of minority issues for the **human rights agenda**. The focus was primarily on the protection of minority interests through the **rule of law**. Various documents underline the importance of (legal) pluralism, such as the **OSCE documents**, the **European Charter for Regional or Minority Languages** (ECRML) or the **European Framework Convention for the Protection of**

National Minorities. The inclusion of minority rights protection in the **UN Convention on the Rights of the Child** is an example for a reformulated focus on human rights concerns.

Today, minority rights are an integral part of international law and are grounded in provisions that aim to protect and promote minorities, their culture and traditions. The recent attention for minority issues, such as the protection of Roma rights, indigenous peoples and other minorities and peoples, shows that minority issues are being highly prioritised. Theodore Orlin remarks: "*With this attention there appeared to be a newly found commitment to the use of human rights law and policy that would attempt to redress the wrongs imposed on minorities for centuries.*"

As demonstrated by the above mentioned example on the restricted educational possibilities of pupils belonging to the Roma minority, there remains a lot to be done on a practical level in order to make minority rights a reality for members of minorities. Serious violations of the core rights of persons belonging to ethnic, linguistic or religious minorities still persist and some states do not even acknowledge the existence of minorities on their territory. However, there have been numerous instances in history which demonstrate that the oppression and discrimination of minorities or neglecting their legitimate concerns, can lead to tensions and serious conflicts between the majority population and minorities or between various minority groups. Ethnic cleansing, expulsion, and genocide have each been documented as consequences of discriminative and oppressive action against minorities, the UNOHCHR complains. As argued by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, "*Group*

conflicts often give rise to propaganda and to the emergence of organisations that attempt to justify discrimination based either on notions of racial superiority or the incompatibility of cultures on other grounds*". Furthermore, as concluded by the Council of Europe in its Report on Diversity and Cohesion, certain states have pursued, and some still pursue an overt assimilation policy which ultimately leads to the extinction of minorities and, thus, to cultural impoverishment.

☺☞ *Non-Discrimination*
    Human Rights of the Child

2. DEFINITION AND DESCRIPTION OF THE ISSUE

The concept of "minority" and the notion of "minority rights":

The question of what exactly is a "minority" remains unclear. Currently, there is no universally accepted definition of a "minority". This is predominantly owed to the fact that there is a great variety of examples of what could be considered a minority, which are not always comparable: Some minorities live in defined settlement areas, others are scattered throughout a whole country or even more than one country; some have a pronounced sense of collective identity based on historic events, while others have only a limited knowledge of their common heritage; some have a great degree of autonomy, whereas others are far from being considered self-governing; some have a stronger and some have a weaker desire to preserve and develop their culture and characteristic features. Therefore, states interpret the term "minority" on their own and in different ways. However, Francesco Capotorti, a former special rapporteur of the United Nations, has drawn up a definition of a "minority" which has been broadly accepted, although it is not

recognised by all states: *"A group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language."* What is common to most minority situations is the presence of a **non-dominant group** of individuals who **share certain** (national, ethnic, religious or linguistic) **characteristics** which are **different from those of the majority population** and whose members have the **will to preserve** their own characteristics and to be accepted as part of that group.

Minority rights are norms which protect national minorities in states and constitute additional rights for certain groups. The specific rights granted to minorities shall allow them to preserve their identity. Minority rights encompass the right to education in the minority language for pupils, the right to use the minority language in public and in relation to governmental services, the use of names and surnames in the minority language, the right to maintain the minority culture, the right to political participation, etc.

(Sources: Francesco Capotorti. 1979. *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities.*; United Nations Office of the High Commissioner for Human Rights (UNOHCHR). 1998. *Fact Sheet No.18 (Rev.1), Minority Rights.*)

Indigenous people and the rights of indigenous people:

Indigenous peoples are special groups among minorities. As is the case of minorities, there is no generally accepted definition of the term "indigenous peoples" in modern human rights law. In some countries terms such as "Aboriginal peoples" or "First Nations" are preferred. Two recent international human rights instruments, however, use the term "indigenous peoples". The first was the 1989 **ILO-Convention on Indigenous and Tribal People** and the second was the **UN-Declaration on the Rights of Indigenous Peoples**. The use of the term "indigenous peoples" in these instruments presupposes the existence of another dominant ethnic group. This can be within the territory of the state in question, or within an area traditionally inhabited by indigenous people. In other words, it is not sufficient that members of an ethnic group are descendants of the first known inhabitants of the state or area in question; there must be another ethnic group present and power relations involved to fulfill the legal definition of "indigenous".

Conceptual challenges: Individual and collective rights:

Minority rights are an important part of the human rights system. Human rights belong to all human beings and are primarily concerned with the rights of individuals. However, this focus on the individual lies in contrast with the aims of minority rights, i.e. identifying groups of people whose protection may require specific measures and providing norms to enhance the enjoyment of rights by groups, minorities and indigenous people.

(Source: Kenya National Commission on Human Rights and Centre for Minority Rights Development (ed.). 2006. *Report of the Round Table Meeting of Experts on Minorities and Indigenous People in Kenya.*)

The protection of minorities and indigenous people is a **cross-sectional matter,** as minority rights refer to various areas of life, where members of minorities could be denied equal treatment, for example on the labour market, in the educational system (e.g. the right to education in the mother tongue), politics (e.g. the right to effective political participa-

tion), in economy (e.g. the equal sharing of the economic wealth and of social benefits), in the administrative sphere (e.g. use of the minority language as official language before administrative authorities and courts), in the media, etc.

Minority Rights and Human Security:
Freedom from fear and freedom from want are the central goals of the human security concept. This policy compatibly overlaps with the intentions of the human rights system, pursuing a joint goal of overcoming fear and want, usually in relation to social, cultural and other vulnerabilities. It is clear that minorities, however they are defined or identify themselves, are at great risk of fear and want, as in most cases their power is limited to enforce their goals and rights against stronger groups or the responsible governments.

Many local and regional tensions and conflicts are ethnically, culturally or religiously motivated. In many cases these conflicts led to persecution and even to genocide. Persecution of minorities is not always an official governmental policy, but often an offence committed by non-state actors, sometimes tolerated by the respective authorities, sometimes promoted, and sometimes governments are too weak to protect the persecuted minorities. Prevention of and countering such tensions and conflicts are important policy measures in the human security concept of "freedom from fear".

Minorities are often exposed to "want", dependently or independently from fear. Mostly, this is a complex and multifacetted phenomenon based on insufficient access to health, education and social services, if available at all, leading to disadvantage in opportunities for earning an appropriate income; the consequences of climate change or the unlimited exploitation of the land minorities are settled on can lead to disadvantage, deprivation, and marginalisation, all of which lead to poverty.

Autonomous regions provide a good example of how the above issues have been positively addressed, as identified by the Parliamentary Assembly of the Council of Europe in its Resolution 1334 and Recommendation 1609 on the positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe in 2003. In this sense, autonomy or regional self-government can be seen as a kind of national partnership of the central power of a state and the democratically elected regional power. From this point of view, **auton-**

"The promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live."

**United Nations Declaration on the Rights of Persons
Belonging to National or Ethnic, Religious and Linguistic Minorities.** 1992.

omy or regional self-government is a useful **method of conflict prevention** in particular in regions inhabited by more than one linguistic or ethnic group.
(Source: Thomas Benedikter. 2006. *Minorities in Europe. Legal Instruments of Minority Protection in Europe - An Overview.*)

☺☞ *Freedom from Poverty*
Right to Asylum
Rule of law and Fair Trial

Autonomy and self-determination:
The idea of **self-determination** expresses the conviction that "peoples should be allowed to govern themselves" and "to determine for themselves the political status of the territory on which they live". Yet, what constitutes a people? Furthermore, the recognition of self-determination limits the territorial unit and may lead to the disruption of states. Self-determination was also a vehicle for secessionist movements and cause for violence in many cases when existing states were reluctant to concede self-government to minorities.
However, the UN Charter refers to self-determination as a principle, stating that one of the purposes of the UNO is to develop friendly relations among nations, based on the principle of self-determination of peoples. Articles 2 and 55 of the UN Charter speak of the **"principle of [...] self-determination of peoples"**. However, under international law it is not clear how the two concepts of "peoples" and of the "principle of self-determination" are to be understood. In this context the Human Rights Committee in 1984 observed that the right to self-determination is *"one of the most awkward to define since the abuse of that right could jeopardize international peace and security in giving states the impression that their territorial integrity was threat-*

ened". In fact, these concepts need to be dealt with carefully, as they may imply a **right to secession** and thus be the cause of serious national and international conflicts.

In 1994 the Federalist Union of European National Minorities (FUEN) presented a draft for a Convention on **autonomy rights of ethnic groups** in Europe. In the interpretation of the FUEN, *"Autonomy shall mean an instrument for the protection of national or ethnic minorities which, without prejudice to the territorial integrity of the state parties shall guarantee the **highest possible degree of internal self-determination** and at the same time a corresponding **minimum of dependence on the national majority**"*. According to another concept, there are three types of autonomy to be distinguished: 1. the **territorial autonomy** for the regions where a minority forms a majority of the local population, 2. the **cultural autonomy** in traditional settlement areas of a minority where this minority does not form the majority of the population, and 3. the **local autonomy** for single administrative units (i.e. in isolated settlements) where a minority forms the majority of the local population.
Another concept differentiates between two kinds of autonomies, namely **cultural and territorial autonomy**. The first concept encompasses the protection and promotion of languages, religions and customs of a minority, which usually are not limited to a defined territory, and may be scattered across large distances. Cultural autonomy enables such a minority to organise its political life by electing its own organs for self-determination. Furthermore, whenever a minority lives in a rather compact settlement area, territorial autonomy is a preferable option, as it includes the right to self-administration but also a minimum of legislative competency in a certain territory. This kind of autonomy gives minorities in a defined territory the right to

regulate issues affecting them as far as possible on their own; however, it explicitly **does not imply state sovereignty**.
(Sources: Thomas Benedikter. 2006. *Minorities in Europe. Legal Instruments of Minority Protection in Europe - An Overview.*; Jan Klabbers. 2009. *Self-Determination.*; Gabriel Toggenburg, Günther Rautz. 2010. *ABC des Minderheitenschutzes in Europa.*)

Government duties: The principles of Non-discrimination, Integration and Positive Measures:
Persons belonging to minorities are often discriminated against because they are perceived as "different". For no justifiable reasons they are treated less favourably than the majority population in comparable situations. They are often disadvantaged in their daily life, e.g. in the field of education, when looking for a job or a flat, when they go to bars or restaurants, or in the field of health care etc. **Discrimination** can take place in the political, social, cultural or economic spheres affecting those belonging to minorities in a complex variety of negative aspects.
States are obliged to respect and protect the principle of non-discrimination. Non-discrimination provisions are contained in all international and numerous regional human rights documents, such as the European Convention on Human Rights, the European Social Charter, the Framework Convention on National Minorities (Council of Europe), the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE, the American Convention on Human Rights (Organization of American States) and the African Charter on Human and Peoples' Rights (Organization of African Unity, since 2002 African Union). The EU Charter of Fundamental Rights also prohibits discrimination on the ground of "membership of a national minority". According to the EU-

MIDIS Report by the European Union Agency for Fundamental Rights of 2009, **high levels of discrimination and crime motivated by racism** persist in Europe. The results are alarming, as education and employment are commonly considered as areas constituting the key to integration and social inclusion. A further alarming result of the Report is the underreporting of negative experiences of discrimination. The same is true for victimisation, such as assaults and threats. This is due to a lack of information of vulnerable groups on anti-discrimination legislation. In addition, the analysis revealed that most respondents did not believe that the reporting or recording of instances of discrimination would have any positive consequences.
☺☞ *Non-Discrimination*

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."
Article 2 (1) of the Universal Declaration of Human Rights (UDHR)
"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."
Article 14 of the European Convention on Human Rights (ECHR)
„Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority,

property, birth, disability, age or sexual orientation shall be prohibited."
Article 21 of the Charter of Fundamental Rights of the European Union

"There is a necessity, in all States, to have a common **domain of equality and non-discrimination**. *This will unavoidably imply some degree of* **integration**. *[...] The integration should be developed on a basis of equality, with all groups, contributing their own values and cultures to shape their own common domain where the members all interact.",* as was pointed out by the UN in 1993. The concept of integration as an immigration policy was developed as an alternative option to both assimilation and segregation. **Assimilation** can be defined as a one-sided process of adaptation to the lifestyle and value systems of the host society and consequently entails a requirement that the dominant culture be accepted as superior. **Integration** policies aim at participation and equal opportunities for persons belonging to minorities and immigrants. From this perspective it is vital to promote all areas of social integration including the labour market, education, cultural aspects, as well as legal integration. Another central aspect is participation in public life by virtue of certain civic rights and civic duties.
(Source: United Nations. 1993. *Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities.*)

Positive action is needed in order to compensate historic disadvantages of minorities and to ***actively* protect and promote** minorities and their unique culture. Persons belonging to minorities need to be given the opportunity to make their contribution to a culturally diverse society.

"Protection of minorities includes both protection from discrimination and protection against assimilation."

John Humphries.

Originally it was considered that the effective implementation of the principle of non-discrimination would make special provisions for the rights of minorities redundant. However, very soon it became obvious that the **protection of individuals from discrimination** is **not sufficient** for the effective protection and promotion of minorities. **Active measures** are required **to protect and promote minorities**. Theses "special" rights are not privileges but instead seek to provide minority members with the chance to achieve the same living conditions as the majority population. Furthermore, minority rights should guarantee minorities the preservation of their identity. This position was adopted by the UN Office of the High Commissioner for Human Rights: *"Differences in the treatment of such groups, or individuals belonging to them, are justified if they are exercised to promote effective equality and the welfare of the community as a whole. This form of affirmative action may have to be sustained over a prolonged period in order to enable minority groups to benefit from society on an equal footing with the majority."*
☺☞ *Non-Discrimination*

International human rights instruments for the protection of minorities: Numerous **international** and **regional human rights instruments** include **special rights** for the protection of persons belonging to minorities. The key provision in inter-

national human rights law is Article 27 of the International Covenant on Civil and Political Rights (ICCPR), which reads as follows:

„In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.“

This Article is the most widely accepted legally binding provision for the protection and promotion of minorities. It grants minority members **the right to national, ethnic, religious or linguistic identity** (or a combination thereof), and the **right to preserve the characteristics they wish to maintain and develop**. Importantly, the **official recognition** of a minority by a state is no precondition for the state's obligation to their protection, as clarified by the UN Office of the High Commissioner for Human Rights. Although states are not required to adopt any special measures, states parties to the ICCPR must ensure that all individuals under their jurisdiction enjoy their rights.

Does this provision include the protection of **indigenous peoples**? The General Comments and recommendations of the **UN Human Rights Committee (HRC)** provide insight as to the meaning of "peoples" upon whom "minority protection" needs to be asserted as a numerically inferior group or as an "ethnic" or "linguistic" minority under Article 27 of the ICCPR. Cases like *Lovelace v. Canada*, *Lubicon Lake Band v. Canada*, and *Kitok v. Sweden* are illustrative of the fact that the Committee, as in the case of Sami rights, bases the protection of the culture of an indigenous people as a minority threatened by the state's majority culture on Article 27 of the ICCPR. The Committee's decisions provide the human rights educator with an opportunity to explain how human rights law

deals with competing interests that are often involved in disputes among minorities and the states parties who commit themselves to the obligations of the ICCPR, but have economic, administrative and/or other interests which may be in conflict with the rights of minorities.

(Source: Theodore Orlin. 2009. *Minorities and Human Rights Education. Human Rights Law as a Paradigm for the Protection and Advancement of Minority Education in Europe.*)

The **United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities** adopted by the UN General Assembly in 1992 is the only document dealing with special rights of minorities in a separate United Nations document. It guarantees the right to one's own cultural and religious identity for persons belonging to minorities, including the right to assembly as well as full participation in society as a whole. The Declaration also requires states to take measures to protect and promote rights including the obligation to establish favourable conditions to learn and exercise their culture, language and religion, take action for economic progress and access to the welfare system of the respective country and, additionally, to facilitate cooperation with other states in this respect.

Regional human rights documents for the protection of minorities: In addition to the above mentioned instruments at international level, there are **regional human rights treaties** and other documents, such as the

• European Convention on Human Rights,
• European Social Charter,

"States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law."

Article 4 (1) of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. 1992.

- Charter of Fundamental Rights of the European Union,
- Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE,
- American Convention on Human Rights, and
- African Charter on Human and People's Rights,

all of which aim to protect human rights and contribute to the protection of minorities. As minority conflicts can have negative effects on the relations between states, these regional instruments play an important role in the protection of international peace and stability. They promote the existence and identity of minority groups and have a standard-setting function.

In its membership criteria (**Copenhagen Criteria**) adopted in 1993, the European Union (EU) has included the implementation of minority rights standards as precondition for the accession of new member states. In 2007 the protection of minorities was expressly manifested in the **Treaty of Lisbon,** amending the Treaty on the European Union and the Treaty establishing the European Community.

The Decade for Roma Inclusion:

The Roma are the largest and poorest minority in Europe since the EU enlargement in 2004. The total population of Roma in Europe is estimated at 7 to 13 million. They represent approximately 2% of EU's population.

The Roma are a significantly young population, with a high proportion under the age of 15. As a result of such a young demographical profile, the Roma represent the future for many countries in Central and Eastern Europe, thus their potential as well as their culture and history should not be overlooked by their host states.

The challenge for the economic and social development of the Roma is one of the crucial questions on the agenda for the countries of Central and Eastern Europe in particular, as well as other EU countries and the EU as a whole.

Poverty within this minority is manifold, starting from the low educational level, inconvenient housing, poor health status and high levels of unemployment. The situation does not differ even in the most prosperous countries. The poverty of the Roma is much higher than in any other group and is based on numerous accumulated factors relating to history, tradition and their permanent social exclusion, the effects of which are negatively manifest in their lack of access to education, to public services, employ-

ment, housing, health care, etc. and call for implementing policies to tackle discrimination and dependence, both of which perpetuate poverty.

In order to accelerate progress toward improving the economic and social situation of Roma, the international initiative **Decade for Roma Inclusion (2005-2015)** has been introduced. The Decade is tightly linked to the Millennium Development Goals and the EU Social Inclusion Policy, and particularly focuses on education, employment, health, and housing. Currently twelve European Countries with significant Roma minorities take part in the Decade, all of which have developed a national Decade Action Plan which includes:

- setting up clear and measurable national goals for improving the economic and social situation of Roma and creating an information database for measuring the progress in fulfilling these goals;
- preparing national action plans to accomplish these goals;
- regular monitoring of the progress and adjusting the action plans according to particular needs.

(Source: Mabera Kamberi. 2005. *Decade of Roma Inclusion 2005-2015*.)

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

"Old" and "new" minorities, the criterion of citizenship:

As discussed in the previous chapters, there is no general consensus of what constitutes a minority. Two groups of definitions can be distinguished. Firstly, there are those stating that minorities are exclusively **citizens** of the country in which they reside, who have historical, well-established and long ties with the country and are in a minority situation (the so-called **"old" or "historical" national minorities**). Secondly, there are those which assert that **citizenship is not a prerequisite** for the constitution of a minority (so-called **"new minorities"**). This makes a considerable difference on a practical level because the predominant reason for the establishment of minorities lies in large-scale human migration due to wars, persecution, economic difficulties and more increasingly also due to climate change. These movements may be enforced or voluntary, but all may lead to the emergence of sometimes large (new) minorities.

Reading General Comment No. 23 on Article 27 of the ICCPR it becomes clear that non-citizens can constitute minorities: "*The terms used in article 27 indicate that the persons designed to be protected are those who belong to a group and who share in common a culture, a religion and/or a language. Those terms also indicate that the individuals designed to be protected need not be citizens of the State party. In this regard, the obligations deriving from article 2.1 are also relevant, since a State party is required under that article to ensure that the rights protected under the Covenant are available to all individuals within its territory and subject to its jurisdiction, except rights which are expressly made to apply to citizens, for example, political rights under article 25. A State party may not, therefore, restrict the rights under article 27 to its citizens alone.*" The commentary to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992, adopted in 2005 by the UN Working Group on Minorities, expressly draws on the approach taken by the UN Hu-

man Rights Committee by stating: "*Persons who are not (yet) citizens of the country in which they reside can form part of or belong to a minority in that country.*"

Based on these considerations, in general, persons belonging to a minority need not have citizenship for the enjoyment of both, human rights as well as minority rights. The one major exception concerns political rights, in terms of running for an office and voting in elections, at least at the national level. Several governments in Europe argue that only groups composed of citizens within the state concerned qualify for the minority characterisation with reference to the term "national minority" at the regional level. This is not a convincing argument because of the wider UN standards on minority rights that all the European states have ratified. The pressure is on European states and their intergovernmental, standard-setting organisations, like the Council of Europe and the OSCE, to revise their approaches.

The Council of Europe states that as a result of immigration, there are considerable numbers of immigrants of common backgrounds in many European countries. In some countries these groups are referred to as new, ethnic, or visible minorities, and are commonly known as allochthonous minorities. According to the Council of Europe, allochthonous minorities share with autochthonous minorities and indigenous people that they "*distinguish themselves from the majority or dominant groups in society in terms of ethnic or national origin, culture, language, religion or skin colour*".

Immigrants and minorities mostly have different backgrounds. Historic minorities often do not have a recent migratory history, but form long-established communities within states. They are thus able to claim recognition of their language, specific political representation and, in cases of indigenous populations, land rights. For those immigrant groups, who still feel part of the culture of their country of origin, cultural and language matters are considered policy issues rather than granted rights. According to the Council of Europe, immigrants seek participation in mainstream institutions and do not require the specific political representation as exists for national minorities, nor do they have claims on land of the host country, as indigenous peoples may have.

Immigrants and (national) minorities have many characteristics in common and policies relating to them often concern similar matters. Minorities may have a migratory background and violations of minority rights may lead to forced migration. The question arises, after how much time a group can be considered to have become historically bound to the territory where it has settled, i.e. how much time must pass before a "new" (allochthonous) minority can become an "old" (autochthonous) minority group. The most important criteria are the elements of **citizenship** and **belonging to a minority** group that has **been living in a certain territory for at least three generations**. Citizenship as a constitutive element of the minority concept is the basis of a (disputed) differentiation between so-called "old" and "new minorities". (Sources: Council of Europe (ed.). 2000. *Diversity and Cohesion. New Challenges for the Integration of Immigrants and Minorities.*; Gabriel Toggenburg, Günther Rautz. 2010. *ABC des Minderheitenschutzes in Europa.*)

It took some time before governments of countries that became de facto countries of immigration realised the need to integrate immigrants into the receiving society. The Council of Europe reflected that "*in most of these countries, **integration policies** have been implemented and considerable experience gained as to how these policies work out in practice.*

"The fundamental challenge for pluralistic societies in Europe is to ensure that minorities participate on an equal basis in the exercise of power.
If minorities have limited access to, or are excluded from the exercise of power, this violates the principles of democracy and human rights and creates a society based on ethnic domination and subordination."

European Commission against Racism and Intolerance. 2001.

In all of these countries, similar mechanisms have been adopted, including the securing of legal residence rights, measures to facilitate equal access to employment, housing, education and political decision-making; naturalisation and citizenship policies; and efforts to combat discrimination, racism and xenophobia. Integration policies are often based on varying political philosophies and traditions in older immigration countries, with regular adaptations to respond to changing situations within their receiving societies. […] Policy debates often focus on the problematic aspects of integration and on devising mechanisms to remove barriers to it. A new debate is emerging, however, that highlights the contribution of immigrants and minorities to society, and which values the fact that people are of different backgrounds and have multiple and diverse identities."

What is often disregarded in these debates is the dynamic element in the development of minority groups. While all members of the group share their ethnic origin, some members are naturalised and some are not, some are recent immigrants, while some are born in the country as a second or third generation, some have tight relations to their society of origin, while others have almost lost all connections.

Discussion questions

1. If individual rights are protected, is there still a need for group rights?
2. Why is it so difficult to find appropriate (legal) definitions of what a minority is?
3. What could be the reasons for dealing with indigenous people separately from minorities in international human rights law?
4. Why differentiate between "old" and "new" minorities?
5. It is often argued that positive measures for the promotion of members of a minority discriminate against other persons. Is this correct? Under which conditions is "positive discrimination" necessary, acceptable or unacceptable?

4. IMPLEMENTATION AND MONITORING

United Nations:
There are various human rights treaty bodies that **monitor the implementation** of minority rights (among others) as laid down in

the international human rights treaties. They monitor the progress done by states in fulfilling their obligations and observe if domestic legal provisions, as well as administrative and legal practice are in line with these obligations.

The most important committees with respect to the implementation of minority rights are:

- the **Human Rights Committee** (that monitors the implementation of the ICCPR),
- the **Committee on Economic, Social and Cultural Rights** (that monitors the implementation of the ICESCR),
- the **International Committee on the Elimination of Racial Discrimination** (that monitors the implementation of ICERD) and
- the **Committee on the Rights of the Child** (that monitors the implementation of the CRC).

In addition, **early warning mechanisms** have been established aiming at preventing the escalation of tensions which are, inter alia, ethnically or religiously motivated, or motivated by racism, into conflicts. With regard to early warning mechanisms concerning minorities, the **UN High Commissioner for Human Rights** and the **UN Committee on the Elimination of Racial Discrimination** (CERD) are worth mentioning. The goal of the High Commissioner is to prevent the continuation of human rights abuses through mediation, diplomacy and the encouragement of dialogue, while the early warning mechanism of the CERD aims at directing attention to situations with particularly high levels of racist discrimination.

Organization for Security and Co-operation in Europe (OSCE):
The Helsinki Accords and subsequent OSCE documents including the Document of the Copenhagen Meeting of 1990, the Charter of Paris for a New Europe 1990, and the Document of the Moscow Meeting 1991 made democracy, pluralism and the rule of law normative principles for Europe. These legally non-binding documents created a governmental consensus for OSCE members for the protection of minorities. The Document of the Copenhagen Meeting of 1990, often considered a "European Charter of Minorities", reflects in its provisions an apparent political consensus. However, an emerging political tendency to call for nationalistic agendas remains to be a concern for minority protection. For this reason the OSCE instruments continue to be relevant for the relationship among the OSCE member states.
(Source: Theodore Orlin. 2009. *Minorities and Human Rights Education. Human Rights Law as a Paradigm for the Protection and Advancement of Minority Education in Europe.*)
The work of the **OSCE High Commissioner on National Minorities (HCNM)** was successful in dealing with some of the many minority conflicts, although many of the problems are still not resolved to the satisfaction of the conflicting parties. The HCNM's mandate is based on three main principles which are impartiality, confidentiality and co-operation, and operates primarily to prevent and solve tensions and conflicts. Its central function is to provide an "early warning" and, in case this is necessary, "early action" concerning tensions involving minorities. Thus, the HCNM pursues a **security-oriented approach**. His/her recommendations are neither legally nor politically binding; their impact is solely based on the institutional and personal authority and on the support of the participating states and international organisations.

