

SCHOOL OF CIVIL PROTECTION

MODULE BI-1/B

HUMAN RIGHTS ASPECTS



HANDBOOK



Authors

Antoine LAHAM

Head of Special Programs and Head of Security, Swiss Co-operation Office – Kosovo, Division for Co-operation with Central and East Europe, Federal Ministry of Foreign Affairs of Switzerland.

- 04.2000 – 03.2001 Swiss Co-ordination Office – Kosovo, Division for Humanitarian Aid and Swiss Disaster Relief Unit, *Federal Ministry of Foreign Affairs of Switzerland*.
- 1999 – 2000 *Federal Ministry of Foreign Affairs of Switzerland, Seconded to the United Nations Interim Administration Mission in Kosovo at position UNMIK Regional Administrator MNB East.*
- 1998 – 1999 Chargé de Programmes in Middle East & North Africa, *International Federation of Red Cross and Red Crescent Societies (IFRC)*
- 1996 – 1997 *Federal Ministry of Foreign Affairs of Switzerland, Seconded to OSCE Mission in Bosnia & Herzegovina at position Deputy Director - Regional Center Tuzla.*
- 1994 – 1995 Head of Sub-Office – Iraq, *United Nations High Commissioner for Refugees (UNHCR)*
- 1996 Université de Genève; Geneva – Switzerland, Diploma in 'New Public Management'.
- 1988 Lebanese University; Beirut – Lebanon, 'Bachelor in Arts – Sociology'.
- 1985 American University of Beirut – Lebanon, Diploma in 'Public Relations'.

Caroline ALLIBERT

Parliamentarian assistant, Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, European Parliament, Brussels

- 2001 O.S.C.E. Human Rights Officer – Head of Field Office Velika-Kladusa, Bosnia
- 2001 Doctorate in International Law; PhD: "The International Legal Aspects of Disasters"
- 2000-2001 Parliamentarian assistant: European Parliament, Brussels
- 1997-2001 DEA in Human Rights
- 1996-1997 DESS in Humanitarian Law

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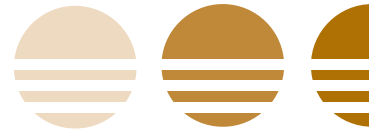
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1. Foundation of the protection of human rights

As long as humankind can remember, there have been wars – territorial, religious and economic warfare. Alongside the wars, there has always been the desire to protect the innocent and the feeblest:

- women
- children
- elderly people

The concept of human rights is almost as old as humanity, but it was first consolidated by the Code of Hammurabi (2130-2088 BC) in Babylon [1]. This remains the most ancient code of law presently known. The Ten Commandments of Moses (1491 BC) addressed a whole range of moral and social principles. The Christian religion however, has a different approach. It places more emphasis on the law, obligations and justice rather than on rights and the acknowledgement of the preservation of one's own life, education of one's offspring, and one's social environment. Thus, it also identified man's need, under natural law, for powers that later came to be called personal rights: civil and political rights, economic, social, and cultural rights. Basic human rights are also recognized and enshrined in The Koran and "Hadiths" which not only deal with moral but also with political virtues. Mohammed (570-632 A.D.), the Prophet of Islam, who set up a theocratic state in Medina in 622 A.D., created an exhaustive code of ethics as well as of government.

The French Revolution with its slogan - **Liberty, Equality, Fraternity** - impacted positively on the evolution of the concept of human rights. But, it is only in the 20th century at the end of the Second World War, that the United Nations, after mature deliberation, promulgated in Paris on 10th December 1948, the Universal Declaration of Human Rights. This Declaration was followed by a number of instruments setting standards for international human rights law. The captioned instruments are elaborated in subsequent paragraphs.

It must be pointed out that the human rights debate has not been facilitated by the diverging opinions on the pre-eminence of