On the basis of his/her mandate, the HCNM collects and receives information on minority issues from a number of sources, e.g. from the parties concerned, the media, NGOs, etc. In addition, the HCNM can visit any participating state and communicate with the parties involved in order to collect information and assess the situation. The Commissioner can also promote dialogue, and mutual confidence and co-operation among the parties.

Council of Europe (CoE):
The **European Charter for Regional or Minority Languages (ECRML**) and the **Framework Convention for the Protection of National Minorities (FCNM)** are two legally binding regional treaties which were drafted under the auspices of the Council of Europe.

The **European Charter for Regional or Minority Languages** of 1992 is an important step towards the protection and promotion of the use of minority languages both, in private and also in public life. It is a dynamic instrument, establishing a reporting system which also serves as a monitoring instrument among the ratifying states. The Committee of Experts periodically reviews the state reports. Theodore Orlin very positively assesses the impact of the ECRML, when stating: "*Once again the experience of past and the complexities of the present have encouraged, via the rule of law expressed in a treaty, to protect a core element of minority culture; the traditional languages that have been challenged by minority cultures*". Other authors have praised the work of the ECRML as it has had more effect than initially expected. At the beginning of its development most professional observers were rather sceptical towards its possible positive impact. The process of achieving this change in the mentality of national politicians, bureaucrats and the majority population may be a rather slow and hard process. However, international multilateral treaties and the legal obligations arising thereof can significantly contribute to the achievement of better standards for those belonging to minorities, as states need to comply with the obligations imposed by international legal instruments, and justify their actions and non-implementation of the obligations they assumed. Additionally, a series of working instruments have been established, containing specific recommendations to governments, statements issued by the HCNM, workshops and projects aimed at regulating interethnic conflicts, and general recommendations (e.g. the "Hague Recommendations" concerning the rights of minorities in the field of education, the "Oslo Recommendations" concerning the linguistic rights of minorities and the "Lund Recommendation" on the effective participation of minorities in public life).

"[…] participating States on whose territory national minorities exist will respect the rights of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere."

Conference for Security and Co-operation in Europe, Helsinki Final Act. 1975.

The **Framework Convention for the Protection of National Minorities** of 1995 is the most recent effort in minority rights protection. This ambitious treaty seeks to protect minorities from assimilation, nationalism or ethno-centrism by the societies and states they live in. It is the first **legally binding** multilateral document completely dedicated to the protection of national minorities. Like the ECRML, the FCNM is open also to non-members of the Council of Europe. However, the Convention has been criticised for not providing a common definition of "minority", and allowing for state parties to define the meaning of "minority" on their own.

Thanks to these two instruments of the Council of Europe, an "unbroken multiparty dialogue" exists between the monitoring commission of the Council of Europe, national government authorities, NGOs, minority members and their representatives. In this context it is important to highlight that one key element in intercommunity relations is the **prevailing atmosphere**, which includes the extent to which different communities and sectors of society are in **substantial dialogue** on difficult issues, and whether there are **serious attempts to seek common ground**. According to the Council of Europe, the process of alternative reports, consultations by governments, meetings during visits, state comments and follow-up meetings within the monitoring process have all helped in this regard.

(Sources: Theodore Orlin. 2009. *Minorities and Human Rights Education. Human Rights Law as a Paradigm for the Protection and Advancement of Minority Education in Europe.*; Patrick Thornberry, María Estébanez. 2004. *Minority rights in Europe. A review of the work and standards of the Council of Europe.*)

At the European level, the jurisprudence of the **European Court of Human Rights** (ECtHR) is of relevance for minorities. Despite the fact that the European Convention on Human Rights (ECHR) does not contain a specific provision for the protection of minorities, the standards of the Convention and their interpretation by the Court are of relevance for the rights of minorities and minority issues. The Court has only recently begun to deliver many decisions clarifying the impact of human rights instruments on instances of minority discrimination. The Court must particularly balance competing rights, such as the (excessive) use of the freedom of expression, freedom of religion and the right to non-discrimination, in order to ensure the respect of the inherent dignity of minorities. However, it might take years for minority groups to have their domestic legal remedies exhausted in order to be able to submit an application to the European Court of Human Rights.

African Union (AU):

The **African Commission on Human and Peoples' Rights** is the African regional monitoring body for the promotion and protection of human rights, including the rights of minorities. The Commission started its work in 1986 after the adoption of the **African Charter on Human and Peoples' Rights ("Banjul Charter")**. In its preamble, the Banjul Charter states that "*[...] the reality and respect of peoples' rights should necessarily guarantee human rights;*". However, it does not contain any explicit provision for the protection of minorities. Since 2006, the **African Court on Human and Peoples' Rights** is the judicial body adjudicating cases within the scope of the Banjul Charter.

Organization of American States (OAS):

The **Inter-American Court of Human Rights** (IACHR) and the **Inter-American Commission on Human Rights** build the human rights protection system of the Organization

of American States (OAS) to enforce and interpret the provisions of the **American Convention on Human Rights**. Even though the Convention does not provide for explicit minority rights, the following example shows the importance of the court decisions for the protection of minorities' interests.

Saramaka People: Recognition as legal identity with a right to use their land:
In 2007, in the landmark case "**Saramaka People v. Suriname**" the Inter-American Court of Human Rights for the first time addressed corporate (collective) rights, including the right to self-determination, of a people. Rather than considering the Saramaka People as a group of individuals or as a community, the Court ruled that the Saramaka People have a right to recognition as a corporate legal identity. The Inter-American Court of Human Rights for the first time awarded monetary damages to indigenous or tribal people due to the environmental damage caused by the state of Suriname to the land and the resources of the Saramakas. During the mid 20th century, the State of Suriname started to exploit the land on which the Saramakas had been living for more than 300 years and which they depended on for their survival. At first, the Saramakas were not able to counteract these threats. However, in the late 1990's, the Saramakas began to take action in order to protect their territory and filed a petition to the Inter-American Commission on Human Rights. On the basis of this petition, the Commission asked the Suriname government to suspend all logging concessions and mining exploration until the substantive claims would be investigated. However, the government failed to comply with these precautionary measures, and the case was referred to the Inter-American Court of Human Rights. The Court highlighted that the Saramaka people "*share similar characteristics with indigenous peoples […] whose social, cultural and economic characteristics are different from other sections of the national community, particularly because of their special relationship with their ancestral territories and because they regulate themselves, at least partially, by their own norms, customs, and/or traditions*". In addition, the Court concluded that "*the State has an obligation to adopt special measures to recognize, respect, protect and guarantee the communal property right of the members of the Saramaka community to said territory*". The Court further stated that the natural resources (e.g. forests, rivers) traditionally used by the Saramakas, are essential to their physical and cultural survival as a people, and that these resources fall into the scope of protection of the American Convention and consequently constitute a part of the people's ownership rights. Thus, in 2007, after more than a decade of struggling for their rights, justice was finally done to the Saramakas.
(Sources: Inter-American Court of Human Rights. 2007. *Case of the Saramaka People v. Suriname of 28 November 2007.*; Richard Price. 2009. *Contested Territory: The Victory of the Saramaka People vs. Suriname.*)

International pressure: The role of IGOs, NGOs and of the media
In the international human rights system, **international pressure** from various actors such as **IGOs** (e.g. the United Nations Organization, the Council of Europe, etc.) on the one hand, and **NGOs** on the other, is an important "tool"

in demanding the implementation of minority rights. With pressure from interest groups, international legal frameworks, treaties and recommendations lead to more sensitivity among decision-makers and thus the implementation of legal measures and human rights standards. NGOs play an important role in promoting the integration of immigrants and minorities. The Council of Europe notes that NGOs are, either directly or through their national affiliates, close to situations of tension and possible sources of conflict. They are frequently involved in mediation, and are able to sensitise international as well as national public opinion when the rights of minorities are neglected or violated. NGOs can have a significant impact in the field of minority protection through research, publishing of reports and by serving as channels or platform for minority groups on the one hand and, on the other, by providing timely and factual information to governmental and intergovernmental bodies on situations involving minorities. This role is well recognised and promoted by the UN Office of the High Commissioner for Human Rights (OHCHR).

The OHCHR explicitly notes that *"NGOs can decisively promote the protection of minorities by*

- *encouraging the adoption of measures at domestic level to effectively implement the provisions of relevant international instruments;*
- *contributing to the implementation at local, national and regional levels of international resolutions and conventions related to minority issues;*
- *providing information on violations of minority rights by bringing them to the attention of various UN human rights mechanisms (e.g. the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities);*

- *providing detailed and objective information on the situation of minorities and possible ways in which the maintenance and development of minorities can be fostered;*
- *contributing to state reports on the situation of minorities through the inclusion of accurate information in these reports or in the monitoring procedure;*
- *attract the attention of treaty bodies to the serious infringements and to make contributions to the implementation of the decisions and recommendations of the committees."*

(Source: Claudia Mahler. 2009. *Is Human Rights Education a Means of Supporting Minorities?*)

☺☞ *Good Practices*

In addition to the already mentioned actors, the **media** fulfil a central role by reporting on discrimination against minorities and on the minorities themselves. They also have the function to **raise awareness** for the needs of minorities among the majority population and among the political decision makers. However, the media may also act as a creator and promoter of negative stereotypes and may sensationalise or spread misinformation regarding the minority group. Therefore it is important that minorities have the opportunity to run their own media as well as the opportynity to appropriately participate in the mainstream and opinion leading media.

☺☞ *Freedom of Expression and Freedom of the Media*

What can WE do?
Human rights education involves learning and teaching respect for human rights, the knowledge of human rights and the practice of human rights. It is an inherent part of the right to edu-

cation and should be part of all education systems. The practical aspects of human rights education relate to the transfer of knowledge, awareness raising, skills-building and establishing a "culture" where human rights are understood, respected and defended.

What WE can do is to **be aware of and raise awareness** for the fact that persons belonging to minorities may have **identities that differ from those of the majority population**. Each of these identities is valuable and persons belonging to a minority, as well as persons belonging to the majority population, have a **right** to maintain and develop their specific ethnic, religious and linguistic characteristics.

What WE should do is learn about and reduce our own prejudices. **Respect** for everyone, including the **identity of minority groups and the majority population**, as well as the **respect for linguistic, ethnic and cultural diversity** are important assets. What WE can do is **to respect diversity as a value**. We can recognise that being familiar with many cultures and knowing many languages is an additional value for society and an advantage for every single person.

Another function of human rights education is to provide information on human rights and thus empower people to claim and enforce their rights. Thus, WE should **be informed and inform** others about the **rights of minorities**. Regarding cases of discrimination WE should **know** which public authority we can get in contact with and **how to address violations of human rights**, specifically violations of the rights of minorities. What WE can do is to **make violations** of minority rights **public**, by bringing them to the attention of the media, competent domestic and international courts and authorities, or to the attention of the United Nations or relevant NGOs. So WE can **seek legal redress** for violations of the rights of minorities. Thus, human rights education and the commitment of every single person are excellent tools to support minority groups.

As Theodore Orlin's states, "*We must convert the rhetoric of international human rights law into a practical reality, where in our relationships with one another we practice the demands of human rights law to provide the dignity that the human rights instruments and international treaties have so long attempted to protect*".

Above all, it is of special importance that human rights educators bring the lessons of human rights and minority rights not only to the wider public and government officials, but especially **to the persons belonging to minorities** themselves. In this way they are able to **assert their rights** in spite of potential challenges posed by majority populations which may be insensitive to their legitimate interests.

(Sources: Claudia Mahler, Anja Mihr, Reetta Touvanen (eds.). 2009. *The United Nations Decade for Human Rights Education and the Inclusion of National Minorities.*; Theodore Orlin. 2009. *Minorities and Human Rights Education. Human Rights Law as a Paradigm for the Protection and Advancement of Minority Education in Europe.*)

☺☞ *Right to Education*

GOOD TO KNOW

1. GOOD PRACTICES

Minority Rights Group International (MRG):
MRG is one of the leading NGOs in the field of minority protection. The organisation aims at securing the rights of both persons belonging to minorities and indigenous peoples all over the world. It works together particularly with minority communities, providing education and training on how to make use of their rights. In addition, the organisation lobbies governments and the United Nations in favour of minorities. It also publishes scientific reports on minority issues. In this way, the organisation strives to ensure that disadvantaged minorities and indigenous peoples can make their voices heard. By means of campaigns the organisation further aims at eradicating discriminative attitudes in relation to those belonging to minorities or indigenous peoples. The legal cases programme of MRG has been ground-breaking for the protection of minority rights. According to the internal description of MRG, the work of the organisation provides evidence to show that the "*inclusion of minority communities leads to stronger, more cohesive societies*". MRG has a broad network of partners. It collaborates with more than 150 partners in 60 states and has considerable experience in promoting peaceful coexistence and sustainable social change. Through training and education, legal cases, publications and the media, MRG supports minorities and indigenous people as they strive to maintain their rights to the land they live on, the languages they speak, to equal opportunities in education and employment, and to full participation in public life. MRG is committed to securing the rights of various minority communities, such as the

Batwa in Central Africa, the Roma in Europe, the Christians in Iraq, etc. MRG has consultative status with the UN Economic and Social Council (ECOSOC) and observer status with the African Commission on Human and Peoples' Rights.

European Roma Rights Centre (ERRC):
The European Roma Rights Centre is an international NGO based in Budapest, Hungary. Its aim is to monitor the situation of the Roma minority in Europe. The ERRC provides legal aid for Roma who have experienced human rights violations, and organises workshops for lawyers from various European countries, familiarising the participants with relevant legal mechanisms, all of which aims at enabling Roma and their advocates to legally secure their human rights.

European Bureau for Lesser Used Languages (EBLUL):
EBLUL is an NGO founded in 1982 in Dublin (Ireland) on the initiative of both the European Parliament and certain representatives of minority organisations. It strives to promote languages and language diversity in Europe. It is financed by the European Commission, as well as by local and regional governmental organisations, and maintains close contact with the European Parliament and the Council of Europe. EBLUL has had a number of important achievements through lobbying and the promotion of regional and minority languages in Europe. Thanks to the commitment of EBLUL, the coordination and cooperation between communities of speakers of lesser-used languages improved greatly. Within the frame of the school project, "Euroschool", more than 400 teenagers from over

10 language communities were able to meet with other teenagers and their families in a variety of school projects. Furthermore, EBLUL has launched information campaigns in order to improve the image of minorities and minority languages. The press agency "Eurolang" has been created which publishes multilingual articles on the situation of minorities. In addition, information networks on minority issues have been installed. The EBLUL has also made contributions to the drafting of the European Charter for Regional or Minority Languages (ECRML) and the Charter of Fundamental Rights of the European Union. The NGO enjoys observer status with the ECOSOC, the UNESCO and the Council of Europe.

The representation of minorities in the South African Parliament:
The effective participation of minorities in the political sphere of a country is an essential factor for minority protection and conflict prevention. Their active engagement in the political and social life of a state underpins all other efforts to protect the rights of minorities and acts as a safety valve when major sites of disagreement between communities threaten to turn violent, as posited by the Minority Rights Group (MRG). According to the NGO, **South Africa's** post-apartheid policies to ensure representation of minorities have made the country's **parliament among the most ethnically representative** of any democratic legislature in the world. The ranking of minority representation in legislatures is led by African states. South Africa leads the list, closely followed by Namibia and Tanzania, the MRG's State of the World's Minorities 2007 Report reads. Some African countries are the most advanced regarding power-sharing concepts based on ethnicity and ethnical representation in parliament. This is quite surprising, especially when taking into account that *"half of the top twenty most dangerous countries in the world for minorities"* are situated in Africa. According to MRG, *"three African countries beat established western democracies to boast of the best minority political representation in the world"*.

2. TRENDS

"Old" and "new" minorities and the applicability of the minority protection system to "new" minorities:
Immigrants and their successors are usually excluded from the conventional definitions of minorities, even if they possess ethnic, religious, cultural and/or linguistic characteristics differing from those of the host communities. The Advisory Committee on the Framework Convention on National Minorities (FCNM) has consistently held that the Convention does not provide for a definition of national minorities, but that the contracting parties have a margin of appreciation in determining the groups to which the Convention shall apply. Because of the significant proportion of non-citizens within the total population, the Advisory Committee held that it would be *"possible to consider the inclusion of persons belonging to these groups in the application of the Framework Convention on an article-by-article basis"*, and noted that *"the authorities of the countries concerned should consider this issue in consultation with those concerned at some appropriate time in the future"*. The strict application of the narrow formal provisions to historic national minorities only has been criticised by the Advisory Committee as providing insufficient protection to minorities as according to the spirit of the Convention. The Committee held that persons belonging to "new" minorities should be entitled to certain fundamental rights contained in the FCNM, such as the

right to education, freedom of religion and freedom of expression.

Diversity and cohesion:

The concepts of diversity, cohesion, citizenship and participation are increasingly being applied, and are acquiring new meanings, through their use in policy debates at the national and international level. For example, the concept of **Diversity** has received an increased amount of attention and application in relation to European policies and implemented legislation. Equality forms the fundamental basis of integration policies and minority protection. The concept of diversity has been introduced in integration policies triggered by demographic developments. It is also understood as a process serving the benefit of all within increasingly plural societies. Multiculturalism was used as a description of societies or as a prescriptive concept, i.e. societies should become multicultural societies. In current debates, the meaning of diversity addresses the variety of values, lifestyles, cultures, religions and languages that form societies. The Council of Europe lists six different applications or explanations of the concept of diversity. First, the term refers to the cultural diversity in general, and not exclusively as the by-product of migratory movements and settled minority communities. Second, when the term is applied to immigrants and minorities, it emphasises the value rather than the problems associated with being different. Third, diversity recognises the simultaneous process of cultural homogenisation (a global culture) and diversification (national and local cultures). Fourth, it stresses the fact that people usually (and increasingly) possess multiple identities, group memberships and cultural affiliations. Fifth, diversity is about voluntary and less about prescribed affiliations. Sixth, diversity deals in a creative way with the dichotomy of universal and particular values and culture. Finally, common values shared by civil society underpin the concept of diverse societies. The term **cohesion** stems from contexts of employment, social welfare and poverty. (Social) cohesion denotes policies to counteract societal disintegration, social exclusion and marginalsation of certain groups. These policies encompass the promotion and protection of fundamental social rights, the supply of social protection and welfare, universal access to housing, catering to the specific needs of certain groups at risk, and extended access to labour markets through education, training and life-long learning. Thus, social cohesion policies aim to counterbalance processes of societal fragmentation.

(Source: Council of Europe. 2000. *Diversity and Cohesion. New Challenges for the Integration of Immigrants and Minorities.*)

Despite the long struggle regarding minority rights and the persisting problems regarding the effective protection and promotion of minorities, it is important to emphasise that the efforts concerning the rights of minorities are important stages in the development of human rights law. It is essential that the efforts to extend and protect minority rights continue. Successes and failures must be understood retrospectively in order to find more effective ways to protect minorities. It is essential that this process is undertaken within the paradigm of human rights law and without the rhetoric of nationalism and ethnocentrism.

3. CHRONOLOGY

1920 League of Nations
1965 International Convention on the Elimination of All Forms of Racial Discrimination
1966 International Covenant on Civil and Political Rights
1966 International Covenant on Economic, Social and Cultural Rights
1989 Convention on the Rights of the Child
1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE
1992 European Charter for Regional or Minority Languages
1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

1995 Council of Europe Framework Convention on National Minorities
1994 General Comment No. 23 of the Human Rights Committee on the Rights of Minorities (Art. 27)
2000 General Comment No. 14 of the Committee on Economic, Social and Cultural Rights on the Right to the highest attainable Standard of Health
2005 Commentary of the Working Group on Minorities to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions
2007 Forum on Minority Issues by the Human Rights Council (Resolution 6/15)

SELECTED ACTIVITITES

ACTIVITY I:
CONFRONTING PREJUDICE AND DISCRIMINATION

Part I: Introduction

Identifying prejudice, discrimination, racism, sexism and ethno-centrism is an important part of human rights education. These forms of moral exclusion are fundamental manifestations of the central problem of denying human dignity, resulting in various types of discrimination, especially against minorities. Those groups suffering from discrimination include ethnic, linguistic, religious and other minorities. It is prejudice and ignorance that promote the dehumanisation of ethnic minorities and in turn foster and support many forms of discrimination.

Part II: General Information
Type of activity: Group discussion
Aims and objectives: Reflecting on the process and characteristics of discrimination and its origins in prejudice, identifying minority group problems relating to prejudice and discrimination, and recommending action regarding an instance of discrimination faced by members of an ethnic minority based on national and international human rights standards.
Target group: Young adults and adults
Group size: 8–25; small group work and full group discussion
Time: 60 min.
Material: Copies of the International Covenant on Civil and Political Rights (ICCPR), drawing board
Skills involved: Communication, co-operation, assessing different points of view

Part III: Specific Information on the Activity
Instructions:
The facilitator must use creativity to explain the distinction between prejudice and discrimination, and to ensure that the participants understand their relations. As this can be a very sensitive topic for many, it will be important to allow adequate time for diverse views to be expressed. The facilitator should not try to "correct" views, but allow others to comment on them.

1. Ask the participants to name ethnic minorities in their country. Tell them that they should identify a group with which they are familiar and explain whether this group suffers from prejudice. Write the identified minorities, e.g. ethnic Vietnamese, on a board or flipchart.
   Facilitator input: Explain that prejudice and discrimination are closely related, and that prejudice leads to discrimination: **Prejudice** involves beliefs, feelings and attitudes. Feelings of prejudice stem from the belief and attitude that certain people are inferior and

should be treated in an undignified way or even with contempt. Prejudice is the fertile ground in which custom, habit and attitudes take root and grow into systematic oppression. Prejudice and ill-feelings are often directed at women, as well as other groups in society: refugees and displaced persons, members of various religious, ethnic and language groups, etc. Prejudice tends to be strongest in persons and societies where reasoned judgment is weak and where ignorance explains prejudicial processes of moral exclusion of others and the process of denial of the right to equal and fair treatment. It is ignorance to say that exclusion and denial are "natural". Prejudice is often hidden, but becomes evident when people use bad names to refer to a minority, implying that the members of the group are inferior, and use stereotypes. **Discrimination** involves action, often based on unfair rules. Acts of discrimination are based on the perception that one dominant group has the right to deny another group basic human rights and access to the benefits of society. Discrimination is a denial of human dignity and equal rights for those discriminated against. Discriminating actions deny human equality and impose a life of problems and struggles upon some, while endowing others with privileges and benefits. Just as prejudice gives birth to discrimination, so does discrimination give birth to exploitation and oppression. When exploitation and oppression are reinforced by custom and tradition, the struggle for equality will be harder.

2. Ask the participants to discuss the notions of prejudice and discrimination.

3. Turn to the board with the identified minorities. Ask the participants to name typical stereotypes for this minority group. Explain that these are all indications of prejudice which can lead to discrimination.

4. Let the participants identify actions involving discrimination, e.g., acts of denial and exclusion in the area of education, employment, etc.

5. Divide the participants into small groups, each one dealing with a different ethnic minority. Each group should have 1. a person reporting of prejudice and attitudes that people have towards the respective minority group, including bad names and stereotypes designed to dehumanise the people involved; and 2. a person reporting on problems of discrimination or acts of exclusion, exploitation and oppression, directed against the respective minority group. The two reporters present the conclusions of the discussion of the group to the plenary. Urge the participants to ask the prejudice reporter to explain how prejudice leads to discrimination. Urge the participants to ask the discrimination reporter to tell them how prejudice is the basis for discrimination. As this step is rather complex, the facilitator should to "float" among the groups to ensure that the activity is understood.

Facilitator Input: Explain to the participants that discrimination of minorities, or considering some groups of society inferior or treating them with little or no respect constitutes a grave human rights violation. Human rights law requires that minorities are to be treated with respect and dignity. Any form of discrimination or intolerance violates respect and dignity. Therefore, any form of discrimination should be taken seriously and be tackled.

Follow-up:
Discuss the following tools of seeking justice when minority rights have been violated:
- file a complaint with a court;
- report the human rights violation to the police;
- consult a legal aid organisation that can provide legal assistance;
- inform a human rights NGO with the capacity to investigate and report on the incident;
- inform the media: newspaper, radio, television;
- inform a political representative or a member of parliament;
- form a neighbourhood group to investigate and act upon the allegation;
- organise a human rights education seminar for the local community.

Ask the participants to reconvene into groups to decide which remedial step they would recommend having the above information in mind, while also adding to their recommendation those provisions of the ICCPR which apply:

Article 26 of the ICCPR: *"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."*

Article 27 of the ICCPR: *"In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."*

(Source: George J. Andreopoulos, Richard Pierre Claude. 1997. *Human Rights Education for the Twenty-First Century.*)

ACTIVITY II:
FIVE WAYS TO DEAL WITH MINORITIES

😀 **2**

Part I: Introduction

Everyone is to consider themselves a member of a minority in various everyday situations. How should we deal with changes in the minority or majority population? What are the advantages of being a member of one or the other in different circumstances? How should one avoid issues of restricted rights and freedoms?

Issues addressed: Majority-minority relations; power and authority; equal rights; majority decisions – respect for minority rights.

Part II: General Information

Type of activity: Group work and discussion
Aims and objectives: Recognising that there are many situations in which one might be in a minority position; identifying discriminatory behaviour towards others; experiencing the dilemma of respecting legitimate interests of others against one's own interests; learning about fair treatment of minorities in everyday situations.
Target group: Young adults and adults
Group size: Any, split in subgroups of 5-6 participants
Time: 90 to 150 minutes
Material: Working paper "Five ways to deal with minorities", flipchart, room for working groups and plenary discussions
Skills involved: Trust, self-assessment, self-perception, not for beginners!

Part III: Specific Information on the Activity
Instructions:

1. Distribute the working paper "Five ways to deal with minorities". Give instructions accordingly. Build working groups.
2. Reflect on the situations (5-10 min).
3. After the group has made a decision, participants may complete the story. In the discussion, the decision and the decision process will be debated.
4. Facilitators may help by presenting examples to work with, as well as moderating the discussion and the decision process.

Working Paper: Five ways to deal with minorities:

Reflect on one to three different situations in your everyday life in which you were in a minority position and take notes. Present your experiences to the group without mentioning how the situation ended.

The group members will then take the position of the majority against you. They need to decide for one of the following five options for dealing with the described situation:

- to exclude the minority from the group;
- to convince the minority of the majority's opinion;
- to ignore the minority;
- to allow the minority to act/decide on its own;
- to give the minority the opportunity of convincing the majority.

All other group members will also present examples. You will have the opportunity to be in a majority position in these cases and to decide on one of the above alternatives. However, you should not justify or explain your decision, but only disclose your decision.

Variations, Scenarios:

Majority decision: discussion of discrimination of the minority.

Decision by consensus: How can (has) consensus be (been) reached?

Undecided: The majority group cannot decide on one of the five ways. Why?

Debriefing and evaluation:

Debriefing and evaluation should contain:
- the emotional perception of the minority,
- the character of the decision taken,
- the process of decision-making.

(Source: Ulrich Maroshek-Klarmann, Oswald Henschel. 1997. *Miteinander – Erfahrungen mit Betzavta.*)

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ADDITIONAL INFORMATION

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African Union: www.au.int/

Asian Human Rights Commission: www.humanrights.asia/

Decade of Roma Inclusion 2005-2015: www.romadecade.org

European Bureau for Lesser Used Languages (EBLUL): www.eblul.org

European Centre for Minority Issues: www.ecmi.de/

European Commission against Racism and Intolerance: www.coe.int/t/dghl/monitoring/ecri/default_en.asp

European Court of Human Rights: www.echr.coe.int/echr/

European Roma Rights Centre (ERRC): www.errc.org/

Inter-American Commission on Human Rights: www.cidh.oas.org/

Inter-American Court of Human Rights: www.corteidh.or.cr/

Inter-American Institute for Human Rights: www.iidh.ed.cr/multic/defaultIIDHEn.aspx?Portal = IIDHen

Minority Rights Group International (MRG): www.minorityrights.org/

Open Society Foundations: ww.soros.org/

Organization for Security and Co-operation in Europe: www.osce.org/

Organization of American States: www.oas.org

OSCE High Commissioner on National Minorities: www.osce.org/hcnm

United Nations Office of the High Commissioner for Human Rights: www.ohchr.org/

United Nations Office of the High Commissioner for Human Rights: Basic facts about the UPR: www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx

RIGHT TO ASYLUM

THE RIGHT TO SEEK ASYLUM

PROTECTION FROM PERSECUTION

THE PRINCIPLE OF NON-REFOULEMENT

»*Everyone has the right to seek and to enjoy in other countries asylum from persecution.*«

Article 14 (1), Universal Declaration of Human Rights. 1948.

ILLUSTRATION STORIES

Through the Eyes of Refugees

"My name is Zamzam M. Deg Ahmed. I am 38 years old and I am displaced from my home. I fled from Mogadishu, Somalia. I can talk about the life situation of women: It is very difficult. The Somali women in Mogadishu… either their husbands and sons have been killed, or have been forced to flee and abandon their families. The last time that I saw my husband was 12 months ago. People with face masks broke into our house while we were sleeping, looking for him. They couldn't find him. He was hiding under the bed. After they left, he walked out of the house. That was the last time I saw him.

We fled early in the morning, after prayers. On the road, masked men started to shoot at us, stopped the truck and took us into the bush. They told all of us to get out and drop everything. I was worried for my daughter. She is 14 and I was afraid she would be raped. You can't imagine how scared I was, even the children cried.

Now that we arrived in a peaceful place, I would like to find work and for my children to continue their education. I worry about the future of my children, how they will grow up, take care of themselves and support me. This is what I think about when I try to sleep.

I remember many things, terrible things, the loss of nationhood… the insecurity… the problems faced by women… the fleeing and the displacement. Anyone would be disturbed by this situation. The troubles in Somalia, I'm very upset about them. Who wouldn't be?"

Zamzam M. Deg Ahmed, 38, is a mother of ten from Mogadishu, Somalia, who sold dried goods in the main market to support her family. Her husband left the city in 2010 after militants tried to kill him. She fled by truck with her children in November, surviving a hijacking along the way. She is now living in a shantytown on the outskirts of the northern city of Galkayo.

(Source: UNHCR. 2011. *Story Telling: Through the Eyes of Refugees.*)

"My name is Lucy Juah. I am a refugee in Kenya. I came in [to] Kenya since [in] 1992. I flee [fled] from Sudan because of civil war that took place for the last 21 years. The worst memory that I can remember is the time when we were still in Juba and then the SPLM, what we call the rebels – when we were in Sudan, we called them rebels – when they were shelling the town, and, at the moment, if [when] it [the bombs] fell, like it cuts everything that is around. I've seen a woman who was pregnant, and this particle just cut her into pieces.

It was so painful to leave my country because I didn't know where I was going. I did not know my destination. I was just… I find [found] myself just on the way, going. But in [to] some extent, it also felt good that I'm [was] leaving something. I'm [was] leaving that terrible area, where I'm [was] taking myself to a safer place.

It was very difficult to get to a place where I don't [didn't] know the language. Like, we wake up in the morning, there is nobody who is greeting you, because this is not our culture in Sudan. In Sudan, if we met with anybody in the way, they greet you. But when I reach[ed] Kenya, it was a bit different. We were indoors, the door is closed every time, you don't see anybody.

The day Sudan got independence, I felt our life is [was] going to be changed because I know I will be able to go back to Sudan, I will be able to build my house, because the way I was be-

ing harassed, every month I have [had] to pay house rent. That was the first thing that has clicked in my mind. We have plenty of land that is lying there idle. I want to go back because we have thousands of Sudanese women who do not know anything. They know but, maybe to put it into implementation is very hard. I feel like I want to go back to Sudan. We go and share our idea with the fellow sisters, with the women whom I left behind me, we share idea. We work together so that we can bring something that can be able to help the nation.

It will be a bit scary for me to leave my children in Kenya and go to Sudan because of a lot of things that is [are] happening these days in Kenya. You find even adults are being kidnapped, children, young children under six years, they are being raped. I will be a bit worried, because all the time I will be thinking about my children, whether they are in safe hands.

I wrote to my husband. I said, since peace has come, one day I would like to see you sitting under a big tree and just looking around the compound whereby your grandchildren will be running around there, around the compound. The house that we have built… and I will be sitting there with my husband under our very big tree and looking around at my grandchildren. So I feel my life will be changed."

Lucy Juah, 39, fled Sudan's civil war in 1992 for Kenya, where she has been working as a small businesswoman and raising a family of five children. Following the vote for independence for Southern Sudan in July 2011, she decided to return to her native Juba with her husband. She is leaving her children behind in Nairobi, under the care of her eldest, until they complete their education.

(Source: UNHCR. 2011. *Story Telling: Through the Eyes of Refugees.*)

Discussion questions

1. Why did Zamzam and Lucy leave their countries? Did they do so voluntarily?
2. What would (could) have happened to them and their family if they had not fled?
3. Which human rights are likely to be violated in times of war?

"With my husband dead, and our way of life
in Somalia destroyed, I felt I had nothing more to lose.
My only hopes are for shelter, water and safety."

Sara, 57, refugee from Sirko in Somalia, in an interview with Médecins sans Frontières. 2011.

NEED TO KNOW

1. INTRODUCTION

The world remains extremely insecure for millions of individuals. An estimated 42.5 million people are currently forcibly displaced worldwide as a result of persistent and new conflicts in different parts of the world. Figures by the United Nations High Commissioner for Refugees (UNHCR) dating from the end of 2011 show that of these, 15.2 million persons were refugees, 895.000 asylum-seekers and 26.4 million internally displaced persons (IDPs). At the end of 2011, 25.9 million people – 10.4 million refugees and 15.5 million IDPs – were receiving protection or assistance from the UNHCR. In addition, 4.8 million Palestinian refugees are being cared for in around 60 refugee camps in the Middle East. Although refugees are scattered throughout the whole world, more than 50% of all refugees live in Asia and close to 20% are located in Africa. Most of the world's refugees (four fifths) are hosted by developing countries.
(Source: UNHCR. 2012. *Global Trends 2011*.)
☺☞ *Human Rights in Armed Conflict*

Historical Development
The existence of refugees is not a new phenomenon. Evidence of the right to seek refuge or asylum can be documented as far back as around 600 A.D. In particular, the right so seek asylum in holy places was firstly codified by King Ethelbert of Kent.
The 1951 **Geneva Refugee Convention (GRC)** and the 1967 Protocol are the fundamental tenants of international refugee protection and considered to be the Magna Carta of refugees and asylum-seekers. The Convention sets out principles concerning the definition of a refugee, the rights of persons who have been granted asylum and also e.g. about who should not be granted refugee status.
The Convention was signed in 1951 and entered into force in 1954. Initially it was set out to only protect European refugees after World War II, however this geographical limitation was removed by the 1967 Protocol. As of June 2012 145 states are parties to the Convention and 146 parties to the Protocol.

Asylum and Human Rights
The right to seek asylum is a human right. When a person is forced to flee from her/his country of origin and subsequently applies for asylum in a separate state, the treatment of that person does not rest upon the discretion of the receiving state, but is governed by international law and mutual obligation.
The **right to asylum** as a **human right** is – apart from the Geneva Refugee Convention – specifically contained in a number of international legal documents such as the Universal Declaration of Human Rights (UDHR) which in its Article 14 states that *"(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations."*
Additionally, Articles 6 (right to life) and 7 (prohibition of torture and cruel, inhuman or degrading treatment or punishment) of the International Covenant on Civil and Political Rights (ICCPR) frame the principle of *non-refoulement* according to the definitions developed by the Human Rights Committee. Article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment

or Punishment (CAT) is also understood as formulating the principle of *non-refoulement*. According to this principle, no person shall be expelled or returned to a state where she/he might be subjected to persecution.

☺☞ *Prohibition of Torture*

Asylum and Human Security
The right to asylum is inextricable linked to human security – a person who is persecuted in her/his country of origin cannot live there without freedom from fear and want. Thus, protecting persons from being persecuted and protecting their lives and physical integrity is central to human security. The right to seek and enjoy asylum from persecution in other countries and the right not to be returned to the country of persecution reflects the international community's commitment to protect and ensure to all persons the enjoyment of human rights, including the right to life, freedom from torture and other cruel, inhuman or degrading treatment or punishment, freedom from persecution, and liberty and security of the person.

2. DEFINITION AND DESCRIPTION OF THE ISSUE

The Refugee as defined under International Law

The Geneva Refugee Convention (GRC) defines a refugee as a person who, being outside her/his country of nationality or habitual residence, has a well-founded fear of being **persecuted** for reasons of ethnicity, religion, nationality, membership in a particular social group or political opinion, and is unable or unwilling to avail herself/himself of the protection of that country or to return there, owing to the fear of persecution.

Consequently, those who seek refuge for other reasons than those mentioned in the Convention are not protected under the mechanisms of the GRC. Such a limited range of protection however does not prevent millions of persons from **fleeing their home countries** for economic reasons and applying for asylum in receiving countries.

Asylum-Seekers

There is often confusion over the difference between the terms "refugee" and "asylum-seeker". An asylum-seeker is a person who declares that she/he is a refugee, but whose

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"I arrived here 15 days ago, with six members of my family. We have a piece of land, here in the new arrivals' area, but we've got nothing to build a shelter with. We've got no plastic, no tents. We have registration cards but we still haven't received any food rations. It's very unsafe here – at night we're scared that wild animals will eat the children, and we've had threats of violence from local people who say the land is theirs. Where there's no security, there's no life."

Fatima, 34, refugee from Mogadishu in Somalia, who fled to Kenya, in an interview with Médecins sans Frontières. 2011.

claim has not yet been clarified in an **asylum procedure**. National asylum systems are tasked with the responsibility to determine in what circumstance asylum-seekers actually **qualify for international protection**, i.e. which persons are entitled to be granted asylum and therefore understood as refugees under the GRC.

Asylum-seekers who are denied refugee status may be sent back to their country of origin, however this may only occur where it would not be a breach of *non-refoulement* laws, or other international protection mechanisms (i.e. subsidiary protection).

Prima-facie Refugees

Conflicts or generalised violence often lead to mass movements of refugees. Unlike in cases of individual persecution, such mass movements make it impossible to conduct individual asylum interviews for each person who has fled and crossed a border into a neighbouring receiving state. Usually such interviews are not necessary, as the circumstances that caused the flight are generally known. Such groups of refugees are often referred to as *prima facie* refugees.

(Source: UNHCR. *Asylum-Seekers.*)

Internal Flight Alternative

Whenever an asylum-seeker has a well-founded fear of persecution in her/his home area, there may exist the possibility of internal relocation (so-called "internal flight alternative"). According to this principle, a refugee must substantiate a claim that she/he will not only face persecution in her/his home area but that she/he will be unable to escape persecution by relocating elsewhere in her/his country of origin. In fact, the fear of persecution does not necessarily need to be present throughout the entire territory of the specific country. However, this does not mean that an asylum-seeker will be denied asylum only because she/he

could have escaped persecution by relocating to another part of the country of origin, unless where, under all the circumstances, it would have been reasonable to expect her/him to do so.

(Sources: UNHCR. 2011. *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*.; Immigration Advisory Service. 2009. *Internal Flight Alternative.)*

Stateless Persons

Due to various reasons certain individuals are unable to receive citizenship to a particular state. These people **lack the basic safety net of a nationality** and are referred to generally as stateless people. Without state citizenship, it is extraordinarily difficult to obtain legal documents which prove identity and descent. Consequently, stateless individuals have problems obtaining housing and employment, are the subjects of discrimination and often live in precarious situations on the margins of society. There are no accurate figures on the number of stateless individuals, worldwide however a UNHCR report places the number at approximately 12 million.

(Source: UNHCR. 2011. *Global Report 2011*.)

Migrants

Due to the limited number of grounds for protection, migrants do not fall under the scope of application of the GRC, as they do not meet the definition of refugees. In particular, the GRC is not applicable to people who have been forced to leave their country because of economic reasons as these persons have not been persecuted under the five grounds listed in the GRC. Therefore, migrants do not have the right to be granted asylum, but they may be given residency rights by their host country.

Expulsion and Family Unity

In circumstances where a person has not been granted asylum (because she/he does not meet the criteria of a refugee on the basis of the GRC) and/or where a person enjoys no other form of international protection, a state may assess whether that person may be expelled from the country to her or his country of origin. The right to **respect for private life and family life** can make the expulsion of a person unacceptable under the terms of the GRC.

**Voluntary Repatriation and
Forced Deportation**

In cases in which expulsion is declared admissible, the state has two options: either voluntarily returning to the country of origin or forcible deportation. In general, most of those who have failed to qualify for either asylum or any other form of state protection, and whose expulsion is admissible, leave the country voluntarily. However, those who fail to do so may be forcibly returned by the state to their country of origin.

The Principle of *Non-Refoulement* **and Subsidiary Protection Arrangements**

The refugees' right to be protected against expulsion or forcible return (*refoulement*) is set out in Article 33 of the Geneva Refugee Convention: *"No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."*

As this principle is part of **customary international law**, those states which have not ratified the GRC are equally obliged to abide by this principle. This principle is of utmost importance for the safety and well-being of asylum-seekers and refugees, as it

requires that asylum-seekers not be returned to their country of origin if they fail to receive full refugee status under the GRC.

☺☞ *Prohibition of Torture*

Exclusion from Refugee Status

According to Article 14 (2) of the UDHR, the right to seek and enjoy asylum may not be invoked where the claimant is being prosecuted for a non-political crime or for acts contrary to the principles and purposes of the United Nations. The GRC names certain criteria which lead to an individual's exclusion from the opportunity to attain refugee status. Those who have been found to commit war crimes, crimes against humanity and crimes against peace are absolutely excluded from receiving asylum. Furthermore, people who have been found to have committed serious non-political crimes are also excluded. This is the only provision of the GRC which applies expressly to crimes committed outside the country of refuge and prior to the admission of that particular country as a refugee.

Especially Vulnerable Groups
• **Persons with Disabilities**
An estimated 2.5 to 3.5 million displaced persons live with a disability. This group is particularly vulnerable within the strata of displaced persons, as they often remain forgotten or ostracised within refugee camps and are not able to access suitable facilities to cater for their disability. For those with mental disabilities, the situation may be even worse, as they may not have access to comprehensible information regarding asylum procedures. The rights of refugees with disabilities are encompassed by the 2006 UN

Convention on the Rights of Persons with Disabilities, which has been widely signed and ratified.

- **People affected by Diseases and the Elderly**
  According to UNHCR, refugees face three major problems – dependency, social disintegration and negative social selection. These three problems are often exaggerated when dealing with older refugees. In its 2000 Policy on Older Refugees, the UNHCR emphasised the need to integrate the needs of older refugees in its daily work.

- **Children**
  Out of millions of refugees, IDPs and stateless persons worldwide, almost half are children. The 1990 Convention on the Rights of the Child (CRC) established the framework for UNHCR's work relating to child refugees. In particular, the UNHCR works to guarantee the basic requirements for children (water, food, health supplies, education), as well as aiding with the reunification of families, supporting vocational training programmes, and offering psychological treatment if needed.

- **Women**
  Approximately 50 % of those living in refugee camps or communities are female. Recently, the UNHCR has developed a series of special programmes for women, in order to provide equal access to services, as well as developing programmes to promote a sense of normalcy and a return to their accustomed manner of living. Furthermore, a special focus of the UNHCR is on awareness raising regarding sexual violence, female genital mutilation, and other forms of sexual deprivation towards women.
  (Sources: UNHCR. *Children.*; UNHCR. 2000. *UNHCR's Policy on Older Refugees.*; UNHCR. *Women.*; Women's Commission for Refugee Women and Children. 2008. *Disabilities among Refugees and Conflict-Affected Populations.*)

☺☞ *Human Rights of the Child
Human Rights of Women*

UN High Commissioner for Refugees (UNHCR)

The UNHCR was established in 1951 to assist the millions of refugees worldwide resulting primarily from World War II and the political aftermath. However, the origins of the High Commissioner can be traced back to 1921, when the first international High Commissioner for Refugees, Fridtjof Nansen, was appointed as a part of the internal mechanisms of the League of Nations. Since its formation and the establishment of headquarters in Geneva, the UNHCR has helped tens of millions of refugees and IDPs to find durable and stable solutions to the problem of locating a residence. Today UNHCR's work extends to over 120 countries, and is primarily concerned with assisting those people forced to flee across borders, as well as those who are in flight within their own country (internally displaced persons or IDPs). The GRC and its 1967 Protocol require that the state parties closely cooperate with the UNHCR in the exercise of its functions and in the supervision of the implementation of the Convention and the 1967 Protocol.
(Sources: UNHCR. *Refugee Figures.*; UNHCR. 2011. *World Refugee Day: UNHCR report finds 80 per cent of world's refugees in developing countries.*)

3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES

Refugees Driven by Poverty

International law makes a clear distinction between refugees and various categories of migrants. For example, as the GRC does not encompass flight motivated economic concerns and economic insecurity, it is essential to categorise the founding reasons for seeking asylum or leaving one's country of origin. Therefore those people who leave their country due to oppressive poverty or economic conditions, such as unemployment or poor health care, are not entitled to refugee status under the Convention. This does not stop many people from applying for asylum on such grounds, as, particularly in some European states, refugee status may give migrants the chance to access the labour market and apply for residency in the destination country after a certain time.

In general, the **lack of full enjoyment of human rights** in particular states leads to migration flows leading to more attractively perceived states. For example, there is a considerable migration flow from developing states to Europe, through which both migrants and refugees attempt to escape persecution and harsh economic conditions in their state of origin in order to begin a better life elsewhere. However, such a voyage is a dangerous undertaking: In the last few years, thousands of refugees and migrants have died in the Mediterranean Sea trying to reach the "fortress Europe". At the same time, the European Union is making it more difficult for migrants and asylum-seekers to enter its territory through legal and factual measures.
☺☞ *Freedom from Poverty*

Asylum Procedures

The procedure of clarifying whether an individual **meets the criteria to qualify as a "refugee"** or requires any other form of international protection (asylum procedure) should be fast, fair and efficient. However, the recognition rates of persons as refugees vary greatly among states. In a great number of cases it takes years for the applicant to know whether they are granted asylum or another form of protection or whether they have to return. This leaves a considerable number of persons (and their families) unclear about their future, without working permits or any other perspectives. Another alarming practice is **detention pending deportation**, which is applied to many persons who in their asylum procedure have not qualified for asylum or another form of protection, in order to ensure their deportation. Detaining persons, in many cases for several months, just for having crossed borders, runs contrary to fundamental human rights guarantees.

If the asylum and refugee processing system is both fast and fair, then there is little incentive for those who are aware that they would not qualify for refugee or asylum status to make and bring forth a claim. This consequently benefits both, the host country, as well as the genuine refugees and asylum-seekers for whom the processing system is intended to operate for.

The use of the asylum procedure by "economic refugees" has shed light on the growing set of issues surrounding economic migrants. A more practical method of dealing with such problems may be to alter the immigration requirements and procedures of receiving states, in order to permit economic migrants to work and achieve at least partial residency.
☺☞ *Rule of Law and Fair Trial*

Common European Asylum System

With the aim of establishing a minimum level of guarantees for a fair and efficient asylum procedure within the European Union, the

Asylum Procedures Directive of 2005 provides for basic safeguards for asylum applicants such as procedural guarantees, minimum requirements for the decision-making process, the right to appeal a negative decision on an asylum application, and common standards for the application of certain concepts and practices. As a further step in establishing a Common European Asylum System, in 2011 the European Commission proposed a modified proposal for this Directive, aiming at the provision of a single procedure for refugee and subsidiary protection status determination, enhancement of the efficiency of the application examination process, facilitation of the access to examination procedures, improvement of the quality of asylum decisions and ensuring that an asylum applicant can appeal a decision. This proposal is currently being negotiated in the European Parliament and the Council.

4. IMPLEMENTATION AND MONITORING

The right to seek asylum includes the right to be granted asylum only in the cases explicitly mentioned in the Geneva Refugee Convention (GRC). Therefore, an asylum procedure needs to be carried out in order to establish one of the GRC's protection grounds which result in the right to be granted asylum.

Unlike other UN Conventions, the Geneva Refugee Convention (GRC) does not provide for specific implementation mechanisms such as state reporting or individual complaints. The operation and application of the GRC and its 1967 Protocol is supervised by the **United Nations High Commissioner for Refugees (UNHCR)**. Articles 35 and 36 of the GRC enable cooperative efforts between member states and the UNHCR, which includes the provision of relevant information and statistics regarding the content and application of the Convention:

> The states parties to the GRC are required to **inform the UN Secretary-General** about the laws and regulations that they may adopt to ensure the proper application of the Convention (Article 36 of the GRC).
> The GRC and the 1967 Protocol foresee that **states cooperate with the UNHCR** in the exercise of its functions and that they help the **UNHCR supervise the implementation** of the provisions in the Convention. In addition, states parties are to provide the UNHCR with the information and statistical data requested with regard to:
> - the condition of refugees,
> - the implementation of the GRC and its 1967 Protocol, and
> - laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Consequently, a specific weight is placed on the UNHCR's interpretation of the Convention.

The International Covenant on Civil and Political Rights (ICCPR) does not include an explicit provision on the right to asylum. However, Articles 6 and 7 of the Covenant are applicable regarding the principle of *non-refoulement*. Therefore, violations of these provisions relevant for the right to asylum are subject to the ICCPR's monitoring mechanisms.

Regional Instruments

In addition to the GRC, there are regional instruments for the protection of refugees (e.g. the Bangkok Principles on Status and Treatment of Refugees adopted at the Asian-African Legal Consultative Committee in 1966,

the OAU's Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969 and the Cartagena Declaration of 1984 which was adopted by a group of Latin American states).

The Role of the European Court of Human Rights

The European Court of Human Rights (ECtHR) is the court of the Council of Europe system of human rights. It plays a major role in the protection of human rights of asylum-seekers. Firstly, it decides upon the application of **Article 3 of the European Convention on Human Rights (ECHR)**, i.e. the prohibition of torture and inhuman or degrading treatment or punishment, regarding deportation procedures and the principle of *non-refoulement*. If a person is likely to suffer torture in her/his home country, then deportation is prohibited. The landmark decision in this regard is *Soering vs. United Kingdom* in 1989.

Furthermore, **Article 8** (right to privacy and family life) is of great importance for asylum-seekers. They can also bring claims to the Court under this Article, if their **family life** has been negatively infringed upon by decisions relating to the asylum status or pending deportation.

The European Court of Human Rights can only be addressed once all domestic remedies have been exhausted, and only within six months after the final decision in the domestic state.

With the planned **accession of the European Union (EU) to the ECHR** also the EU's institutions such as the Court of Justice of the European Union (CJEU) will be bound by the Convention's provisions and their interpretation by the European Court of Human Rights (ECtHR). Individuals will be able to submit complaints to the ECtHR if their rights under the Convention have been violated by the EU's institutions. The EU's accession to the ECHR will establish a more consistent application and implementation of human rights standards and strengthen the protection of human rights.

GOOD TO KNOW

1. GOOD PRACTICES

Family Reunification Scheme

One of the major functions of the **International Committee of the Red Cross (ICRC)**, in conjunction with national Red Cross and Red Crescent societies, is to help to reunite families that have been separated in the wake of conflict or natural disasters. During such crises, families may be immediately separated, in some cases for years at a time. The ICRC works to trace family members, and once having found them, acts as an intermediary in the process of exchanging messages between family members and aiding with eventual reunification. The ICRC's Central Tracing Agency further aids states participating in armed conflict to meet their international humanitarian law obligations requiring that state authorities do everything possible to aid

family members who have been separated due to the conflict. This obligation is founded in the internationally recognised rights relating to the prohibition of forced disappearances, and the right to be informed of the fate of missing family members.

☺☞ *Human Rights in Armed Conflict*

RefWorld

Refworld is one of the leading sources of information necessary for taking decisions on refugee status. Refworld contains a large collection of reports on countries of origin, policy documents and positions, and documents relating to international and national legal frameworks. The information is collected by UNHCR and its field offices, governments and NGOs, as well as by academia and judicial bodies.

Refugees Emancipation

The Refugees Emancipation Project is a project initiated by asylum-seekers in Germany. It aims at using the internet as a tool to link refugees to other people, in their home countries and elsewhere, to reduce their isolation. In this context, the project organises seminars and courses and provides advocacy information. In addition to an online chat forum, a number of personal stories are also published on the website. In this way, merely through communication with others experiencing similar situations, the quality of life of refugees in Germany may be improved.

2. TRENDS

Internally Displaced Persons (IDPs)

A person claiming refugee status must be outside of her/his country of origin – the fact of having crossed an international border is one of the essential elements of the ordinary definition of a refugee. Unlike refugees, persons who are **displaced within their own** country are referred to as IDPs. Like refugees, they were forcibly uprooted due to conflict, generalised violence and human rights violations, but – in contrast to refugees – they still live in their country of nationality or habitual residence. Out of the estimated 42.5 million people who are currently forcibly displaced worldwide as a result of persistent and new conflicts in different parts of the world, 26.4 million are internally displaced persons (IDPs). Although not specifically covered by the UNHCR's original mandate, for many years the agency has been helping millions of them, more recently by overseeing the protection and shelter needs of IDPs and coordination and management of camps. (Source: UNHCR. *Internally Displaced People Figures.*)

Irregular Migration by Sea

A certain proportion of those fleeing their home state do so by crossing oceans or seas to find refuge elsewhere. This can be an extraordinarily dangerous process, due predominantly to the organised groups of people smugglers who oversee a large proportion of maritime migration. Vessels are often in an unseaworthy condition and without any proper safety equipment, and dangerously overcrowded. Smugglers will often also resort to methods to force rescue, such as sabotaging the vessel to force state authorities to intervene. This may often backfire, resulting in considerable loss of life. For example, in 2009 in Australia, an attempt to set a vessel alight resulted in an explosion which killed 5 and injured 40. As stated by the UNHCR, *"[t]here is no doubt that ruthless people smugglers bear much of the blame for the thousands of deaths that occur each year in the Mediterranean, the Gulf of Aden, the Caribbean, the Indian Ocean and elsewhere"*. The UNHCR reported that over 500 people were estimated to have died attempting to cross the Mediterranean in 2007, while Spanish authorities have estimated that

approximately 1,000 people died in an attempt to travel from Africa to the Canary Islands. These figures, however, may not demonstrate the true extent of the death toll, as the migration process is almost entirely undocumented and many vessels merely disappear en route.

Irregular maritime migration is not only a European phenomenon. Each year, tens of thousands of Somalis and Ethiopians cross the Gulf of Aden to Yemen, where they have a chance of being accepted as refugees and starting a better life. In 2007, approximately 27,000 migrants arrived at the coast of Yemen, while over 1,200 were reported to have died or were missing, with the journey generally estimated to have a mortality rate of around 5 %. Likewise, Australia is the primary destination in the Asia Pacific region for irregular maritime migrants, journeying predominantly from Afghanistan, Iraq, Iran and Sri Lanka via Malaysia and Indonesia. In 2010, Australia received 6,555 irregular maritime arrivals, however many failed to reach the mainland and were intercepted by the military to be held in offshore processing centres. In December 2010, 50 travellers died after their vessel had crashed on rocks at the offshore Australian territory of Christmas Island.
(Sources: Navi Pillay. 2009. *Migrants at sea are not toxic cargo.*; UNHCR. 2009. *Irregular Migration by Sea: Frequently Asked Questions.*)

Dadaab, the World's Largest Refugee Camp
The refugee camps of Dadaab, Kenya were established 20 years ago to provide shelter for refugees escaping violence and civil war in Somalia. With the conflict still ongoing, Dadaab has become the world's largest refugee complex being home for 500,000 people. Established to house up to 90,000 people, the availability of essential supplies such as shelter, water, sanitation, education and protection for all persons living in the camps and the surrounding desert is shrinking. *"Life in Dadaab is very difficult: we are dependent on the UNHCR for everything. The food here is not enough. There is a crisis of water, no one has enough water. We get only four jerry cans per family for a day – for taking baths, for washing clothes, for washing utensils, for cooking and for drinking. Everyone needs assistance which they do not get"*, said Anfi, 25, refugee from Kismayo in Somalia who has lived in Dadaab since he was six. In addition to the violence and the hardships heavy rains destroy many people's shelters and food supplies during the long rainy seasons. Hassan, 39, refugee from Sirko in Somalia, said, *"I arrived last night. I came here with my mother, my wife and our five children. We brought nothing with us but the clothes we were wearing. We are staying in my sister's shelter, with her family of eight, while we wait to find our own place to live. At the moment we are relying on my sister for everything. They are sharing their rations with us so that we can eat."* As a Médecins Sans Frontières nurse put it, *"These people are surviving with the bare minimum that a human being can survive with."*
(Source: Médecins Sans Frontières (MSF). 2011. *No way in. The biggest refugee camp in the world is full.*)

Racism and Xenophobia towards Migrants, Refugees and Asylum-Seekers
Similar to migrants, in many hosting countries, also refugees and asylum-seekers are confronted with racism, xenophobia and allegations of "misusing" the right to asylum. These xenophobic and paranoid attitudes in society are being reinforced by the media and utilised by populist or racist politicians, which results in ever stricter migration and asylum laws and policies and in ignoring or even violating international human rights obligations and commitments to effectively protect persons from persecution.
☺☞ *Anti-Racism and Non-Discrimination*

Fair Burden-Sharing

An UNHCR report reveals deep imbalance in international support for the world's forcibly displaced: Four-fifths of the world's refugees find refuge in developing countries. Many of the world's poorest countries are hosting immense refugee populations (e.g. Pakistan, Iran and Syria have the largest refugee populations with 1.9 million, 1.1 million and 1 million refugees respectively). Despite this unequal burden-sharing, the paranoid anti-refugee sentiment in many industrialised countries is getting stronger and stronger.

"In today's world there are worrying misperceptions about refugee movements and the international protection paradigm. Fears about supposed floods of refugees in industrialised countries are being vastly overblown or mistakenly conflated with issues of migration. Meanwhile, it's poorer countries that are left having to pick up the burden." said António Guterres, UN High Commissioner for Refugees. He continued: *"The world is failing these people, leaving them to wait out the instability back home and put their lives on hold indefinitely. Developing countries cannot continue to bear this burden alone and the industrialized world must address this imbalance."* Thus, fair burden-sharing between industrialised and developing countries is essential for the handling of the current 42.5 million displaced people worldwide. It will be the key to coping with refugees in a lawful and dignified manner in the future.

(Source: UNHCR. 2011. *World Refugee Day: UNHCR report finds 80 per cent of world's refugees in developing countries.*)

3. CHRONOLOGY

1948 Universal Declaration of Human Rights

1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe)

1951 Convention relating to the Status of Refugees (Geneva Refugee Convention)

1954 Convention relating to the Status of Stateless Persons

1961 Convention on the Reduction of Statelessness

1966 International Covenant on Civil and Political Rights (ICCPR)

1966 Bangkok Principles on Status and Treatment of Refugees (adopted by the Asian-African Legal Consultative Committee)

1967 Protocol relating to the Status of Refugees

1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (Organization of African Unity)

1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT)

1984 Cartagena Declaration on Refugees (adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama)

1985 UN General Assembly Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they live

1992 Special Rapporteur on Internally Displaced Persons

1998 Guiding Principles on Internal Displacement

2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime	**2003** UNHCR Agenda for Protection **2006** UN Convention for the Protection of All Persons from Enforced Disappearance

SELECTED ACTIVITITES

ACTIVITY I: APPLYING FOR ASYLUM

Part I: Introduction
This activity simulates some of the emotional factors in a refugee's reality.

Part II: General Information
Type of activity: Role-play
Aims and objectives: Raising awareness of discrimination during the asylum application procedure
Target group: Adolescents, adults
Group size: Any
Time: About 15 minutes
Material: Handouts (see below), pens
Preparation: Prepare a handout, prepare pens, arrange the room so you can sit behind a desk to create the formality of a bureau.

Part III: Specific Information on the Activity
Instructions:
1. Let the room fill with people without greeting anyone or acknowledging their presence.
2. A few minutes after the scheduled start, pass the application for asylum written in Creole. Say only *"You have five minutes to complete this form."* This could be spoken in any foreign language as well. Coldly ignore questions and protests.
3. Greet any latecomers curtly (for example, *"Is there any reason you are late? You have only ____ minutes to complete this form."*). Most participants will get the point right away, but some may get angry or anxious.
4. Collect the forms without smiling or making personal contact.
5. Call a name from the completed forms and ask that person to come forward. Look at the form and say, *"I see you answered NO to this question. Asylum denied."* Repeat this process several times.
6. Finally break out of your role. Ask participants how they felt filling out an unintelligible form. Ask them how this simulates a refugee's experience.

Feedback:
In a feedback round, ask participants to summarise their experiences:
• Was this a realistic situation of an asylum-seeker?
• Do you think that asylum-seekers receive fair treatment during their application procedure?
• What are the consequences for someone whose asylum application was denied?

Related rights/further areas of exploration:
Right not to be discriminated against based on nationality, language or ethnicity.

Text for the handout:

APPLICATION FOR ASYLUM	
1. APPELLIDO	
2. PRIMER NOMBRE	
3. FECHA DE NACIMIENTO	
4. PAIS, CIUDAD DE RESIDENCIA	
5. OU GENYEN FANMI NE ETAZINI?	
6. KISA YO YE POU WOU	
7. KI PAPYE IMAGRASYON FANMI OU YO GENYEN ISIT?	
8. ESKE OU ANSENT?	
9. ESKE OU GEN AVOKA?	
10. OU JAM AL NAHOKEN JYMAN	

(Source: David Donahue, Nancy Flowers. 1995. *The Uprooted: Refugees and the United States.*)

ACTIVITY II:
PACK YOUR BAG AND RUN

👍**2**

Part I: Introduction
This activity simulates the emotional and practical decisions a refugee must face and their unforeseen consequences.

Part II: General Information
Type of activity: Role-play
Aims and objectives: To develop knowledge and understanding about refugees and their rights, to promote solidarity with people who are forced to suddenly flee their home.
Target group: Adolescents, adults
Group size: Any
Time: About 10 minutes

Part III: Specific Information on the Activity
Instructions:
1. Read/explain the following scenario:
   You are a teacher in ___. Your partner disappears and is later found murdered. Your name appears in a newspaper article listing suspected subversives. Later you receive a letter threatening your life for your alleged political activity. You decide you must flee. PACK YOUR BAG: You can only take five categories of things and only what you can carry. List what you would take.
2. After a few minutes, call on participants to read their lists aloud. For every list (usually 95%) this does not include the newspaper article or the threatening letter. Say, *"Asylum denied!"*
3. Read the legal definition of a refugee. Discuss how this definition is applied in real life and why most participants were denied asylum because they had no proof of well-founded fear of persecution to qualify for refugee status.
4. Discuss making decisions under pressure, reasons for personal choices, and emotions evoked by the decision-making process. Conclude by explaining the purpose of this activity.

Feedback:
In a feedback round, ask participants to summarise their experiences:
• How fair was the treatment of the refugees?

- Should a country have the right to turn refugees away?
- Refugees have a human right to protection. Were these refugees given their right to protection? Why/Why not?
- Are there any displaced persons in your country currently?

- What can be done to stop people becoming refugees in the first place?

Related rights/further areas of exploration:
Non-refoulement; Non-Discrimination.
(Source: David Donahue, Nancy Flowers. 1995. *The Uprooted: Refugees and the United States.*)

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Council of Europe: www.coe.int

European Commission, Asylum: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm

International Committee of the Red Cross (ICRC): www.icrc.org

ICRC, Reuniting Families: www.icrc.org/eng/what-we-do/reuniting-families/index.jsp

International Organization for Migration (IOM): www.iom.int

Médecins Sans Frontières (MSF): www.msf.org

Office of the United Nations High Commissioner for Human Rights (OHCHR): www.ohchr.org

Refugees Emancipation: www.refugeesemancipation.com

UN Committee against Torture (CAT): www2.ohchr.org/english/bodies/cat/index.htm

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Women's Commission for Refugee Women and Children: womensrefugeecommission.org

III. ADDITIONAL RESOURCES

» *1. Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training.*
2. Human rights education and training is essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms for all, in accordance with the principles of the universality, indivisibility and interdependence of human rights. […] «

Article 1, United Nations Declaration on Human Rights Education and Training. 2012.

A. HUMAN RIGHTS EDUCATION METHODOLOGY

1. BASICS OF HUMAN RIGHTS EDUCATION METHODOLOGY

Human rights education is all learning that develops the **knowledge, skills, and values of human rights**. It asserts the responsibility of both states and individuals to respect, protect and promote the rights of all human beings without distinction as of sex or gender, age, disability, ethnic or national background, language or belief. Like any other educational field, human rights education encompasses a set of methods that reflect the intentions of the respective educational approach: As the realisation of the rights and dignity of the human being is at the centre of human right education, the educational approach has to focus on the human being. Human rights trainings and workshops have to comply with the concerns and needs of the participants, they have to combine intellectual challenges with the development of skills and the shaping of attitudes. Needless to say, this cannot be achieved without **active involvement of the participants** and without taking into account their personal und professional experiences. Just learning by heart the Universal Declaration of Human Rights is not what we mean when we talk about human rights education.

In the conception of human rights trainings or workshops, several points have to be taken into consideration. Before a human rights educator can start selecting appropriate activities, she/he has to clarify all factors and parameters that determine the training situation in general as well as the specific training to be planned. The main determinants are the four dimensions of **content**, **methodology**, **organisational framework** and **attitudes of educators as well as participants**:

- **Content:**
  Each human rights training or workshop has to take into account the interests and needs of the specific target group, consider their professional settings and standards and adjust the concept of the contents according to these parameters. Of course, basic knowledge of the contents, principles and protection of human rights is indispensable, but the focus of the training always has to meet the needs of the target group. Some aspects such as diversity or gender perspectives can form the topic of a training session but should in any other case be treated as cross-cutting issues to be discussed in different contexts and questions such as health, religious freedoms, labour law or the human rights dimension of the respective job settings.

- **Methodology:**
  Education methodology can be characterised as a specific combination of constituents such as group size, social organisation, activities of the educator and the participants, learning phases and media. A way to describe these interdependent factors is the PIRA multi-methodical approach that emphasises the basic methodic principles of participation, interaction, reflection and anticipation. With regard to "**participation**" and "**interaction**" it is recommended to keep in mind that human rights edu-

cation should be focused on the learners rather than on "experts" or "learning matter". When expertise, attitudes and skills are shared not only by the educator but also by learners (based on their individual educational and professional experiences), the teacher leaves her/his traditionally dominant position and gives room for the implementation of various methodical and didactic elements that have in common in-

teractivity, communication and the competence of each student, regardless of gender, educational or cultural background. "**Reflection**" refers to the necessity to repeatedly assess new facts, ideas and perspectives and to question one's own ideas and positions in the light of new facts and different perspectives, and "**anticipation**" and empathy are indispensable to understand and guide dynamic processes in groups.
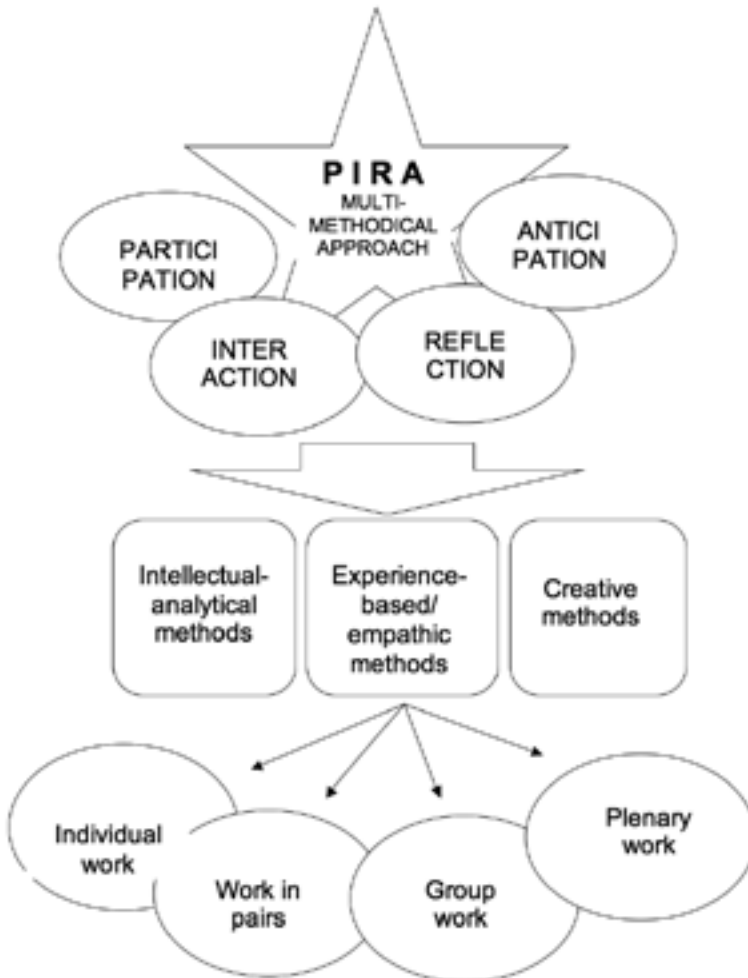
(Source: Translated and adapted from: Vedrana Spajić-Vrkaš et al. 2004. *Poučavanje prava i slobo-da. Priručnik za učitelje osnovne škole s vježbama za razrednu nastavu.* Zagreb: FFpress, 212.)

Since the educator usually is not free to control all factors and parameters which determine the training situation, she/he should focus on the layout and coordination of those she/he can have an effect on. Especially by choosing adequate social organisation, activities and media, the educator can direct the education process and the social interaction and communication in the classroom and take measures not to override groups of learners.

- **Organisational Framework:**
Planning a human rights training measure or workshop in the first line has to keep in mind the "**four As**" which determine the human rights aspect of education: **availability**, **accessibility**, **acceptability** and **adaptability**. To ensure the **empowerment** aspect of human rights education, provisions should be made to give everybody the opportunity to participate in human rights training or workshops. These provisions can affect time management and location of the training as well as possible affirmative action measures. While educators do not always have the chance to influence the availability and accessibility, it is usually up to them to adapt their courses to meet the needs of the learners and to increase the acceptability in class.

- **Attitudes of Educators and Participants:**
Since human rights education should be more than just the transfer of knowledge, human rights educators should have several competencies as follows:
Professional competence (knowledge about human rights and their protection, implementation of human rights in different professional or social settings);
Methodical and didactical competence (knowledge about education and learning processes in general and in human rights education and the professional skills to transfer this knowledge into practice);
Communicative competence;
Affective or empathic competence (ability to reflect one's own existential orientation and to interact with students and co-trainers in an empathic way); and
Cultural and gender competence (ability to reflect one's own determination in cultural and gender specific behaviour patterns, knowledge about social circumstances and contexts, "mentalities", discrimination, etc.)

These standards as well as the necessity to address different types of learners lead to the demand that a human rights training or workshop should at best be conducted by a pair of **co-trainers** of different sexes and/or ethnic origin, especially when intercultural and gender aspects are addressed and respective skills and attitudes are to be trained. Apart from this, the cooperation of two co-trainers, different personalities with different working habits (e.g. content-oriented vs. process-oriented) results in more effective tuition.

2. PLANNING HUMAN RIGHTS TRAININGS

The quality of trainings or workshops in human rights education largely depends on the thorough planning of each step. In the following, you can find a brief overview over the most important factors in preparation:

- **Learning Targets**
The overall goal of human rights education is to understand the human rights system and to accept human rights as an important and reasonable part of one's life, accompanied by an implementation of human rights principles in daily work.

In order to successfully implement human rights trainings it is of utmost importance to map out very clearly the learning targets. These should aim at meeting the specific demands of the participants. Human rights training measures should result in an advancement of the professional and social competences of the participants. This competence-oriented approach is characteristic for trainings and workshops.

Three essential goals should be the basis for HRE in general and the thread for trainings and workshops:
- **Transfer of knowledge and information** (what are human rights, human rights standards, protection of human rights, what do human rights mean for participants' daily life and work);
- **Building skills** (empowering participants to live, work and fulfil their tasks respecting and implementing human rights, elements such as communication and active listening, arguing and debate, critical analysis, etc.);
- **Shaping attitudes** (clarify values, find out negative attitudes, revise them and accept new attitudes, reflect upon the relativity of one's own cultural and gender roles); and
- **Taking action** (active transfer and implementation of human rights competences and awareness to daily life and work).

It is not enough to learn and to know human rights standards. Learners need additional support to be able to apply them in their daily lives. This support has to be provided by training the necessary skills which are a precondition for the implementation.

Human rights training should always be based on criteria which are framed in the beginning and assessed by the end of the course. It is helpful to pose the question "What should the learners master?" before the course and never loose sight of it during the course. Oral or written tests and feedback can provide data for the evaluation of the learning process.

- **Target Group**
  Whenever human rights training is organised the **composition** of the target group needs to be clarified in advance. Since each professional target group (e.g. administrators, police officers, judges, lawyers, social and health care workers, students, teachers, military personnel, etc.) has **specific needs** according to their professional tasks, "mixed" groups should be avoided as far as possible in professional pre- and in-service training. A fruitful exemption from this rule can be made if it is possible to train organisations or organisational units as a whole. In this case the different perspectives and views will enrich the learning process and contribute to organisational development.

  The specific needs of the target group have to be reflected in the planning process. According to the needs the training can be focused on different aspects – standards important for the respective professional group, orientation on content, skills-building or attitude-shaping, awareness raising, etc. Training methodology and activities should mirror the mostly pragmatic attitudes of adult learners – give the opportunity for the implementation of ideas and concepts, work on real problems and cases taken from the participants' professional settings, take into account the participants' professional expertise.

Human rights learners should be (made) aware of their own responsibility – real work starts when the training is finished and the acquired knowledge, skills and attitudes have to compete in everyday life and work.

Apart from specific needs certain organisational conditions should be fulfilled to facilitate the learning process (adequate premises, equipment and material; an overview at the beginning of the day, a summary at the end; a timeframe with sufficient breaks; refreshments if possible).

- **Participation**
  According to the principle that the most effective way of learning is "learning by doing", it is strongly recommended to further the participatory and experience-based approach in human rights education. Educational participation is characterised by elements such as interactive processes, flexibility, variety in methods and social organisation and relevance of issues and materials. To achieve an active as well as efficient training process the following issues should be considered:

- *Topics and presentation of standards*
  During the preparation of a human rights training on a specific topic it is recommended to invite experts in this special field. Pools of experts are usually accessible via local projects, universities and administrations. Rather than presenting a panel of academic and scientific experts, a mixed panel of scientists and practitioners might encourage discussion and secure practical applicability.

  In addition, the relevant human rights standards and instruments should be presented in the training. The facilitator has to keep in mind that the standards are discussed in respect of the target group and that the question of practical implementation of standards in the participants' daily routine is dealt with.

- *Interactive approach*
  Learners, especially adult learners, have to be integrated into the education process with all their abilities, personal and professional expertise. In an interactive education process, the educator's role model is shifting from the all-dominant position of the traditional teacher to the role of a facilitator or moderator. While questions of content and knowledge must not be neglected, the trainer has to maintain group processes and facilitate and further the acquisition of attitudes and skills by setting the frames, preparing material and group organisation and giving professional methodological support (e.g. teaching/learning techniques) at the same time.

  The trainer's new role as facilitator can also contribute to opening doors which have been closed for traditional teachers. Especially persons with little or negative schooling experience might be encouraged by a participatory approach emphasising the personal expertise instead of the shortcomings of learners.

- *Practical approach*
  It is a goal of human rights education to popularise the idea that human rights are or at least can be a key element of everyday life. In this aspect human rights education meets the needs of practitioners who are not only interested in the abstract idea of human rights but mostly in the question of how they themselves can deal with human rights questions in their private and professional settings. How can they do a good job within the human rights standards? What is in it for them? What is the benefit in understanding and living human rights?

Accordingly, human rights educators have to include practical aspects into their programme, and prepare literature, material and cases relevant for the code of practice. If the trainer has no personal experience with the professional settings of her/his target group, it is usually a good idea to consult a respective practitioner and/or engage in team-teaching.

- *Awareness-shaping and Skills-building*
Human rights education that is not based on the three pillars of knowledge transfer, attitude-shaping and skills-building always resembles an unfinished painting. Attitude-shaping and skills-building without knowledge transfer lack the informational basis. Knowledge transfer and attitude-shaping make no sense without the necessary skills to implement human rights. Finally, knowledge transfer and skills-building without attitude-shaping might even be used to work against human rights. Therefore, besides giving information and training skills, it is the task of human rights education to sensitise the participants and to make them aware of their own potential – to support human rights or to violate them.

- *Feedback*
Evaluation in trainings and workshops cannot be considered as a one-way street but should be a permanent process of mutual feedback. Positive and constructive feedback has to keep to three rules: Positive assessment and acclamation always come first! Focus on concrete actions or statements. State your opinion and give reasons for your point of view.

• **Flexibility**
Human rights trainings have to be designed in a way that they can easily be adapted to different situations, target groups and circumstances, according to the respective cultural and educational needs and experiences. The preparation also has to take into account that there might be different target groups within one course or different preconditions within the target group. Therefore, human rights educators should be very careful in using "ready-made" material without reflecting on the specific needs of a target group. They should be ready to adapt or amend the available material or to search new data, cases, etc. This applies also to the users of the manual "Understanding Human Rights", which is meant as a "work in progress". The technical means for the progress is the website of the ETC that offers additional materials, updates and activities and invites all users to make their thematic or local amendments available to the learning community.

Thorough choice and preparation of material makes it much easier to conduct a course, and a broader selection of material and activities contributes to the trainer's flexibility in class, and to react more promptly to the needs or complexity of the group. Another helpful trick is to organise the subject matters in modules that can be flexibly handled and re-arranged if necessary.
Although it is absolutely necessary to give participants a timeframe for orientation, trainers should not stick too strictly to it to avoid frustration and indifference among the participants. Educators have to find the best compromise between the physical (breaks, refreshments, moving around) and intellectual needs of the participants.

• **Evaluation**
Test questions as an evaluation tool have three main functions, depending on when they are used: In the beginning, when the

training starts, by providing an insight into the needs, the attitudes and the level of previous knowledge among the learners, they indicate a status quo which is the basis for all progress and achievements made in the course. During the course, they support the educator in adjusting her/his programme. Final testing shows the achievements and is thus an important tool for the further modification and development of courses and materials.

- **Sustainability/Follow-up/Action**
  The question what happens after the training to make the results last should also be a part of the training programme. Elements of a planned and structured follow-up could be periodical meetings, field trips and expert hearings, reports on learners' work after the training (achievements and problems) or the building of networks to foster professional exchange of information.

3. EXERCISES AND ACTIVITIES

The activities listed in all the modules of the manual help learners to develop understanding about the main human rights principles, communication skills, critical thinking and analytical skills, creativity and persuasion skills, all of them essential to democracy. They provide multi-cultural, socio-economic and historical perspectives on the universal struggle for justice and dignity. They are meant to engage the heart as well as the mind and challenge different learners to understand what human rights mean to them personally, and to encourage them to translate understanding into informed, non-violent action. Last but not least, the activities aim to examine human rights issues in their complexity without bias and from different angles through a variety of educational practices. Therefore, the ultimate goal of all of the activities is to demonstrate that everyone can bring about changes and contribute to the fulfilment of human rights, justice and dignity for all.

The activities selected for this manual fit into the methodological framework of human rights education:

Warming-up and relaxing methods	Experience-based methods	Participatory/ interactive methods	Conflict resolving methods
Presentation methods	METHODS IN HUMAN RIGHTS EDUCATION		Analysis and interpretation methods
Creative methods			Action methods
Data gathering methods	Analytical/ research methods	IT supported and social media methods	Concluding methods

(Source: Translated and adapted from: Vedrana Spajić-Vrkaš et al. 2004. *Poučavanje prava i sloboda. Priručnik za učitelje osnovne škole s vježbama za razrednu nastavu.* Zagreb: FFpress, 157.)

The main features of each method are listed below and accompanied by other useful hints on methods intended to help facilitators to develop a creative and innovative approach to the complex problems presented in each activity.

- **Warming-up/Icebreakers/Relaxing Methods**
  To start a training or workshop, get people to introduce themselves and try to make them feel welcome. If needed, use a so-called "icebreaker", an activity to help participants to learn more about each other and become comfortable expressing themselves in a group:
- *Group Still Life*: People bring a meaningful object from home to contribute to an opening display as a way of introducing something important about them.
- *Get into One Line*: Let people line up according to their height, their age, the month of their birthday, shoe size, etc.
- *Interviews*: Each person pairs off with another and asks several questions. Then each partner introduces the other one to the whole group.
- *Me Too!* One person says her or his name and starts talking about themselves. As soon as someone else hears something they have in common with the speaker, they interrupt, giving their name, and begin telling something about themselves. Continue until everyone in the group has introduced themselves in this way.
- *Musical Chairs:* Arrange chairs in a close circle and ask participants to sit down. Stand in the middle of the circle and say your name and something about yourself. When you do so, everyone for whom your statement is true as well must change chairs (e.g. I am X and I have two children; I am X and I dislike rats; etc.). Try to get a chair for yourself now. The person left

without a chair introduces herself/himself and says something (as in the above example) which again they may have in common with others.
- *Knots*: Tell everyone to stand shoulder to shoulder in a circle with their arms stretched out in front of them. They should now grab hands across the circle. No one may hold the hand of someone beside him. Now tell participants to untangle the knot without letting go of the hands.
- *Group Rules:* After people get to know each other, educators should point out a few things to the whole group in order to get the most out of the training: The time frame for each activity and the training as a whole is set. Educators and learners respect the time frame by beginning and ending promptly. A learner might even serve as a timekeeper, especially for small group activities. Educators explain the scope of the training and ask participants to state their expectations; these will be written on a board or flip chart. Educators examine the list and evaluate honestly, whether the session is likely to meet the expectations listed. Things the group does not want will be listed as well. This provides a good basis for setting basic rules for the group. Educators and learners together establish basic rules that help to provide an environment of trust and make interaction respectful, confidential and useful.

- **Experience-Based Methods**
- *Role-Play:* In role-plays, participants are placed in fictional circumstances. Facilitators can either provide a role-play in detail or just give a little information on it and let participants develop it on their own. Actors in a role-play can pretend to either be someone else or even act as themselves in a novel situation. Nevertheless, it is necessary to state clearly at the very beginning

that a role-play should not be too long or too elaborately scripted to give viewers as well as actors the chance to follow them easily. Very often role-plays have an open end in order to achieve the learning objectives and to stimulate a discussion. However, careful questioning and reflection at the end is essential to enable participants to draw parallels between what they have experienced and situations in the real world. Facilitators should be very sensitive to the fact that some people may feel uneasy, uncomfortable or even helpless in the assigned situation.

- Other experienced-based methods are *story-telling*, *simulations* or *moot courts*.

• **Participatory/Interactive Methods**
- *Discussions* encourage reflection, analysis and critical thinking, they provide non-hierarchical, democratic, collaborative learning and help participants to respect and accept a variety of viewpoints and opinions. To keep a discussion focused, you might initially pose several key questions. The larger the group, the more likely some participants will dominate and others remain silent. To ensure that everyone has the opportunity to speak you can divide the whole group into smaller units. When any discussion ends, summarise the main points orally and in writing. Facilitators need to keep the goal of the discussion clearly in mind. They have to provide questions that encourage participation and analysis: hypothetical (*"What would you do if …?"*), speculating (*"How might we solve the problem?"*), defining (*"Can you tell us how you think that idea would work?"*), probing (*"Why do you think that?"*), and clarifying/summarising (*"Am I right in saying that you think …?"*). One way of helping to create an environment of trust and mutual respect is to have

participants develop their own "discussion rules". The educator asks the learners to think of some principles for discussion, which they think everyone should follow, and writes down all suggestions where everyone can see them, combining and simplifying where necessary. If the rules listed below are not suggested, add the following which are absolutely necessary for a discussion:

- Listen to the person who is speaking.
- Only one person speaks at a time.
- Agree on a special sign for being noticed if you want to say something.
- Avoid interrupting when someone else is speaking.
- When you disagree with someone, make sure that you make a difference between criticising someone's idea and criticising the person.
- Do not laugh when someone is speaking – unless they make a joke.
- Encourage everyone to participate.
- Finally yet importantly, copy the list of rules and hang it where everyone can refer to it, add or make changes if necessary.
- Other participatory/interactive methods are *lectures, reporting,* etc.

• **Creative Methods**
Creative methods are *essay writing, painting, modelling clay or the like, taking photos or movie spots,* etc.

• **Conflict Resolving Methods**
Conflict resolving methods are *mediating/moderating, bargaining, acting as an arbitrator,* etc.

• **Data Gathering Methods**
- *Brainstorming* encourages creativity and the quick generation of many ideas. It can

be used for identifying alternative ways of solving a specific problem, answering a question, introducing a new subject, raising interest and making a survey of knowledge and attitudes.

A brainstorming session can take the following forms: Introducing a question, problem, or topic (orally and/or in writing); inviting the group members to respond with as many ideas or suggestions as possible, ideally in single words or short phrases; recording responses on a flipchart (keep in mind that, very often, the most creative or outrageous suggestions are the most useful and interesting); and prioritising and analysing the output, and clustering solutions.

Brainstorming sessions are a helpful icebreaker and introduction to different topics and can be used as a stimulus for dialogue, a game or activity.

- **Analytical/Research Methods**
- *Case studies* can encourage analysis, critical thinking, problem solving and planning skills as well as cooperation and teambuilding. They can be used to set up effective debates (e.g. groups assigned to argue allocated positions on an issue) and comparisons (e.g. different analyses of or solutions to problems in the case). The case you choose can be a **real case**, drawn from historical or current events, or a **fictional or hypothetical case** to address particular issues or workshop topics. Fictional situations can often address locally sensitive issues without provoking responses about particular individuals, organisations, social groups or geographical regions. A **fieldwork case** might lead participants to work and react within their community.
- Other research methods might be *interviews*, *focus groups*, *projects* or *field studies*.

- **Analysis and Interpretation Methods**
  Analysis and interpretation methods are *analysis and interpretation of (fictional) texts*, *pictures* and the like.

- **Action Methods**
  Action methods (mostly) are follow-up activities such as *campaigning*, *writing support letters*, *urgent actions*, *organising flash mobs or demonatrations,* and *volunteer work*.

- **IT Supported and Social Media Methods**
  IT supported and social media methods are *on-line research*, *networking*, *blogging*, *starting debates in social media fora*, etc.

- **Concluding Methods**
  It is important to end a training or workshop on the right note. In particular, participants need an opportunity to sum up what they have learned, individually as well as collectively. In general, the way to conclude depends greatly on the goals and tenor of the activity. Examples for concluding methods are:
  - *Ball toss* (participants toss a ball from one to another, each person who catches the ball states one thing she/he learned or can use from this session);
  - *Collective summary* (participants respond in turn to a summarising question or an open-ended statement); and
  - *Slide show* (the facilitator shows photos of the session; as a reflection on the activity each participant gives a brief comment on his or her contribution and feelings before, during and after the session).

  Giving Feedback is an essential part of the whole training or workshop itself. There are various ways to get feedback

and provide participants with it, so facilitators should ask themselves the following questions: How did people feel about this activity? Was it more or less difficult than they had first imagined? What were the most difficult aspects of it, or the most difficult things to represent? Did people learn anything new about human rights? Where were the similarities or differences among the group(s)? Were there any fundamental disagreements over the idea of human rights? Why?

When giving feedback, it is important to respect the others, to focus on what they said or did, and to give reasons for your point of view. In order to activate learners you might use one of the following ways of giving feedback:

- *Slip box*: Each participant states her/his opinion about the activity on a piece of paper and puts it in a box. Then everyone takes one of the slips and reads it out loud, and the whole group discusses the opinion stated on it.
- *Go on, I'm listening*: Each participant has five minutes to tell the listeners her/his personal view of the activity.
- *People Machine*: All participants form a circle, holding hands, and one person starts with something she/he liked or disliked. The person next to her/him repeats this opinion, agrees or disagrees with it and then gives an opinion about something else.
- *Weather Report*: Participants describe how they feel about the activity as if it were a weather report.
- *The Hand*: Learners give oral feedback using their fingers to remember five issues to be touched: The thumb stands for what was good, the forefinger points at something, the middle finger stands for what they did not like, the ring finger stands for what was emotionally moving and the little finger shows what they missed.
- *Traffic Lights*: Learners show a green, yellow or red card according to the feedback the want to give and explain the reasons for the colour chosen.
- *Hit the Mark*: The educator draws a target on an flip chart and asks learners to evaluate the workshop by putting points on it. Afterwards learners get the chance to explain.
- *A Letter to Myself*: Each participant writes a letter to herself/himself, summarising the results of the course and making a concrete commitment on human rights implementation in her/his life or work. The educator collects all letters and after two months sends them to the participants.

4. WHY HUMAN RIGHTS EDUCATION?

Human rights education and learning is essential to **active citizenship in a democratic and pluralistic society**. Active and responsible citizens need to be able to think critically, make moral choices, take principled positions on issues and devise democratic courses of action. Only humans who understand human rights will work to secure and defend them for themselves and others. However, in order to be involved in this way, it is necessary to be informed. Effective human rights education has two essential objectives: **learning ABOUT human rights** and **learning FOR human rights**. Learning about human rights is largely cognitive, including rights history, documents and implementation mechanisms. Learning for human rights means understanding and embracing the principles of human equality and dignity and the commitment to respect and protect the rights of all people. It

is not so much, what we know, as the way we act. Human rights are highly inspirational and highly practical, embodying the hopes and ideals of most human beings and empowering people to achieve them. Human rights education shares those inspirational and practical aspects. It sets standards but it also brings about changes:

Human rights education can
- bring about changes in values and attitudes;
- bring about changes in behaviour;
- bring about empowerment for social justice;
- help develop attitudes of solidarity across issues, communities, and nations;
- help develop knowledge and analytical skills; and
- encourage participatory education.

The Manual "Understanding Human Rights" aims to contribute to the current human rights education debate in terms both of content and form and also add to the process of **shaping a genuine culture of human rights worldwide**. Our intention is to assist learners to gain knowledge as well as skills to take control of their own lives. We believe that understanding human rights, a process in which human rights education has a pivotal role, means empowerment and a better life for many. Only respecting the principles of human rights in one's own life can eventually bring about the fundamentals for a common co-existence and respect for the rights of others.

B. THE ONGOING GLOBAL STRUGGLE FOR HUMAN RIGHTS - CHRONOLOGY

STRUGGLES AND HISTORICAL EVENTS	CONFERENCES, DOCUMENTS AND DECLARATIONS	INSTITUTIONS
Up to the 17th century		
Many religious texts emphasise the importance of equality, dignity and responsibility to help others **Over 3,000 years ago** Hindu Vedas, Agamas and Upanishads; Jewish Bible: the Torah **2,500 years ago** Buddhist Tripitaka and A guttara-Nikaya and Confucianist Analects, Doctrine of the Mean and Great Learning **2,000 years ag**o Christian New Testament, and 600 years later, Islamic Qur'an	**Codes of conduct**: Menes, Asoka, Hammurabi, Draco, Cyrus, Moses, Solo and Manu **1215** Magna Carta signed, acknowledging that even a sovereign is not above the law **1625** Dutch jurist Hugo Grotius credited with birth of international law **1690** John Locke develops idea of natural rights in Second Treatise of Government **1776** Virginia Bill of Rights **1789** Bill of Rights: Amendments I-X to the US Constitution	
18th -19th centuries		
1789 French Revolution and Declaration of the Rights of Man and of the Citizen **1815** Slave revolts in Latin America and in France **1830s** Movements for social and economic rights - Ramakrishna in India, religious movements in the West **1840** In Ireland the Chartist Movement demands universal suffrage and rights for workers and poor people **1847** Liberian Revolution **1861** Liberation from serfdom in Russia	**1792** Mary Wollstonecraft's *A Vindication of the Rights of Woman* **1860s** In Iran Mirza Fath Ali Akhundzade and in China Tan Sitong argue for gender equality **1860s** Rosa Guerra's periodical La Camelia champions equality for women throughout Latin America **1860s** In Japan Toshiko Kishida publishes an essay, *I Tell You, My Fellow Sisters* **1860-80** More than 50 bilateral treaties on abolition of the slave trade, in all regions	**1809** Ombudsman institution established in Sweden **1815** Committee on the International Slave Trade Issue, at the Congress of Vienna **1839** Antislavery Society in Britain, followed in 1860s by Confederação Abolicionista in Brazil **1863** International Committee of the Red Cross **1864** International Working Men's Association **1898** League of Human Rights, an NGO, in response to the Dreyfus Affair

1900 - 1929		
1900-15 Colonised peoples rise up against imperialism in Asia and Africa **1905** Workers movements in Europe, India and the US; in Moscow 300,000 workers demonstrate **1910** Peasants mobilise for land rights in Mexico **1914-18** First World War **1914** Onward Independence movements and riots in Europe, Africa and Asia **1915** Massacres of Armenians by the Turks **1917** Russian Revolution **1919** Widespread protests against the exclusion of "racial" equality from the Covenant of the League of Nations **1920s** Campaigns for women's rights to contraceptives in formation by Ellen Key, Margaret Sanger, Shizue Ishimoto **1920s** General strikes and armed conflict between workers and owners in the industrialised world	**1900** First Pan-African Congress in London **1906** International Convention prohibiting night work for women in industrial employment **1907** Central American Peace Conference provides for aliens' right to appeal to courts where they reside **1916** Self-determination addressed in Lenin's *Imperialism, the Highest Stage of Capitalism* **1918** Self-determination addressed in Wilson's „*Fourteen Points*" **1919** Versailles Treaty stresses right to self-determination and minority rights **1919** Pan-African Congress demands right to self-determination in colonial possessions **1923** Fifth Conference of the American Republics, in Santiago, Chile, addresses women's rights **1924** Geneva Declaration of the Rights of the Child **1924** US Congress approves Snyder Act, granting all Native Americans full citizenship **1926** Geneva Conference adopts Slavery Convention	**1902** International Alliance for Suffrage and Equal Citizenship **1905** Trade unions form international federations **1910** International Ladies' Garment Workers' Union **1919** League of Nations and Court of International Justice **1919** International Labour Organization (ILO), to advocate human rights embodied in labour law **1919** Women's International League for Peace and Freedom **1919** NGOs devoted to women's rights start addressing children's rights; Save the Children (UK) **1920s** National Congress of British West Africa in Accra, to promote self-determination **1922** Fourteen National human rights leagues establish International Federation of Human Rights Leagues **1925** Representatives of eight developing countries found Coloured International to end racist discrimination **1928** Inter-American Commission on Women, to ensure recognition of women's civil and political rights
1930 - 1949		
1930 In India Gandhi leads hundreds on long march to Dandi to protest salt tax **1939-45** Hitler's Nazi regime kills 6 million Jews and forces into concentration camps and murders Roma and Sinti, Communists, labour unionists, political dissidents, persons with disabilities, Jehovah's Witnesses, homosexuals and other persons **1942** René Cassin of France urges creation of a international court to punish war crimes **1942** US government interns some 120,000 Japanese-Americans during Second World War **1942-45** Antifascist struggles in many European countries **1949** Chinese Revolution	**1930** ILO Convention concerning Forced or Compulsory Labour **1933** International Convention for the Suppression of the Traffic in Women of Full Age **1941** US President Roosevelt identifies four essential freedoms: freedom of speech and religion, freedom from want and fear **1945** UN Charter, emphasising human rights **1948** Universal Declaration of Human Rights **1948** Convention on the Prevention and Punishment of the Crime of Genocide **1948** ILO Convention on the Freedom of Association and Protection of the Right to Organize	**1933** Refugee Organization **1935-36** International Penal and Penitentiary Commission, to promote basic rights of prisoners **1945** Nuremberg and Tokyo trials **1945** United Nations **1946** UN Commission on Human Rights **1948** Organization of American States **1949** Council of Europe

	1949 Geneva Convention relative to the Treatment of Prisoners of War **1949** Geneva Convention relative to the Protection of Civilian persons in Time of War **1949** Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others **1949** ILO Convention on the Right to Organise and Collective Bargaining	
	1950 - 1959	
1950s National liberation wars and revolts in Asia; some African countries gain independence **1955** Political and civil rights movement in the US; Martin Luther King Jr. leads the Montgomery bus boycott (381 days)	**1950** European Convention on Human Rights **1951** Convention relating to the Status of Refugees **1951** ILO Equal Retribution Convention **1954** Convention relating to the Status of Stateless Persons **1957** ILO Convention concerning Abolition of Forced Labour **1958** ILO Convention concerning Discrimination in Employment and Occupation	**1950** ILO fact-finding commission deals with violations of trade union rights **1951** ILO Committee on Freedom of Association **1954** European Commission of Human Rights **1959** European Court of Human Rights
	1960 - 1969	
1960s In Africa 17 countries secure right to self-determination, as do countries elsewhere **1962** National Farm Workers (United Farm Workers of America) organises to protect migrant workers in the US **1960s-70s** Feminist movements demand equality	**1960** UNESCO Convention against Discrimination in Education **1961** Convention on the Reduction of Statelessness **1965** UN International Convention on the Elimitation of All Forms of Racial Discrimination **1966** UN International Covenant on Civil and Political Rights **1966** UN International Covenant on Economic, Social and Cultural Rights **1966** Optional Protocol to the International Covenant on Civil and Political Rights **1966** Protocol relating to the Status of Refugees **1968** First World Conference on Human Rights, in Tehran	**1960** Inter-American Commission on Human Rights holds its first session **1961** Amnesty International **1963** Organization of African Unity **1965** UN Committee on the Elimination of Racial Discrimination **1966** UN Human Rights Committee **1967** Pontifical Commission for International Justice and Peace

1970 - 1979		
1970s Human rights issues attract broad attention – apartheid in South Africa, treatment of Palestinians in occupied territories, torture of political opponents in Chile, „dirty war" in Argentina, genocide in Cambodia **1970s** People protest against Arab-Israeli conflict, Viet Nam war and Nigeria-Biafra civil war **1976** Amnesty International wins Nobel Peace Prize	**1973** UN International Convention on Suppression and Punishment of the Crime of Apartheid **1973** ILO Minimum Age Convention **1974** Declaration on the Protection of Women and Children in Emergency and Armed Conflict **1974** World Food Conference in Rome **1975** Declaration on the Rights of Disabled Persons **1977** Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) **1977** Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) **1978** UNESCO Declaration on "Race" and "Racial" Prejudice **1979** UN Convention on the Elimination of All Forms of Discrimination Against Women	**1970** First commissions on peace and justice in Paraguay and Brazil **1978** Helsinki Watch (Human Rights Watch) **1979** Inter-American Court of Human Rights **1979** UN Committee on the Elimination of Discrimination against Women
1980 - 1989		
1980s Latin American dictatorships end – in Argentina, Bolivia, Paraguay, Uruguay **1986** In the Philippines peaceful People's Power Movement overthrows Marcos dictatorship **1989** Tiananmen Square protests **1989** Fall of the Berlin Wall	**1981** African Charter on Human and Peoples' Rights **1984** UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment **1986** UN Declaration on the Right to Development **1989** UN Convention on the Rights of the Child **1989** Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty **19**89 Indigenous and Tribal Peoples Convention	**1983** Arab Organization for Human Rights **1984** UN Committee against Torture **1985** UN Committee on Economic, Social and Cultural Rights **1985** UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment **1988** African Commission on Human and Peoples' Rights **198**9 UN Committee on the Rights of the Child

1990 - 1999		
1990s Democracy spreads across Africa; Nelson Mandela released from prison and elected president of South Africa **1990s** Ethnic cleansing in former Yugoslavia, and genocide and massive human rights violations in Rwanda **1998** Spain initiates extradition proceedings against General Pinochet of Chile **1999** Médecins sans Frontières wins Nobel Peace Prize	**1990** International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families **1993** Vienna Declaration and Programme of Action **1993** Declaration on the Elimination of Violence Against Women **1990-96** Global UN conferences and summits on the issues of children, education, environment and development, human rights, population, women, social development and human settlements **1998** Rome Statute establishing the International Criminal Court **1999** Optional Protocol to the Convention on the Elimination of Discrimination against Women **1999** ILO Convention on the Worst Forms of Child Labour	**1990** Committee on the Protection of the Rights of All Migrant Workers and Members of their Families **1992** First Organization for Security and Co-operation in Europe (OSCE) High Commissioner for National Minorities **1993** First UN High Commissioner for Human Rights, appointed at the World Conference on Human Rights in Vienna **1993-94** International Criminal Tribunals for former Yugoslavia and Rwanda **1994** UN Special Rapporteur on Violence against Women, its Causes and Consequences **1995** South African Truth and Reconciliation Commission **1995-99** Ten countries launch national plans of action for the protection and promotion of human rights **1999** Human Security Network established
2000 - 2012		
2000 Court in Senegal charges former Chadian dictator Hissene Habre with „torture and barbarity" **2000** Escalation of violence between Israelis and Palestinians since 2000 (Al-Aqsa Intifada) **2001** Peace Prize awarded jointly to the UN and Kofi Annan **2001** Terrorist attacks on the World Trade Center and the Pentagon, President Bush launches "War on Terror" targeting "terrorist infrastructures" in Afghanistan **2002** Detention facility at the US Naval Base at Guantánamo Bay in Cuba **2003** US strike against Iraq	**2000** Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict **2000** Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography **2000** United Nations Millennium Declaration **2001** World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban: Durban Declaration and Programme of Action **2002** Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	**2003** ICC takes up its work on 1 January **2005** UN Special Rapporteur on the Promotion and Protection of Human Rights while countering Terrorism **2006** UN Human Rights Council **2006** Committee on the Rights of Persons with Disabilities **2007** European Union Agency for Fundamental Rights based in Vienna **2008** African Court of Justice is merged with the African Court of Human and Peoples' Rights to the "African Court of Justice and Human Rights"

2004 Terrorist attacks in Madrid and Beslan; Photo material detailing the abuse of prisoners by US military personnel in Iraq published **2005** Terrorist attacks in London **2006** Execution of Saddam Hussein; Thomas Lubanga (Congo) is the first accused at the ICC **2007** Khmer-Rouge-Tribunal starts its work - first accused is Kang Kek Ieu **2008** Kosovo unilaterally declares its independence; Israel undertakes operation "Cast Lead" against Hamas in the Gaza Strip; Radovan Karadžić is captured and has to stand trial at the ICTY **2010** Kang Kek Ieu sentenced by the Khmer-Rouge-Tribunal to 35 years in prison; Arab Spring: many people rise up against authoritarian regimes in states of the Arabic world **2011** Ratko Mladić is captured and has to stand trial at the ICTY; Osama Bin Laden is killed; Humanitarian Intervention in Libya; Muammar Gaddafi is killed	**2004** Arab Charter on Human Rights **2005** Council of Europe Convention on Action against Trafficking in Human Beings **2005** "Beijing + 10" Conference on the Rights of Women **2006** Convention on the Rights of Persons with Disabilities **2006** International Convention for the Protection of All Persons from Enforced Disappearance **2006** Optional Protocol to the Convention on the Rights of Persons with Disabilities **2007** Council of Europe Convention on the Prevention of Terrorism **2007** Declaration on the Rights of Indigenous Peoples **2007** Treaty of Lisbon with the Charter of Fundamental Rights of the European Union **2008** Optional Protocol to the International Covenant on Economic, Social and Cultural Rights **2008** Convention on Cluster Munitions **2010** At the conference in Kampala an agreement is achieved on the definition of the crime of aggression **2011** UN Security Council for the first time refers to the Responsibility to Protect in his resolutions **2011** UN Declaration on Human Rights Education and Training	**2008** Navanethem Pillay is appointed UN High Commissioner for Human Rights **2009** ASEAN Intergovernmental Commission on Human Rights (AICHR) is established **2011** The Panel on Human Dignity established in 2008 presents its report on "Protecting Dignity: An Agenda for Human Rights" **2011** Special Representative of the UN Secretary-General presents "Guiding Principles on Business and Human Rights" **2012** Navi Pillay reappointed UN High Commissioner for Human Rights

C. SUGGESTED LITERATURE ON HUMAN RIGHTS

SELECTION OF BOOKS

Title: **Human Rights in International Relations**
Author/Editor: David P. Forsythe
Place of Publication: New York
Publisher: Cambridge University Press
Year of Publication: 2012
ISBN: 978-1-107-62984-4
Content: This textbook provides an authoritative overview of the place of human rights in international politics. A central paradox summarises developments: while human rights is more firmly established in international law than ever before, the actual protection of human rights faces increased challenges. The book focuses on four central themes: the resilience of human rights norms, the importance of ìsoftî law, the key role of non-governmental organisations, and the changing nature of state sovereignty. Human rights standards are examined according to global, regional, and national levels of analysis with a separate chapter dedicated to transnational corporations. This 3rd edition has been updated to reflect recent events, notably the persistence of both militant Islam and tough counterterrorism policies, the growing power of China and other states not entirely sympathetic to many human rights, and various economic difficulties which highlight the costs associated with a serious attention to human rights.

Title: **UN Human Rights Treaty Bodies - Law and Legitimacy**
Author/Editor: Hellen Keller, Geir Ulfstein
Place of Publication: New York
Publisher: Cambridge University Press
Year of Publication: 2012
ISBN: 978-1-107-00654-6
Content: The effective implementation of human rights treaty obligations in national law is subject to increasing attention. The main responsibility for the international monitoring of national implementation at the global level is entrusted to the UN human rights treaty bodies. These bodies are established by the respective human rights conventions and are composed of independent experts. This book examines three aspects of these bodies: the legal aspects of their structure, functions and decisions; their effectiveness in ensuring respect for human rights obligations; and the legitimacy of these bodies and their decisions. Containing contributions from a variety of eminent legal experts, including present and former members of the treaty bodies, the analysis should be read in light of the ongoing effort to strengthen treaty bodies under the auspices of the UN High Commissioner for Human Rights and with the involvement of relevant stakeholders.

Title: **The International Human Rights Movement**
Author/Editor: Aryeh Neier
Place of Publication: Princeton
Publisher: Princeton University Press
Year of Publication: 2012
ISBN: 9780631135151
Content: During the past several decades, the international human rights movement has had a crucial hand in the struggle against totalitarian regimes, cruelties in wars, and crimes against humanity. Today, it grapples with the war against terror and subsequent

abuses of government power. Discussing the movement's origins, the author looks at the dissenters who fought for religious freedoms in seventeenth-century England and the abolitionists who opposed slavery before the Civil War era. He pays special attention to the period from the 1970s onward, and he describes the growth of the human rights movement after the Helsinki Accords, the roles played by American presidential administrations, and the astonishing Arab revolutions of 2011. Neier argues that the contemporary human rights movement was, to a large extent, an outgrowth of the Cold War, and he demonstrates how it became the driving influence in international law, institutions, and rights. Throughout, Neier highlights key figures, controversies, and organisations, including Amnesty International and Human Rights Watch, and he considers the challenges to come.

Title: **International Human Rights Law in Africa**
Author/Editor: Frans Viljoen
Place of Publication: Oxford
Publisher: Oxford University Press
Year of Publication: 2012
ISBN: 978-0-19-964559-6
Content: This book provides a comprehensive and analytical overview of human rights law in Africa. It examines the institutions, norms, and processes for human rights realisation provided for under the United Nations system, the African Union, and sub-regional economic communitites in Africa, and explores their relationship with the national legal systems of African states.
Three cross-cutting themes are explored throughout the book: national implementation and enforcement of international human rights law; legal and other forms of integration; and the role of human rights in the eradication of poverty. The book also provides an introduction to the relevant human rights concepts.

Title: **The Local Relevance of Human Rights**
Author/Editor: Koen De Feyter, Stephan Parmentier, Christiane Timmerman, George Ulrich
Place of Publication: Cambridge
Publisher: Cambridge University Press
Year of Publication: 2011
ISBN: 978-1-107-00956-1
Content: Do human rights offer real protection when disadvantaged groups invoke them at the local level in an attempt to improve their living conditions? If so, how can we make sure that the experiences of those invoking human rights at the local level have an impact on the further development of human rights (at national and other levels) so that the local relevance of human rights increases? Since the adoption of the Universal Declaration of Human Rights (UDHR) on 10 December 1948, numerous international documents have reaffirmed human rights as global norms. This book examines what factors determine whether appeals to human rights that emanate from the local level are successful, and whether the UDHR adequately responds to threats as currently defined by relevant groups or whether a revision of some of the ideas included in the UDHR is needed in order to increase its contemporary relevance.

Title: **Human Rights: Confronting Myths and Misunderstandings**
Author/Editor: Andrew Fagan
Place of Publication: Cheltenham
Publisher: Edward Elgar Publishing
Year of Publication: 2011
ISBN: 978-1-84980-982-5
Content: This comprehensive book offers both an introduction and a critical analysis of enduring themes and issues in the contemporary theory and practice of human rights. Providing a multi-disciplinary analysis it engages with philosophical, political and social approaches to the subject of human rights.

Title: **The Fundamentals of International Human Rights Treaty Law**
Author/Editor: Betrand G. Ramcharan
Place of Publication: Boston/Leiden
Publisher: Martinus Nijhoff Publishers
Year of Publication: 2011
ISBN: 978-90-04-17608-9
Content: This book has a simple objective: to present the fundamentals of international human rights treaty law in a way that can be helpful to the national leader, official, or legal adviser whose duty it is to help put a human rights treaty regime into the law and practice in his or her country. It is a book of international law, as provided for in the principal international and regional human rights treaties and draws upon in the jurisprudence and practice of their monitoring organs. Chapter I discusses the nature and characteristics of international human rights law. Chapter II discusses the concept of a national protection system which must be in place if a human rights treaty is to be adequately implemented. Chapter III discusses the jurisprudence and practice of treaty bodies on the foundation issues of democracy and the rule of law. Chapter IV discusses human rights in times of crises and emergencies. Chapter V discusses preventive strategies. Chapter VI discusses the duty of governments to respect, to protect and to ensure human rights. Chapter VII discusses the duty of governments to provide redress for violations that might take place. Chapter VIII discusses the essence of supervision in reporting systems. Chapter IX discusses the essence of petitions and fact-finding procedures. Chapter X concludes with a discussion of the bedrock principles of universality, equality and justice as they emerge from the jurisprudence and practice of human rights treaty bodies.

Title: **International Human Rights Law. Cases, Materials, Commentary**
Author/Editor: Olivier De Schutter

Place of Publication: New York
Publisher: Cambridge University Press
Year of Publication: 2010
ISBN: 978-0-521-74866-7
Content: How do you keep students motivated when their perception of a subject conflicts with the reality of its academic study? International human rights law, unquestionably an exciting field, is also complex and demanding. With this textbook, De Schutter focuses on international human rights law as global legal system, rather than as a collection of different (though related) rights, giving it relevance and immediacy. Drawing on cases and materials from a wide range of sources, it shows how human rights law is used as a tool to address contemporary issues such as counter-terrorism, global poverty and religious diversity. Materials are organised thematically, allowing readers to make comparisons and connections between different legal treaties and systems. Students can also easily assess how human rights are protected under domestic and international laws. The law is placed in context throughout, ensuring full understanding of why laws exist and how they work.

Title: **Law of the European Convention on Human Rights**
Author/Editor: David Harris, Michael O'Boyle, Colin Warbrick
Place of Publication: New York
Publisher: Oxford University Press
Year of Publication: 2009
ISBN: 978-0-40-690594-9
Content: This publication coincides with the 50th anniversary of the European Court of Human Rights, a major milestone in European legal history. An up-to-date and comprehensive account of Strasbourg case law and its underlying principles, this book facilitates an in-depth understanding of this area of law. It fully explores the extent of the Convention's influence upon the legal development of the

contracting states, and reveals exactly how such a powerful authority has been achieved and maintained. It sets out and critically analyses each Convention article that constitutes the substantive guarantee, and examines the system of supervision. The Convention currently binds 47 European states, and its reach is set to expand even further. It has effectively become the constitutional bill of rights for Europe, providing common human rights standards for the whole continent. National parliaments and courts must constantly look to the Convention when legislating and deciding cases, or run the risk of adverse Strasbourg judgments with which they must then comply. For nearly all states, the Convention has been made directly enforceable in their national courts. For the remaining few, it offers a model for a national bill of rights. All of these considerations underline the immense value of the comprehensive account of the law of the Convention that this book provides.

Title: **The Law of International Human Rights Protection**
Author/Editor: Walter Kälin, Jörg Künzli
Place of Publication: New York
Publisher: Oxford University Press
Year of Publication: 2009
ISBN: 978-0-19-956520-7
Content: In providing a concise but comprehensive overview of international human rights protection at the global and regional levels, this book offers an introduction to the ideas, conceptual underpinnings, and doctrine of international human rights law including the sources, legal nature, and scope of application of human rights obligations. The issues of implementation and enforceability at the domestic, regional, and universal level are explored, and the impact of the recently established Human Rights Council is assessed. The substantive guarantees covering economic, social, and cultural as well as civil and political rights based on the case law of UN treaty bodies and relevant regional courts are evaluated. This book shows that human rights are real rights creating legal entitlements for those who are protected by them and imposing legal obligations on those bound by them. It explores the various mechanisms set up by the international community to monitor the implementation of human rights guarantees and to decide individual cases brought to the attention of human rights courts and quasi-judicial bodies at the international level. Its last part contains a detailed exploration of the meanings of human rights guarantees, such as the right to life, the prohibition of torture, non-discrimination, economic rights, and many others.

Title: **Human Rights Matters – Local Politics and National Human Rights Institutions**
Author/Editor: Julie A. Mertus
Place of Publication: Stanford
Publisher: Stanford University Press
Year of Publication: 2009
ISBN: 978-8047-6093-5
Content: Among human rights advocates, dominant wisdom holds that the promotion and protection of human rights relies not on international efforts, but on domestic action. International institutions may capture news headlines, but it is national groups that effectively shape local expectations and ultimately make human rights matter.
Through a series of case studies and an extensive range of interviews with the administrators and constituencies of national human rights institutions, Julie Mertus offers a close look at the day-to-day workings of these groups. She presents an unusual and lively set of European cases – examining Bosnia, the Czech Republic, Denmark, Germany, and Northern Ireland – to illustrate how local culture matters in promoting human rights.
But even with the obvious successes of these

institutions, Mertus offers a cautionary tale. National institutions are incredibly difficult to design and operate, and they are only as good as the domestic political and economic factors will allow. It is too frequently seen that the countries most supportive of human rights on the world stage may prove to be highly disappointing back home.

Title: **International Human Rights in Context: Law, Politics, Morals**
Author/Editor: Henry J. Steiner, Philipp Alston, Ryan Goodman
Place of Publication: Oxford
Publisher: Oxford University Press
Year of Publication: 2007
ISBN: 978-0-19927942-5
Content: This interdisciplinary coursebook presents a diverse range of primary and secondary materials alongside extensive text, editorial commentary, and study questions. International Human Rights in Context, 3rd edition, thoroughly covers the basic characteristics of international law; evolution of the human rights movement; civil, political, economic, and social rights; the humanitarian laws of war; globalisation; self-determination; women's rights; universalism and cultural relativism; intergovernmental and nongovernmental institutions; implementation and enforcement; internal application of human rights norms; and the spread of constitutionalism. The 3rd edition incorporates new themes and topics including human rights in relation to terrorism and national security; responsibility of non-state actors for human rights violations; recent substantial changes in sources and processes of international law; achieved and potential reform within UN human rights institutions; and theories about international organisations and their influence on state behaviour. It is also accompanied by a website housing the Annex of Documents.

Title: **International Protection of Human Rights: Achievements and Challenges**
Author/Editor: Felipe Gómez Isa, Koen de Feyter
Place of Publication: Bilbao
Publisher: University of Deusto
Year of Publication: 2006
ISBN: 84-9830-034-7
Content: At the beginning of the nineties, there was an expectation within the human rights community that the next decade would be a period of consolidation for the international human rights regime. This did not happen. In fact, the human rights regime underwent dramatic changes in response to new circumstances. The authors have tried to highlight both the achievements and the challenges ahead in this Manual.
Available at: http://krisan.be/drammen/docs/heyns.pdf

INFORMATION ON HUMAN RIGHTS SITUATIONS

Title: **Amnesty International Report 2012: The State of the World's Human Rights**
Author/Editor: Amnesty International (AI)
Place of Publication: London
Publisher: Amnesty International
Year of Publication: 2012
ISBN: 978-0862104726
Content: Amnesty International Report 2012 documents the state of human rights in 155 countries and territories in 2011.
Available at: www.amnesty.org/en/annual-report/2012

Title: **Human Rights Watch World Report 2012**
Author/Editor: Human Rights Watch (HRW)
Place of Publication: New York
Publisher: Human Rights Watch
Year of Publication: 2012

ISBN: 978-1-60980-389-6

Content: This 22nd annual World Report summarises human rights conditions in more than 90 countries and territories worldwide in 2011. It reflects extensive investigative work that Human Rights Watch staff has undertaken during the year, often in close partnership with domestic human rights activists.

Available at: www.hrw.org/world-report-2012

Title: **Fundamental Rights: Challenges and Achievements in 2011**

Author/Editor: European Union Agency for Fundamental Rights (FRA)

Place of Publication: Luxembourg

Publisher: Publications Office of the European Union

Year of Publication: 2012

ISBN: 978-92-9192-919-1

Content: This year's FRA annual report chronicles the positive developments made in 2011 as well as the challenges facing the EU and its member states in the field of fundamental rights, drawing on objective, reliable and comparable socio-legal data. It examines progress on EU and member states' rights obligations under the EU Charter of Fundamental Rights, covering the following topics: asylum, immigration and integration; border control and visa policy; information society and data protection; the rights of the child and protection of children; equality and non-discrimination; racism and ethnic discrimination; participation of EU citizens in the Union's democratic functioning; access to efficient and independent justice; and rights of crime victims. This year, the focus section looks at the fundamental rights landscape in Europe today. The section tells how the various institutions, rights and mechanisms work together to bring these rights to life for everyone in the EU.

Available at: http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2012/pub-annual-report-2012_en.htm

Title: **Human Development Report 2011. Sustainability and Equity: A Better Future for All**

Author/Editor: United Nations Development Programme (UNDP)

Place of Publication: New York

Publisher: Palgrave McMillan

Year of Publication: 2011

ISBN: 978-0230363311

Content: The great development challenge of the 21st century is to safeguard the right of generations today and in the future to live healthy and fulfilling lives. The 2011 Human Development Report offers important new contributions to the global dialogue on this challenge, showing how sustainability is inextricably linked to equity – to questions of fairness and social justice and of greater access to a better quality of life.

Available at: http://hdr.undp.org/en/

Title: **Human Rights in Asia and the Pacific**

Author/Editor: James T. Lawrence

Place of Publication: Huntington

Publisher: Nova Science Pub Inc.

Year of Publication: 2004

Content: The existence of human rights helps secure peace, deter aggression, promote the rule of law, combat crime and corruption, and prevent humanitarian crises. These human rights include freedom from torture, freedom of expression, press freedom, women's rights, children's rights, and the protection of minorities. This book surveys the countries of Asia and the Pacific and is provides a bibliography and useful indexes by subject, title and author.

Title: **Human Rights in Africa. From the OAU to the African Union**

Author/Editor: Rachel Murray

Place of Publication: Cambridge

Publisher: Cambridge University Press

Year of Publication: 2004

Content: This work examines the role of the Organization of African Unity, now the African Union, and how it has dealt with human rights since its inception in 1963. It considers the role of its main institutions both under the OAU and its transformation recently into the African Union. The book is divided into chapters examining various themes including the rights of women, the rights of the child, the concept of democracy and the right to development. Written by a leading human rights scholar, this book is essential reading for lawyers acting for African states, and for foreign governments and NGOs active in Africa, as well as being of interest to international and comparative human rights scholars.

D. RESOURCES ON HUMAN RIGHTS EDUCATION

SELECTED BASICS, BACKGROUND INFORMATION, REVIEWS AND SCIENTIFIC DISCOURSE IN HUMAN RIGHTS EDUCATION

Title: **Discover the Past for the Future: The Role of Historical Sites and Museums in Holocaust Education and Human Rights Education in the EU**
Author/Editor: FRA – European Union Agency for Fundamental Rights
Place of Publication: Vienna
Publisher: FRA – European Union Agency for Fundamental Rights
Year of Publication: 2011
Content: More than 60 years after the Shoah holocaust education has come to a turning point: From the very beginning it has been built on passing on the experiences of survivors and witnesses which now comes to an end – for the simple reason of their age. On the other hand, the rise of right-wing extremism throughout Europe poses the question what we have learnt from history. The publication asks for issues common in Holocaust education and human rights education and discusses possible synergies in achieving the goal of raising awareness and fighting racism and anti-Semitism.

Title: **Contemporary Issues in Human Rights Education**
Author/Editor: UNESCO
Place of Publication: Paris
Publisher: UNESCO
Year of Publication: 2011
Content: The format of this publication presents the main strands concerning the role of human rights education as well as the key elements for its implementation. Each strand

addresses current issues and challenges faced when incorporating a culture for human rights, also illustrating the collective importance of human rights education as a fundamental base for a peaceful and just society. Under each strand, a list of examples inspired by country initiatives is proposed. The role of research in the promotion of human rights is also discussed in the chapter that describes key trends, examples and challenges relating to the role of human rights education in addressing key 21st century challenges and issues. The publication is wrapped up with an overview on 60 years of human rights education and an exhibition on learning materials from all over the world.
Available at: http://unesdoc.unesco.org/images/0021/002108/210895e.pdf

Title: **Human Rights Education in Asia-Pacific. Vol. 1-3**
Author/Editor: Asia-Pacific Human Rights Information Center
Place of Publication: Osaka
Publisher: Asia-Pacific Human Rights Information Center
Years of Publication: 2010-2012
Content: Following a twelve-year series of articles on human rights education in the school system in more than 20 countries in Asia and beyond the Asia-Pacific Human Rights Information Center started the publication of an annual review on the topic in 2010. Just like its predecessor, it aims to document and disseminate to an audience beyond the communities of the contributing individuals and institutions the rich Asia-Pacific experiences in human rights education.
Available at: www.hurights.or.jp/archives/asia-pacific/ (vol. 1 and 2)

Title: **Human Rights Education: A Conceptual Analysis**
Author/Editor: André Keet

Place of Publication: Saarbrücken
Publisher: Lambert Academic Publishing
Year of Publication: 2010
Content: Over the past 15 years, human rights education evolved into a burgeoning pedagogical formation that sources its currency and legitimacy from the perceived international consensus on human rights universals. However, the proliferation of HRE is paradoxically not matched by a sustained and meaningful theoretical analysis though it has far-reaching implications for formal and informal educational systems worldwide. As a result, HRE has grown into a declarationist, conservative, uncritical and compliance-driven pedagogy that is in the main informed by a political literacy approach. This book, therefore, provides a systematic conceptual analysis of HRE and proposes alternative conceptual principles for a new form of HRE to emerge. The analysis and proposals should assist HRE practitioners, professionals and scholars to contribute to these developments. This new form will stand in a critical and non-deterministic relationship with human rights universals that will infinitely enhance its transformative and humanising potential.

Title: **Human Rights Education: Reflections on Policy and Practice**
Author/Editor: Fionnuala Waldron, Brian Ruane
Place of Publication: Dublin
Publisher: The Liffey Press
Year of Publication: 2010
Content: This publication focuses on human rights education in theory and practice. It has three main themes that are inter-related and developed over a range of national and international contexts. The first theme addresses the role of human rights teaching in citizenship education and in education for sustainable development. The second theme focuses on the rights of children in education and the

concept of 'voice'. The third theme locates human rights education in curriculum design and school practice. This book, which brings together a range of papers originally presented at a conference hosted by the Centre for Human Rights and Citizenship Education in St. Patrick's College in Dublin, makes an important contribution to current thinking and best practice in human rights education.

Title: **Global Standards – Local Action. 15 Years Vienna World Conference on Human Rights. Conference Proceedings of the International Expert Conference held in Vienna on 28 and 29 August 2008.**
Author/Editor: Wolfgang Benedek et al.
Place of Publication: Wien/Graz
Publisher: Neuer Wissenschaftlicher Verlag
Year of Publication: 2009
Content: Fifteen years after the Vienna Declaration and Programme of Action an international conference researched and discussed the implementation status of the 1993 states' obligations in three working groups. The publication summons up the conference contributions including a chapter on international and national perspectives and practices in human rights education.

Title: **How All teachers Can Support Citizenship and Human Rights Education: A Framework for the Development of Competences**
Author/Editor: Peter Brett, Pascale Mompoint-Gaillard, Maria Helena Salema
Place of Publication: Strasbourg
Publisher: Council of Europe Publishing
Year of Publication: 2009
Content: This publication sets out the core competences needed by teachers and teacher educators both in pre- and in-service training to put democratic citizenship and human rights into practice in the classroom, throughout the school and in the wider community.

Some 15 competences are presented and grouped into four clusters. Each cluster of competences corresponds to one chapter, within which the competences are described in detail and exemplified. The reader will find progression grids and suggested developmental activities for each competence: these grids – featuring focusing, developing, established and advanced practice – aim to help teachers and teacher educators determine the level to which their professional practice corresponds, and thus identify specific and practical improvements upon which they can focus.

Title: **Human Rights Education: Theory and Practice**
Author/Editor: C. Naseema
Place of Publication: New Delhi
Publisher: Shipra Publications
Year of Publication: 2008
Content: Human rights education can help both- to reduce human rights violations and contribute to building free and peaceful societies. Human rights should be a subject to all levels of education. The book presents an overview of the human rights, and implementation and pedagogical aspects of human rights education. It also deals specifically with methods and activities the teachers can use in classrooms for teaching human rights and the role of the teacher. The pedagogical aspect of human rights education focused in this book is a product of a series of workshops.

Title: **Human Rights Learning: A People's Report**
Author/Editor: Upendra Baxi, Kenny Mann
Place of Publication: New York
Publisher: PDHRE – People's Movement for Human Rights Learning
Year of Publication: 2006
Content: The Report was assembled and written by reviewing many changes in the past two decades, which it partly reflects. Therefore, it

brings to the reader a sense of a past that did not even prefigure the idea of human rights education and yet achieved some enduring results for human dignity, freedom, and welfare. It addresses the past as well as the present of some initiatives at HRE: Overall, the ideas and ideals of HRE have a more secure place than before in the formal and non-formal educational sectors, academic research, organised NGO public advocacy, and popular movements. The materials here assembled testify to the diversity of the realms of human rights education and are directed to reflect on the meaning and value, nature and limits, and the future of human rights education.
Available at: www.pdhre.org/report/

Title: **Teachers, Human Rights And Diversity: Educating Citizens in Multicultural Societies**
Author/Editor: Audrey Osler
Place of Publication: London
Publisher: Trentham Books
Year of Publication: 2005
Content: How should we educate citizens in multicultural societies? This question is receiving increasing attention in countries across the world. In this volume authors from England, Northern Ireland, the Republic of Ireland and the United States report on recent research in this field and consider the implications for teachers, teacher educators and student teachers. Case studies illustrate how young citizens can learn to apply the principles of human rights and equality in resolving complex and controversial issues.

Title: **Economic, Social and Cultural Rights: Handbook for National Human Rights Institutions**
Author/Editor: United Nations
Place of Publication: New York/Geneva
Publisher: United Nations
Year of Publication: 2005
Content: This handbook's aim is to assist national human rights institutions in the development of policies, processes and skills to integrate economic, social and cultural rights further into their work. It examines ways in which national institutions' legal mandates can be interpreted to these rights within their jurisdictions and how their functions and powers can be exercised more appropriately in their regard.

Title: **International Perspectives in Human Rights Education**
Author/Editor: Viola B. Georgi, Michael Seberich
Place of Publication: Gütersloh
Publisher: Bertelsmann Foundation
Year of Publication: 2004
Content: The Universal Declaration of Human Rights defines a basic set of rights that apply to every human being. Educating people about these rights is a prerequisite to enforcing them. Thus, countries all around the globe have pursued the common goal of establishing a culture of human rights, each in their own way and at their own pace.
Human rights activists, politicians and academics agree that human rights education is a powerful tool. But they acknowledge that promulgating human rights as the common language of humanity and as a way of both strengthening cultural diversity and preventing intolerance and discrimination is a complex, sometimes problematic and often long process. This collection of essays explores the different realities of human rights education in various parts of the world, comparing and discussing approaches, theoretical concepts and methods.
Available at: www.bertelsmann-stiftung.de/cps/rde/xbcr/SID-72858C5F-1738203E/bst/xcms_bst_dms_14994_14995_2.pdf

Title: **The Human Rights Handbook: A Global Perspective for Education**
Author/Editor: Liam Gearon
Place of Publication: London
Publisher: Trentham Books
Year of Publication: 2003
Content: An authoritative guide to human rights for teachers, students and researchers. It presents an increasingly complex field in a straightforward and accessible manner. Each chapter has a similar user-friendly format. The chapter summary is followed by a general introduction to the theme. International legal standards are set out in a selection of key documents. The relevant human rights organisations are described: UN, regional-governmental and non-governmental (NGO). Because the handbook does not claim to be exhaustive, each chapter concludes with a brief selection of additional resources for further reading and research.

Title: **Methodologies for Human Rights Education**
Author/Editor: Richard Pierre Claude
Place of Publication: New York
Publisher: PDHRE – Peoples Decade for Human Rights Education
Year of Publication: 1998
Content: A practical introduction to human rights education pedagogy, including an essay on the right to know one's right, a guide to curriculum planning, suggestions for empowerment and targeting user-groups, and methodologies for evaluation.
Available at: www.pdhre.org/materials/methodologies.html

Title: **Human Rights Education for the Twenty-First Century**
Author/Editor: George J. Andreopoulos, Richard Pierre Claude
Place of Publication: Philadelphia
Publisher: University of Pennsylvania Press
Year of Publication: 1997
Content: Human rights education, which includes teaching people about their rights, is a difficult task. To help interested groups meet these obligations, this book of previously unpublished essays addressing problems and challenges that are both conceptual and practical has been developed. The book is designed to be useful to practitioners, offering not only theoretical guidance but also "nuts-and-bolts" advice regarding planning and implementing programs of formal (or school-based) and non-formal (or out-of-school) human rights education.

SELECTED MANUALS AND EDUCATIONAL MATERIAL

Title: **The Human Rights Education Toolbox**
Author/Editor: Danish Institute for Human Rights
Publisher: Danish Institute for Human Rights
Year of Publication: 2011
Language: English
Target group: Professionals (human rights and development practitioners, advisors, and donor representatives who work directly on educational programmes)
Content: The Human Rights Education Toolbox offers an introduction to human rights education and the creation of a human rights-based learning environment. It explains how to design human rights education programmes, including design checklist, background research, facilitation of learning processes, and evaluation. It then describes methods for planning education sessions and managing human rights education programmes. Contents also include concrete tools and checklists on: logistical planning; participant/target group analysis; assessment of expectations; how to define learning objectives and indicators; development of curriculum;

development of training methods; facilitation and establishing a learning environment; evaluation tools; and follow-up activities that support the integration of the new knowledge and tools in the practice of participants. It also helps users adapt tools to different types of competence-building efforts (workshops, conferences, training of trainers) and to different target groups.

Title: **Compasito. Manual on Human Rights Education for Children**
Author/Editor: Nancy Flowers et al.
Place of Publication: Budapest
Publisher: Council of Europe, Directorate of Youth and Sport / European Youth Centre Budapest
Year of Publication: 2009
Languages: English, Albanian, French, Georgian, German, Hungarian, Japanese, Polish, Russian, Turkish
Target group: Children, educators
Content: Compasito was inspired by "Compass ñ a Manual on Human Rights Education with Young People", which was developed by the Council of Europe in 2002. Compasito builds on the philosophy and educational approaches of "Compass". As "Compass", it uses a non-formal educational methodology and a structure that provides theoretical and practical support to users of the manual. However, while "Compass" addresses young people themselves, Compasito addresses adult educators who work with children. It provides them with theoretical and methodological information and substantial discussion of the bookís human rights themes. Compasito also encourages educators to adapt material to reflect their own and their childrenís reality. Although the practical activities are designed to play with children, most activities need the proper facilitation of an educational expert.
Available at: www.eycb.coe.int/compasito/default.htm

Title: **Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice**
Author/Editor: OSCE/ODIHR, Council of Europe, UNESCO
Place of Publication: Warsaw
Publisher: OSCE/ODIHR
Year of Publication: 2009
Languages: English, Arabic, French, German, Italian, Russian, Spanish
Target group: Teachers/education for primary and secondary level
Content: Designed for primary and secondary schools, teacher training institutions and other learning settings, the new tool, which collects 101 exemplary practices from Central Asia, Europe and North America, is a valuable resource for teachers and education policymakers.
It provides resource materials relevant to key elements for successful human rights education, including 1) laws, guidelines and standards; 2) learning environment; 3) teaching and learning tools; 4) professional development for educators, and 5) evaluation.
Available at: www.hrea.org/index.php?base_id = 172&doc_id = 458

Title: **Play it fair! A Human Rights Education Toolkit for Children**
Author/Editor: Daniel Roy et al.
Place of Publication: Montreal, Quebec
Publisher: Equitas – International Centre for Human Rights Education
Year of Publication: 2008
Language: English
Target group: Children, educators
Content: The Toolkit helps to promote human rights, non-discrimination and peaceful conflict resolution within non-formal education programs for children, such as summer camps or after school activities. It helps to reinforce the positive values that derive from the fundamental principles of human dignity

and equality contained in the Universal Declaration of Human Rights.

Available at: http://equitas.org/wp-content/uploads/2010/11/2008-Play-it-Fair-Toolkit_En.pdf

Title: **Exploring Children's Rights - Nine short projects for primary level**
Author/Editor: Rolf Gollob, Peter Krapf
Place of Publication: Strasbourg
Publisher: Council of Europe (= EDC/HRE Volume V)
Year of Publication: 2007
Languages: English, French, Russian
Target group: Children, teachers
Content: Children should know what rights they have, but they should also learn how to appreciate and to use them. To achieve this, schools must allow for a wide range of learning experiences in children's rights education. Children understand and appreciate their rights by using them, both in school and in everyday life. To encourage children to do so, the challenge for the teacher is to create a setting that is governed by the spirit of democracy and human rights. This manual has been designed for teachers who are looking for tools to teach children's rights to students at primary schools.

Title: **Designing and Delivering Effective Human Rights Education. Training Manual**
Author/Editor: Vincenza Nazzari et al.
Place of Publication: Montreal, Quebec
Publisher: Equitas – International Centre for Human Rights Education
Year of Publication: 2007
Language: English
Target group: Human rights educators, teachers, trainers
Content: The manual outlines a six-day workshop which aims at providing human rights educators with the necessary tools for planning, designing, and conducting effective training-of-trainers (TOT) workshops. The manual has been designed for use by both facilitators and participants. The workshop is designed as a practicum for human rights education (HRE) development. It focuses on the "how to" of designing, delivering, and evaluating human rights training, as well as the development of a systematic approach to HRE. Participants will not only learn about effective HRE design, they will also have the opportunity to put their learning into practice by preparing an actual model for a human rights training session. The expectation is that participants will use the model as a basis for developing training they will deliver within the context of the work of their organisations.
Available at: http://equitas.org/wp-content/uploads/2010/11/Equitas_Generic_TOT_2007.pdf

Title: **Our World. Our Rights**
Author/Editor: Amnesty International
Place of Publication: London
Publisher: Educators in Human Rights Network
Year of Publication: 2006
Language: English
Target group: Children
Content: Well-illustrated teachers' primer, which introduces the Universal Declaration of Human Rights to the primary classroom. The workbook, with a thoughtful introductory chapter on the role of human rights within the school, is full of tested lesson plans, suggestions, activities, games, quizzes and case studies in different subject disciplines and areas of the curriculum from History and Geography to English.

Title: **DOmino - A Manual to Use Peer Group Education as a Means to Fight Racism, Xenophobia, Anti-semitism and Intolerance**
Author/Editor: Antje Rothemund et al.
Place of Publication: Strasbourg

Publisher: Council of Europe
Year of Publication: 2005 (3rd edition)
Languages: English, French
Target group: Youth
Content: DOmino tries to give some assistance to those working or planning to work with young people on peer group education projects. The different sections of DOmino contain some theoretical background on peer group education as well as different project descriptions, methods, quotes and stories from young people. The references to resources used are put in brackets and the sources can be found in the bibliography at the end of this publication.
Available at: http://eycb.coe.int/domino/default.htm

Title: **Education Pack – Ideas, Resources, Methods and Activities for Informal Intercultural Education with Young People and Adults**
Author/Editor: Mark Taylor, Pat Brander, Carmen Cardenas, Rui Gomes, Juan de Vincente Abad
Place of Publication: Strasbourg
Publisher: Council of Europe (All Different All Equal campaign)
Year of Publication: 2005
Languages: English, French
Target group: Youth
Content: Nowadays, European societies continue to suffer from a growth of racist hostility and intolerance towards minorities. The necessity for continuing intercultural youth work remains unquestionable. The usefulness of this pack stems from the variety and creativity of the methodologies proposed. The role plays, simulation exercises, case studies and cooperative group work that this reference document proposes will be an inspiration to many youth workers, trainers, teachers and other people actively involved in intercultural education.

The Education Pack is a book intended for use in informal education settings but activities may also be incorporated into the classroom setting. The book has two major sections, the first dealing with the key concepts for intercultural education and the second suggesting activities, methods and resources.
Available at: http://eycb.coe.int/edupack/default.htm

Title: **Why Do People Abuse Human Rights?**
Author/Editor: Alison Brownlie
Place of Publication: London
Publisher: Hodder Wayland
Year of Publication: 2004
Language: English
Target group: Children
Content: This book looks at how and why human rights are abused. It examines how the rights of those in different sectors of society can be abused, such as children and workers, and how human rights are affected during war and other conflicts. It goes on to explain that we have to actively campaign for human rights – and the best way to do this is through education. Including case studies and quotes from people around the world.

Title: **ABC Teaching Human Rights: Practical Activities for Primary and Secondary Schools**
Author: OHCHR
Place of Publication: New York/Geneva
Publisher: United Nations Publications
Year of Publication: 2004
Languages: English, Arabic, Chinese, French, Russian, Spanish
Target group: Children
Content: "ABC Teaching Human Rights" aims to serve as a user-friendly tool for human rights education and a multi-coloured umbrella covering a number of basic human rights areas. It offers practical advice to teachers and

other educators who want to foster human rights awareness and action among primary and secondary school children, including suggestions for developing learning activities. It is not meant to place an extra burden on an already overloaded curriculum but to assist in infusing human rights issues into subjects already taught in schools.
Available at: www.ohchr.org/en/publicationsresources/pages/trainingeducation.aspx

Title: **Compass – A Manual on Human Rights Education with Young People**
Author/Editor: Rui Gomes et al.
Place of Publication: Strasbourg
Publisher: Council of Europe
Year of Publication: 2003 (2nd edition)
Languages: English, Arabic, Croatian, Hungarian, Romanian, Dutch, Italian, Slovenian, Bosnian, Bulgarian, Spanish, German, Armenian, Azerbaijani, Georgian, Polish, Macedonian language, Czech, Portuguese, Japanese, Serbian, Slovak, Turkish, Russian, Slovenian, French
Target group: Youth, adults
Content: This educational guide presents a wide range of approaches of themes and methods that should inspire anyone interested in human rights, democracy and citizenship. This guide also provides a series of 49 sheets for complete practical activities, proposing a detailed framework for working activities at school as well as related multiple texts and documents.
Available at: http://eycb.coe.int/compass/

Title: **First Steps: A Manual for Starting Human Rights Education**
Author/Editor: Amnesty International
Place of Publication: London
Publisher: Amnesty International
Year of Publication: 2002
Languages: English, Albanian
Target group: Children/peer education

Content: This Manual, first published in 1996, was developed by Amnesty International specifically for use in Central and Eastern Europe. The manual has been used in numerous countries in the region. "First Steps" is conceived as a learning tool for the teacher as well as a resource for organising activities in educational settings. The text provides a total of 27 lessons for younger children (up to age 12) and 18 lessons for older children. The 2002 edition was adapted for peer education.
Available at: www.amnesty.org/en/library/info/POL32/002/2002/en

Title: **Human Rights in the Curriculum: History**
Author/Editor: Margot Brown, Sarah Slater
Place of Publication: London
Publisher: Amnesty International/Education in Human Rights Network
Year of Publication: 2002
Language: English
Target group: Teachers (secondary level)
Content: This book includes exciting activities and lesson ideas for history teachers. It will give students the opportunity to study areas of the curriculum in a new and thought-provoking way.
As well as encouraging students to consider slavery, child labour, the struggle for women's rights and the Holocaust from a human rights perspective, the textbook also introduces inspiring historical figures from Bartolomé de las Casas to Eleanor Roosevelt. By examining key stages from history in this way, the students will develop understanding of human rights and the need for their promotion.

Title: **Time for Rights: Activities for Citizenship and PSHE for 9–13 Year Olds**
Author/Editor: Pam Fenney, Heather Jarvis, Elaine Nipper
Place of Publication: Geneva
Publisher: UNICEF

Year of Publication: 2002
Language: English
Target group: Children
Content: Explores citizenship and rights in relation to the UN Convention on the Rights of the Child. Through role play, cartoons, stories, poems and a wide variety of activities, the book looks at what rights mean to an individual child, in the family, in the school and in the community.

Title: **Passport to Dignity**
Author/Editor: PDHRE – People's Decade for Human Rights Education
Place of Publication: New York
Publisher: PDHRE – People's Decade for Human Rights Education
Year of Publication: 2002
Language: English
Target group: Adults, human rights activists
Contents: This workbook is designed to inspire, inform and facilitate action for social and economic transformation towards the realisation of the human rights of women. The book uses the comprehensive framework of the Beijing Platform For Action (BPFA) to demonstrate the holistic nature of human rights and the powerful tool it provides to women to overcome discrimination, achieve full equality, wellbeing and participation in the decisions that determine their lives and the future of their communities. It offers experiences and reflection of how to use the human rights framework as a tool for systemic analysis with a gender perspective on a multitude of women issues and shares experiences of and guidance for action towards economic and social transformation. The Critical Areas of Concern of the BPFA provide both materials for human rights education and a guideline for claiming and fulfilling the human rights of women.
Available at: www.pdhre.org/passport.html

Title: **A Call for Justice. Resource Packet**
Author/Editor: PDHRE – People's Decade for Human Rights Education
Place of Publication: New York
Publisher: PDHRE – People's Decade for Human Rights Education
Year of Publication: 2002
Language: English
Target group: Adults, human rights activists
Contents: This resource packet aims to provide a human rights framework to NGOs and community workers. "A Call for Justice" is organised into two main categories: "Groups" and "Issues": The "Groups" category addresses human rights issues by groups of affected people: aged persons, children and youth, differently-abled persons, indigenous peoples, migrant workers, minorities and ethnic groups, refugees, and women. The "Issues" category addresses human rights issues by development issue: development, discrimination, education, environment, health, housing, livelihood and land, participation, peace and disarmament, poverty, "race", religion, sexual orientation and work. The resource packet is a companion resource to "Passport to Dignity", a training guide based on the principals of the Beijing Platform for Action.
Available at: www.pdhre.org/justice.html

Title: **Freedom! Human Rights Education Pack**
Author/Editor: Amnesty International
Place of Publication: London
Publisher: Amnesty International
Year of Publication: 2001
Language: English
Target group: Youth
Content: A stimulating investigation of what our human rights are and how they have been developed, denied and challenged. This pack is suitable for students across a range of abilities from age 14 to 19. Strikingly illustrated, the pack provides information, suggestions

and instructions for teachers, as well as case studies, activities, research projects and exercises for students. Excellent for courses in Citizenship, Religious Education, General Studies, Geography, History, English, PSHE, Media Studies, Theatre Studies, Law and Sociology.

Title: **Stand Up For Your Rights**
Author/Editor: Paul Atgwa, Jasper Bakyayita, Damien Boltauzer et al.
Place of Publication: London
Publisher: Two-Can Publishing
Year of Publication: 2001
Language: English
Target group: Children
Content: Written and edited by young people from all over the world, this book looks at the issues of human rights. It contains stories, poems, personal recollections, to express hopes and fears about how we treat each other. It is a celebration of where we have reached in the development of human rights, followed by a quest for a definition of what they should mean for the future.

Title: **Popular Education for Human Rights. 24 Participatory Exercises for Facilitators and Teachers**
Author/Editor: Richard Pierre Claude
Place of Publication: Amsterdam/Cambridge, MA
Publisher: Human Rights Education Associates
Year of Publication: 2000
Language: English, Chinese, Spanish, Dutch
Target group: Adults, educators
Contents: Training manual with exercises designed for non-formal grass-roots education emphasising, among others: women's and children's issues, and organised around specified values, e.g., respect for dignity and fair rules, links between human rights and responsibilities, building civil society, confronting prejudice, and "information for empowerment", etc.

The manual's highly participatory methods can be adapted to diverse settings and cultures and, while designed for popular education, nevertheless, have been successfully used in programmes of formal education as well.
Available at: www.hrea.org/pubs/claude00. html

Title: **Lesbian, Gay, Bisexual and Transgender Rights: A Human Rights Perspective**
Author/Editor: Dave Donahue
Place of Publication: Minneapolis
Publisher: Human Rights Resource Center
Year of Publication: 2000 (= Topic Book 3)
Language: English
Target group: Youth, adults
Content: This curriculum is intended to further thoughtful examination and responsible action among high school students about lesbian gay, bisexual and transgender issues in the broader context of human rights. The activities in this curriculum promote appropriate action in addition to reflection and discussion. Students are asked to take responsibility for the homophobia that causes human rights abuses. This homophobia may be in their schools in the form of harassment or violence against gay students, in their community during referenda elections seeking to deny gays and lesbians their equal rights, or in the world when persons are imprisoned, tortured, and executed for their consensual relationships with adults of the same sex. This curriculum prepares students for responding in meaningful ways to such challenges.
The activities in this curriculum can be taught individually or all together in sequence. The more they are integrated into general classroom investigations of human rights, the better since such integration allows students to see LGBT rights even more clearly in a human rights framework.
Available at: www1.umn.edu/humanrts/edumat/

Title: **The Human Rights Education Handbook: Effective Practices for Learning, Action and Change**
Author/Editor: Nancy Flowers et al.
Place of Publication: University of Minnesota
Publisher: Human Rights Resource Center (= Topic Book 4)
Year of Publication: 2000
Content: This manual is intended to help people who care about human rights to become effective educators, able to share both their passion and their knowledge. To further human rights education in all its many forms, "The Human Rights Education Handbook" lays out the basics: why, for whom, what, where, who, and how. It draws on the experience of many educators and organisations, illustrating their effective practices and distilling their accumulated insights. It is designed to be used as a ready reference and tool: easy to read, easy to use, easy to photocopy. Each chapter stands alone, able to be read and used independently.
Available at: www1.umn.edu/humanrts/edumat/hreduseries/hrhandbook/toc.html

Title: **Siniko. Towards a Human Rights Culture in Africa**
Author/Editor: Amnesty International-International Secretariat
Place of Publication: London
Publisher: Amnesty International
Year of Publication: 1999
Languages: English, French and Swahili
Target group: Children, teachers
Content: This manual, for teachers and educators in Africa who work with young people in formal and non-formal educational environments and who want to introduce human rights in their teaching practices, is designed as a basic introduction – with advice on methodology, activities for older and younger children and ideas for action.
Available at: http://amnesty.org/en/library/asset/AFR01/003/1999/en/c9e5d998-e1a5-11-dd-9f8a-a19d21ac1fa4/afr010031999en.pdf

Title: **Raising Children with Roots, Rights & Responsibilities. Celebrating the UN Convention on the Rights of the Child**
Author/Editor: Lori Dupont, Joanne Foley, Annette Gagliardi
Place of Publication: Minneapolis
Publisher: Human Rights Resource Center
Year of Publication: 1999
Language: English
Target group: Children, teachers, educators
Content: This book seeks to meet the responsibility laid down in the preamble of the Universal Declaration of Human Rights which exhorts every individual and every organ of society to "strive by teaching and education to promote respect for these rights and freedoms". The guide for a 12-week human rights curriculum builds on the power of the parent-child relationship.
Available at: www1.umn.edu/humanrts/edumat/

Title: **Economic and Social Justice. A Human Rights Perspective**
Author/Editor: David A. Shiman
Place of Publication: Minneapolis
Publisher: Human Rights Resource Center
Year of Publication: 1999
Language: English
Target group: Youth, adults
Content: This book provides background information, ideas for taking action and interactive activities to help people think about human rights in a broader, more inclusive manner. It strives to help us define issues like homelessness, poverty, hunger and inadequate health care, not only as "social or economic problems", but also as human rights challenges. The book begins with a brief his-

tory of economic, social, and cultural rights and an essay, in question and answer format, that introduces these rights. Although cultural rights are interrelated and of equal importance as economic and social rights, this book primarily addresses justice regarding economic and social components. Part II provides nine activities to further explore and learn about social and economic rights.

Title: **Tolerance – the Threshold of Peace: Teacher-Training Resource Unit (vol. 1). Primary School Resource Unit (vol. 2). Secondary School Resource Unit (vol. 3)**
Author/Editor: Betty A. Reardon
Place of Publication: Paris
Publisher: UNESCO Publishing
Year of Publication: 1998
Languages: English, French, Spanish
Target group: Adults, educators, teachers
Content: These are resource documents with exemplary programmes, lesson plans and teaching units to be used by various sectors. They focus on the rationale for and approaches to education for tolerance in schools, yet also address the social climate in which the schools educate. The materials can be used by classroom teachers, teacher educators, community leaders, parents, youth and social workers as an introductory resource material, to provide some understanding of what is involved in and required of education for tolerance. Organisations, groups and formal classes of secondary level and above can explore together the issues raised and problems identified. They are cast within UNESCO's Integrated Framework of Action on Education for Peace, Human Rights and Democracy.

Title: **Self-Help Human Rights Education Handbook**
Author/Editor: J. Paul Martin
Place of Publication: New York
Publisher: Center for the Study of Human Rights, Columbia University
Year of Publication: 1996
Language: English
Target group: Educators, trainers
Content: This online-handbook is designed to enable experienced and prospective human rights educators, and to set clear educational goals for human rights programs, to improve their capacity to plan and evaluate programs, and to make the most of the resources available as well as to create their own when necessary or possible.
Available online: www.hrea.org/erc/Library/ curriculum_methodology/SELFHELP.html

Title: **Educating for Human Dignity: Learning about Rights and Responsibilities**
Author/Editor: Betty A. Reardon
Place of Publication: Philadelphia
Publisher: Pennsylvania Studies in Human Rights
Year of Publication: 1995
Language: English
Target group: Children
Content: This is one of the foremost books on human rights education for the primary and secondary levels. It is written for both teachers and teacher educators. It is the first resource offering both guidance and support materials for human rights education programs from kindergarten through high school. It opens possibilities for a holistic approach to human rights education that directly confronts the values issues raised by human rights problems in a context of global interrelationships.

Title: **The Universal Declaration of Human Rights. An Adaptation for Children**
Author/Editor: Ruth Rocha, Otavio Roth
Place of Publication: New York
Publisher: United Nations Publications
Year of Publication: 1990
Language: English
Target group: Children (picture book)

Content: Educational and fun to read, this beautifully illustrated book will captivate all, especially children. Written by world renown children's author Ruth Rocha and featuring the vivid linocut illustration of Brazilian artist Otavio Roth, the book helps us all to understand better the importance of human rights.

HUMAN RIGHTS EDUCATION ON THE INTERNET:
ONLINE LIBRARIES, DATABASES AND RESOURCES

Addis Ababa University Center for Human Rights: www.aau.edu.et/humanrights/

Amnesty International USA – Human Rights Education: www.amnestyusa.org/education

Council of Europe: www.coe.int

CRIN – Child Rights Information Network: www.crin.org

Dadalos – International UNESCO Server for Democracy, Peace and Human Rights Education: www.dadalos.org

Derechos Humanos – Human Rights: www.derechos.org

Discover Human Rights Institute. A project of The Advocates for Human Rights: www.discoverhumanrights.org/

Equitas – International Centre for Human Rights Education: http://equitas.org/

ETC Graz – European Training and Research Centre for Human Rights and Democracy: www.etc-graz.at, http://kennedeinerechte.at, www.das-boot-ist-voll.at

European Court of Human Rights Portal: www.echr.coe.int/ECHR/Homepage_EN

DARE – Democracy and Human Rights Education in Europe: www.dare-network.eu/

FRA – European Union Agency for Fundamental Rights: http://fra.europa.eu/fraWebsite/your_rights/about-rights/about-rights_en.htm

HRDC – Human Rights & Documentation Centre (University of Namibia): www.unam.na/centres/hrdc/hrdc_index.html

HREA – Human Rights Education Associates: www.hrea.org/index.php?base_id = 101&language_id = 1

HRI – Human Rights Internet: www.hri.ca

HRRC – The Human Rights Resource Center: www.hrusa.org

HURIDOCS – Human Rights Information and Documentation Systems: www.hurisearch.org

HURIGHTS OSAKA – Asia-Pacific Human Rights Information Center: www.hurights.or.jp

IIDH – Instituto Interamericano de Derechos Humanos: www.iidh.ed.cr/

I have a right to… – BBC World Service: www.bbc.co.uk/worldservice/people/features/ihavearightto/index.shtml

Netherlands Institute of Human Rights Documentation Site: http://sim.law.uu.nl/SIM/Dochome.nsf?Open

OHCHR – Database on Human Rights Education and Training:
http://hre.ohchr.org/hret/intro.aspx

OHCHR – Publications:
www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducation.aspx

PDHRE – The People's Movement for Human Rights Learning: www.pdhre.org

Project DIANA Online Human Rights Archive: http://avalon.law.yale.edu/subject_menus/diana.asp

TeachUNICEF: http://teachunicef.org/

The European Wergeland Centre:
www.theewc.org

United Nations Cyber School Bus:
www.cyberschoolbus.un.org

United Nations Online Databases:
www.un.org/en/databases/

University of Minnesota Human Rights Library: www.umn.edu/humanrts

E. UNIVERSAL DECLARATION OF HUMAN RIGHTS

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

Everyone has the right to freedom of movement and residence within the borders of each State.

Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

Everyone has the right to a nationality.

No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

Marriage shall be entered into only with the free and full consent of the intending spouses.

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

Everyone has the right to own property alone as well as in association with others.

No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

Everyone has the right to freedom of peaceful assembly and association.

No one may be compelled to belong to an association.

Article 21

Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Everyone has the right to equal access to public service in his country.

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

Everyone has duties to the community in which alone the free and full development of his personality is possible.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

F. UNIVERSAL DECLARATION OF HUMAN RIGHTS (SUMMARY)

Article 1

All human beings are born free and equal.

Article 2

Everyone is entitled to the same human rights without discrimination of any kind.

Article 3

Everyone has the human right to life, liberty, and security.

Article 4

No one shall be held in slavery or servitude.

Article 5

No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the human right to be recognised everywhere as a person before the law.

Article 7

Everyone is equal before the law and has the human right to equal protection of the law.

Article 8

Everyone has the human right to a remedy if their human rights are violated.

Article 9

No one shall be arrested, detained, or exiled arbitrarily.

Article 10

Everyone has the human right to a fair trial.

Article 11

Everyone has the human right to be presumed innocent until proven guilty.

Article 12

Everyone has the human right to privacy and family life.

Article 13

Everyone has the human right to freedom of movement and residence within the state, to leave any country and to return to one's country.

Article 14

Everyone has the human right to seek asylum from persecution.

Article 15

Everyone has the human right to a nationality.

Article 16

All adults have the human right to marry and found a family. Women and men have equal human rights to marry, within marriage, and at its dissolution.

Article 17

Everyone has the human right to own property.

Article 18

Everyone has the human right to freedom of thought, conscience and religion.

Article 19

Everyone has the human right to freedom of opinion and expression.

Article 20

Everyone has the human right to peaceful assembly and association.

Article 21

Everyone has the human right to take part in the government of one's country directly or through free and fair elections and access to the public service.

Article 22

Everyone has the human right to social security and to the realisation of the economic, social and cultural rights indispensable for dignity.

Article 23

Everyone has the human right to work, to just conditions of work, to protection against unemployment, to equal pay for equal work, to sufficient pay to ensure a dignified existence for one's self and one's family, and the human right to join a trade union.

Article 24

Everyone has the human right to rest and leisure.

Article 25

Everyone has the human right to a standard of living adequate for health and well-being, including food, clothing, housing, medical care and necessary social services.

Article 26

Everyone has the human right to education including free and compulsory elementary education and human rights education.

Article 27

Everyone has the human right to participate freely in the cultural life and to share in scientific progress, as well as to protection of their artistic, literary or scientific creations.

Article 28

Everyone is entitled to a social and international order in which these rights can be fully realised.

Article 29
Everyone has duties to the community.

Article 30
None of the human rights in this Declaration can be used to justify violating another human right.

SELECTED ACTIVITY: 1

Read out loud the UDHR's summary and discuss its Articles in the group, keeping in mind the principles of universality, indivisibility, interconnectedness and interrelatedness of human rights.
(Source: The People's Movement for Human Rights Learning (PDHRE), www.pdhre.org/conventionsum/udhr.html)

G. UNITED NATIONS DECLARATION ON HUMAN RIGHTS EDUCATION AND TRAINING

United Nations

A/RES/66/137

General Assembly

Distr.: General
16 February 2012

Sixty-sixth session
Agenda item 64

Resolution adopted by the General Assembly

[*on the report of the Third Committee (A/66/457)*]

66/137.   United Nations Declaration on Human Rights Education and Training

The General Assembly,

Welcoming the adoption by the Human Rights Council, in its resolution 16/1 of 23 March 2011,[1] of the United Nations Declaration on Human Rights Education and Training,

1.   *Adopts* the United Nations Declaration on Human Rights Education and Training annexed to the present resolution;

2.   *Invites* Governments, agencies and organizations of the United Nations system, and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of *Human Rights: A Compilation of International Instruments*.

89th plenary meeting
19 December 2011

Annex

United Nations Declaration on Human Rights Education and Training

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations with regard to the promotion and encouragement of respect for all human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming also that every individual and every organ of society shall strive by teaching and education to promote respect for human rights and fundamental freedoms,

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[1] See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 53* (A/66/53), chap. I.

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Reaffirming further that everyone has the right to education, and that education shall be directed to the full development of the human personality and the sense of its dignity, enable all persons to participate effectively in a free society and promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace, security and the promotion of development and human rights,

Reaffirming that States are duty-bound, as stipulated in the Universal Declaration of Human Rights,[2] the International Covenant on Economic, Social and Cultural Rights[3] and in other human rights instruments, to ensure that education is aimed at strengthening respect for human rights and fundamental freedoms,

Acknowledging the fundamental importance of human rights education and training in contributing to the promotion, protection and effective realization of all human rights,

Reaffirming the call of the World Conference on Human Rights, held in Vienna in 1993, on all States and institutions to include human rights, humanitarian law, democracy and rule of law in the curricula of all learning institutions, and its statement that human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights,[4]

Recalling the 2005 World Summit Outcome, in which Heads of State and Government supported the promotion of human rights education and learning at all levels, including through the implementation of the World Programme for Human Rights Education, and encouraged all States to develop initiatives in that regard,[5]

Motivated by the desire to send a strong signal to the international community to strengthen all efforts in human rights education and training through a collective commitment by all stakeholders,

Declares the following:

Article 1

1.   Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training.

2.   Human rights education and training is essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms for all, in accordance with the principles of the universality, indivisibility and interdependence of human rights.

3.   The effective enjoyment of all human rights, in particular the right to education and access to information, enables access to human rights education and training.

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[2] Resolution 217 A (III).
[3] See resolution 2200 A (XXI), annex.
[4] See A/CONF.157/24 (Part I), chap. III, sect. II.D, paras. 79 and 80.
[5] See resolution 60/1, para. 131.

Article 2

1.   Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing, inter alia, to the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.

2.   Human rights education and training encompasses:

    (*a*)   Education about human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;

    (*b*)   Education through human rights, which includes learning and teaching in a way that respects the rights of both educators and learners;

    (*c*)   Education for human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others.

Article 3

1.   Human rights education and training is a lifelong process that concerns all ages.

2.   Human rights education and training concerns all parts of society, at all levels, including preschool, primary, secondary and higher education, taking into account academic freedom where applicable, and all forms of education, training and learning, whether in a public or private, formal, informal or non-formal setting. It includes, inter alia, vocational training, particularly the training of trainers, teachers and State officials, continuing education, popular education, and public information and awareness activities.

3.   Human rights education and training should use languages and methods suited to target groups, taking into account their specific needs and conditions.

Article 4

    Human rights education and training should be based on the principles of the Universal Declaration of Human Rights and relevant treaties and instruments, with a view to:

    (*a*)   Raising awareness, understanding and acceptance of universal human rights standards and principles, as well as guarantees at the international, regional and national levels for the protection of human rights and fundamental freedoms;

    (*b*)   Developing a universal culture of human rights, in which everyone is aware of their own rights and responsibilities in respect of the rights of others, and promoting the development of the individual as a responsible member of a free, peaceful, pluralist and inclusive society;

    (*c*)   Pursuing the effective realization of all human rights and promoting tolerance, non-discrimination and equality;

    (*d*)   Ensuring equal opportunities for all through access to quality human rights education and training, without any discrimination;

(*e*) Contributing to the prevention of human rights violations and abuses and to the combating and eradication of all forms of discrimination, racism, stereotyping and incitement to hatred, and the harmful attitudes and prejudices that underlie them.

Article 5

1.   Human rights education and training, whether provided by public or private actors, should be based on the principles of equality, particularly between girls and boys and between women and men, human dignity, inclusion and non-discrimination.

2.   Human rights education and training should be accessible and available to all persons and should take into account the particular challenges and barriers faced by, and the needs and expectations of, persons in vulnerable and disadvantaged situations and groups, including persons with disabilities, in order to promote empowerment and human development and to contribute to the elimination of the causes of exclusion or marginalization, as well as enable everyone to exercise all their rights.

3.   Human rights education and training should embrace and enrich, as well as draw inspiration from, the diversity of civilizations, religions, cultures and traditions of different countries, as it is reflected in the universality of human rights.

4.   Human rights education and training should take into account different economic, social and cultural circumstances, while promoting local initiatives in order to encourage ownership of the common goal of the fulfilment of all human rights for all.

Article 6

1.   Human rights education and training should capitalize on and make use of new information and communication technologies, as well as the media, to promote all human rights and fundamental freedoms.

2.   The arts should be encouraged as a means of training and raising awareness in the field of human rights.

Article 7

1.   States, and where applicable relevant governmental authorities, have the primary responsibility to promote and ensure human rights education and training, developed and implemented in a spirit of participation, inclusion and responsibility.

2.   States should create a safe and enabling environment for the engagement of civil society, the private sector and other relevant stakeholders in human rights education and training, in which the human rights and fundamental freedoms of all, including of those engaged in the process, are fully protected.

3.   States should take steps, individually and through international assistance and cooperation, to ensure, to the maximum of their available resources, the progressive implementation of human rights education and training by appropriate means, including the adoption of legislative and administrative measures and policies.

4.   States, and where applicable relevant governmental authorities, should ensure adequate training in human rights and, where appropriate, international humanitarian law and international criminal law, of State officials, civil servants, judges, law enforcement officials and military personnel, as well as promote adequate training in human rights for teachers, trainers and other educators and private personnel acting on behalf of the State.

Article 8

1.   States should develop, or promote the development of, at the appropriate level, strategies and policies and, where appropriate, action plans and programmes to implement human rights education and training, such as through its integration into school and training curricula. In so doing, they should take into account the World Programme for Human Rights Education and specific national and local needs and priorities.

2.   The conception, implementation and evaluation of and follow-up to such strategies, action plans, policies and programmes should involve all relevant stakeholders, including the private sector, civil society and national human rights institutions, by promoting, where appropriate, multi-stakeholder initiatives.

Article 9

    States should promote the establishment, development and strengthening of effective and independent national human rights institutions, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights ("the Paris Principles"),[6] recognizing that national human rights institutions can play an important role, including, where necessary, a coordinating role, in promoting human rights education and training by, inter alia, raising awareness and mobilizing relevant public and private actors.

Article 10

1.   Various actors within society, including, inter alia, educational institutions, the media, families, local communities, civil society institutions, including non-governmental organizations, human rights defenders and the private sector, have an important role to play in promoting and providing human rights education and training.

2.   Civil society institutions, the private sector and other relevant stakeholders are encouraged to ensure adequate human rights education and training for their staff and personnel.

Article 11

    The United Nations and international and regional organizations should provide human rights education and training for their civilian personnel and for military and police personnel serving under their mandates.

Article 12

1.   International cooperation at all levels should support and reinforce national efforts, including, where applicable, at the local level, to implement human rights education and training.

2.   Complementary and coordinated efforts at the international, regional, national and local levels can contribute to more effective implementation of human rights education and training.

3.   Voluntary funding for projects and initiatives in the field of human rights education and training should be encouraged.

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[6] Resolution 48/134, annex.

Article 13

1.   International and regional human rights mechanisms should, within their respective mandates, take into account human rights education and training in their work.

2.   States are encouraged to include, where appropriate, information on the measures that they have adopted in the field of human rights education and training in their reports to relevant human rights mechanisms.

Article 14

States should take appropriate measures to ensure the effective implementation of and follow-up to the present Declaration and make the necessary resources available in this regard.

H. GLOSSARY

Absolutist State: The term indicates that the only legitimate source of power in such states was the monarch. In particular the rulers of such states tried to deprive the aristocracy and the church of the ability to compete with the monarch. This ideal was rarely achieved. The term does not mean that the monarch had immediate and direct control of everyday life.

Affirmative Action: A set of explicit actions or programmmes designed to increase the educational and employment opportunities of individuals or groups denied full participation and access in those areas.

Aggression: Aggression is the use of armed force by a state against the sovereignty, territorial integrity or political independence of another state, or in any other manner inconsistent with the Charter of the United Nations.

Anti-Semitism: Hatred, prejudice, oppression, discrimination and often violent form of hostility against Jews. Anti-Semitism is a particular form of racism. It is not only part of the Nazi ideology, but is widespread in the entire population.

Apartheid: Apartheid is the Afrikaans word for the systematic, legalised discrimination that existed in South Africa between 1948-94. Under the Population Registration Act of 1950 the population was classified in racist categories with education, residence and marriage only permitted within each category. With the election of Nelson Mandela as President in 1994 the system was legally dismantled.

Apostasy: A term employed, often pejoratively, to describe the renunciation of one's religion.

Armed Conflict: A situation in which two or more organised groups are engaged in armed fighting, whether international or internal. Any difference arising between two states and leading to the intervention of armed forces is an armed conflict even if one of the parties denies the existence of a state of war.

Bioethics: The field of bioethics incorporates examination of moral issues arising from scientific practices as well as philosophical inquiry into questions of value, and investigation into issues of public policy.

Child Labour: Child labour is work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development. The 1989 UN Convention on the Rights of the Child calls for protection *"against economic exploitation and against carrying out any job that might endanger wellbeing or educational opportunities, or that might be harmful to health or physical, mental, spiritual, moral, or social development."*

Child Pornography: A visual depiction of an individual who is under 18 years of age, or who appears to be under 18 years of age, engaged in sexually explicit conduct. A visual depiction may also constitute child pornography if it is advertised, promoted, or presented in such a way that "conveys the impression" that the material contains a visual depiction of a minor engaging in sexually explicit conduct. Child pornography may be contained in videotapes, photographs, undeveloped camera film and computer graphic files.

Child Refugee: A child refugee or displaced child is every person below the age of 18 who is seeking refugee status or other international protection, considered a refugee in accordance with applicable international or domestic law and procedures, whether unaccompanied or accompanied by his or her parents or by any other adult, or who is forced to flee across an international border (as a result, for example, of war, civil war or generalised violence.)

Child: The 1989 United Nations Convention on the Rights of the Child defines a child as a *"human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier"*.

Civil Society: Civil society refers to the set of institutions, organisations and behaviour situated between the state, the business world, and the family. Specifically, this includes voluntary and non-profit organisations of many different kinds, philanthropic institutions, social and political movements, other forms of social participation and engagement and the values and cultural patterns associated with them (definition by the London School of Economics).

Civilian Object: Any object that is not a military objective.

Civilian: A person who is not a combatant.

Collateral Damage: Damage or loss caused incidentally during an attack undertaken despite all necessary precautions designed to prevent, or in any event to minimise, loss of civilian life, injury to civilians and damage to civilian objects.

Combatant: A person taking a direct part in hostilities or a member of the armed forces of a state or organisation involved in an armed conflict.

Communication: An individual or collective complaint to a treaty body regarding an alleged violation of human rights. Also called "application", "complaint" or "petition".

Complaint: An individual or collective communication to a treaty body drawing attention to an alleged violation of human rights. See also communication.

Confidentiality: An ability to keep something secret. Confidentiality has been chosen as a standard working method by the International Committee of the Red Cross (ICRC) in order to be able to have access to victims and to protect them by developing efficient dialogue with the authorities.

Convention: A multilateral treaty which under international law is binding on all parties. Also called "Covenant" in the case of ICCPR and ICESCR.

Crimes against Humanity: Murder, extermination, enslavement, deportation, imprisonment or torture, when committed as part of a widespread or systematic attack directed against any civilian population.

Crimes against Peace: Planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties.

Cultural Rights: The rights to preserve and enjoy one's cultural identity and development.

Declaration: A solemn statement which may contain recommendations but is not legally binding. A declaration can also be a statement by individual states on the interpretation of an obligation.

Derogation: A suspension of an obligation regarding a human right in certain clearly defined circumstances like public emergency.

Detainee: A civilian who is accused of a crime and held prisoner during an armed conflict.

Direct Discrimination: One person or group of persons receive less favourable treatment than another person or group in the same position would have received on the grounds of sex, age, colour, national or ethnic origin, relition, language, disability, sexual identity, etc.

Discrimination: Discrimination is considered as any distinction, exclusion, restriction or preference with the concequence of the denial or refusal of equal rights and their protection.

Due Process: Law in its regular course of administration through the courts of justice. The guarantee of due process requires that every person has the protection of a fair trial.

Economic Rights: Human rights that concern the production, development, and management of material for the necessities of life.

Education: Discipline that is concerned, in this context, mainly with methods of teaching and learning in schools or school-like environments as opposed to various informal means of socialisation (e.g., between parents and their children).

Elementary Education: Also called primary education. The first stage traditionally found in formal education, beginning at about age 5 to 7 and ending at about age 11 to 13.

Endemic Disease: The constant presence of a disease or infectious agent within a given geographic area; may also refer to the usual prevalence of a given disease within such area.

Enlightenment: An intellectual movement which began in England in the seventeenth century, rooted in an intellectual scepticism to traditional beliefs and dogmas, denotes an "illumined" contrast to the supposed dark and superstitious character of the Middle Ages. From its inception, the Enlightenment focused on the power and goodness of human rationality.

Enrolment: The act of officially joining a course, school, etc.

Epidemic Disease: Attacking or affecting many people simultaneously in a community or area.

Equity: Impartial or just treatment, requiring that similar cases be treated in similar ways.

Ethnic Cleansing: Forcibly displacing or exterminating an ethnic population from a particular area in order to assert the identity and power of another ethnic group.

Eurocentrism: Process of placing emphasis on European (and, generally, Western) theories and ideas, at the expense of other cultures. Implicit in this definition is the assumption that Western concepts are fundamentally different from those in other cultures or civilisations. A somehow contradictory but equally important implication is the assumption that Western concepts are universal.

Faith: Religion, or any of the recognised communities of religious belief.

Female Genital Mutilation (FGM) or Female Genital Cutting (FGC): FGM comprises all procedures that involve partial or total removal of female external genitalia and/or injury to the female genital organs for cultural or any other non-therapeutic reason (definition by WHO 1995).

Forced Pregnancy: Unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy.

Forced Prostitution: To force somebody into prostitution, used as a means in armed conflict.

Free-Trade Zone: An industrial area in which a country allows foreign companies to import material for production and export finished goods without paying significant taxes or duties (fees to the government). A free-trade zone thus decreases a company's production costs.

Gender: Societal positions accorded to women and men.

Genetic Modification: Deletion, change or moving of genes within an organism as well as the transfer of genes from one organism to another. It can also mean the modification of existing genes or the construction of new genes and their incorporation into any organism.

Genocide: Deliberate and systematic destruction of an ethnic, religious or cultural group, through killing, injuring, worsening of the conditions of life, prevention of births or transfer of children.

Hors de Combat: Combatants that have been captured or wounded or who are sick or shipwrecked and thus no longer in a position to fight.

Human Poverty Index: Develped by UNDP for the measurement of poverty that goes beyond mere income distribution. The five real-life attributes of poverty taken into account are illiteracy, malnutrition among children, early death, poor health care, and poor access to safe drinking water.

Humanity: Worth and honour of all people no matter who they are, and irrespective of their nationality, colour, religious beliefs, social class, political opinions, etc.

Illiteracy: Inability of a person to read or write.

Impartiality: Serving people or making decisions about people based only on their needs, without considering their nationality, colour, religious beliefs, social class, political opinions, etc.

Indirect Discrimination: Includes practices or policies that appear to be "neutral" or "fair" but adversely affect a higher proportion of people of one specific group. It can occur even when there is no intention to discriminate.

Interfaith Dialogue: Attempt to initiate dialogue, cooperation, and understanding among individuals of different religions. Inter-religious dialogue bears the same meaning.

Internally Displaced Person (IDPs): Persons who have moved from their homes, but not left their country, because of fear of persecution, in order to avoid the effects of armed conflict or violence, violations of human rights or natural or man-made disasters.

International Humanitarian Law/Laws of Armed Conflict: Principles and rules which set limitations to the use of violence during armed conflicts in order to spare those people ("civilians") not directly involved in hostilities, and limit the effects of violence (even to "combatants") to the amount necessary for the purpose of war.

International Labour Office (ILO): Established in 1919 as part of the post-WW I peace treaties to improve working conditions and promote social justice; the ILO became a Specialised Agency of the UN in 1946.

Internee: A civilian or combatant who is not accused of a crime but held prisoner as a preventive security measure during an armed conflict.

Intolerance: Unwillingness to endure and/or respect the beliefs and practices of others.

Islamophobia: Fear of, and accompanying hostility towards, the religion of Islam and its adherents.

Legitimacy: Degree to which a government's procedures for making and enforcing laws are acceptable to the people. A legitimate system is legal, but more important; citizens believe in its appropriateness and adhere to its rules. Legitimacy is closely tied to governance: voluntary compliance with laws and regulations results in greater effectiveness than reliance on coercion and personal loyalties.

Mediation: Problem-solving negotiation process in which a third party works with disputants to assist them to reach a satisfactory negotiated settlement. Mediators have no authority to decide the dispute between the parties; instead, the parties empower the mediator to help them resolve the issues between them.

Military Objectives: Objects which by their nature, location, purpose or use make an effective contribution to military action and whose destruction offers a definite military advantage.

Minority: "A group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language." (Francesco Capotorti, former Special Rapporteur of the United Nations)

Non-governmental organisation (NGO): Non-profit, voluntary citizens' group which is organised on a local, national or international level. Task-oriented and driven by people with a common interest, NGOs perform a variety of service and humanitarian functions, bring citizens' concerns to governments, advocate and monitor policies and encourage political participation through provision of information.

Non-Religious: Naturalistic world views and convictions in the realm of human thought associated with ultimate beliefs and principles of conscience by which individuals live their lives.

Ombudsperson: Institution, usually a government official whose job is to examine and report on complaints made by ordinary people about the government or public authorities.

Persons with Disabilities: Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (UN Convention on the Rights of Persons with Disabilities).

Poverty: poverty is a human rights violation. It is "a human condition characterised by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other fundamental civil, cultural, economic, political and social rights" (United Nations Office of the High Commissioner for Human Rights).

Prejudice: a frame of mind which tends to prejudge a person or a group in a negative light. This negative judgments is usually made without adequate evidence. "[…] prejudice is an antipathy based on faulty and inflexible generalization; it may be felt or expressed; it may be directed toward a group or an individual of that group" (Gordon Allport).

Prisoner of War: Captured combatant in an international armed conflict. Only the combatants fulfilling certain conditions are entitled to this status (mainly members of the armed forces).

Proselytism: Act of attempting to convert a person from one point of view to another, usually in a religious context. Inducing people to change their religion can be considered illicit, if improper means, such as coercion, threats, the weight of authority of the public educational system, access to public health care or other material inducements, are employed.

"Race": The term is an artificial construct used to classify people on the basis of imagined categories. Modern science has shown that the biological category of "race" is meaningless when applied to the human species. In fact, the term "race" itself is racist, as it presupposes and upholds the false belief of the existence of different "races".

Racism: A set of mistaken assumptions, opinions, and actions resulting from the false belief that one group is inherently superior to another. Racism refers not only to social attitudes toward individuals and groups assumed as inferior, but also to social structures that exclude individuals and groups. Racism may be present in organisational and institutional structures and programmes, as well as in the attitudes and behaviour of individuals.

Ratification: Procedure by which a state, sometimes after having reached the agreement of the parliament, declares to be legally bound by a treaty.

Refugee: A person who, being outside her/his country of nationality or habitual residence, has a well-founded fear of being persecuted for reasons of ethnicity, religion, nationality, membership in a particular social group or political opinion, and is unable or unwilling to avail herself/himself of the protection of that country or to return there, owing to the fear of persecution.

Reservation: Statement made by a state at the occasion of the ratification of a treaty excluding or modifying the legal effects of certain provisions on the state.

Rule of Law: For the United Nations, the rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in

decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

Secular: Marked by secularism; relating to earthly things as distinguished from things relating to religion. Secularism is a belief that religion and ecclesiastical affairs should not enter into the functions of the state, esp., into public education.

Sexual Violence: Gender-based violent behaviour that is intended to hurt or kill somebody.

Slavery: Identified by an element of ownership or control over another's life, coercion, the restriction of movement and by the fact that someone is not free to leave or change employers. Contemporary slavery is not always easy to identify or root out. Debt bondage is practiced in many parts of the world.

Social and Economic Rights: Rights that give people social and economic security, sometimes referred to as security-oriented or second-generation rights. Examples are the right to food, shelter, and health care.

Solitary Confinement: Separate confinement of a prisoner with only occasional or limited access by other people, to an environment which is stripped of all but the basic necessities for maintaining life and which is generally restrictive of light, sound, diet, reading material, exercise and occasionally of temperature.

Special Rapporteur/Special Representative: an individual appointed by a body on the universal or regional level like the UN Human Rights Council to prepare regular reports on the situation of human rights in a particular country ("country-specific rapporteur") or on a particular issue of human rights ("thematic rapporteur"). If appointed by the UN-Secre-

tary General, she/he is called "special representative". A similar function can be given to an "independent expert".

Structural Adjustment Programs: Most IMF loans are conditional, specifying a variety of requirements a country has to meet in order to receive money. Since these requirements – the so-called structural adjustment programs – are heavily orientated towards cost reduction in the social sector and market liberalisation, they have often been criticised.

Structural Racism: Inequalities rooted in the system-wide operation of the exclusion of substantial numbers of members of particular ethnic categories from significant participation in its major social institutions.

Suffragette: Term for British and US-American feminists fighting for the rights of women, especially the right to vote.

Sura: Any of the 114 chapters or sections of the Koran.

Sustainable Development: Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Torture Rehabilitation: Act of empowerment of torture victims to regain capacity, confidence and ability to resume as full a life as possible. Rehabilitation centres and programmes adopt and implement a variety of different treatment approaches, taking into account the specific physical and psychological needs of the individual torture victim and the cultural, social, and political environment in which they are operating.

Torture: Any act by which severe pain or suffering, whether physical or mental, is in-

tentionally inflicted on a person for such purposes as obtaining from her/him or a third person information or a confession, punishing her/him for an act she/he or a third person has committed or is suspected of having committed, or intimidating or coercing her/him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

Trade Union: Organisation of workers created to protect and advance the interests of its members by negotiating agreements with employers on pay and conditions of work. Unions may also provide legal advice, financial assistance, sickness benefits and education facilities. An independent trade union is not under the domination or control of an employer and is financially independent of the employer.

Trafficking in Human Beings: Illicit and clandestine movement of people across national and international borders, largely from developing countries and some countries in transition, with the goal of forcing persons (mostly women, girls and children) into sexually or economically oppressive and exploitative situations for the profit of recruiters, traffickers, crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour.

Working Poor: Those who have jobs yet still find themselves unable to make ends meet.

Xenophobia: Hatred towards or fear of foreigners or foreign countries; it also characterises attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity.

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This **Manual**, an innovative tool which is now in its third edition, contributes substantially to Human Rights Education worldwide.

This Manual was first elaborated a decade ago at the initiative of the former Austrian Minister for Foreign Affairs, Ms. Benita Ferrero-Waldner, by the European Training and Research Centre for Human Rights and Democracy (ETC) based in Graz, Austria, in collaboration with HSN Partners and more than thirty institutions and experts. For the third edition of 2012, the whole text has been revised and updated, and three new chapters have been compiled.

The Manual is intended as an essential and concrete contribution to strengthening human security through human rights education and learning. Though based on the universality of human rights it is sensitive to historical, religious and cultural traditions.

The Manual is addressed to human rights educators and learners worldwide and serves human rights trainers in formal as well as non-formal education. It contains a variety of pedagogical materials to be used in human rights education of either youth or adults. It is designed in an open-ended way to be contextualised and completed by trainers and learners on the basis of their own experiences. Innovatively, the Manual is also available free of charge online at www.manual.etc-graz.at in several languages.

The European Training and Research Centre for Human Rights and Democracy (ETC) was established in Graz in 2000 as a competence centre for human rights education and research with the support of the city of Graz, the first Human Rights City in Europe. The ETC is the European partner of the global Peoples' Movement for Human Rights Education (PDHRE). It coordinates the participation of the University of Graz in the European Master's Programme in Human Rights and Democratisation in Venice and Sarajevo.

A particular focus of its training and research programmes is the relationship between human rights, human security and human development. ETC experts also work on non-discrimination, rule of law, good governance, democracy and human rights at the local level and human rights education in general. The ETC is National Focal Point of the European Union Agency for Fundamental Rights' Research Network FRANET for Austria. In its training and research activities it is supported by an international advisory board.

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The **Human Security Network** is an inter-regional grouping of countries, which collaborates continuously with NGOs and academic research institutions and aims at furthering human security worldwide. Its policy vision is a human world where people can live in security and dignity and in freedom from fear and want. Emerging from the campaign for the creation of the Mine Ban Treaty, the Network was launched in 1999. Current members of the Human Security Network are Austria, Chile, Costa Rica, Greece, Ireland, Jordan, Mali, Norway, Panama, Switzerland, Thailand, Slovenia and South Africa as an observer.

Since its Chairmanship of the Human Security Network, the Austrian Ministry for European and International Affairs has made *Human Rights Education* and *Children Affected by Armed Conflict* priority themes of the Network.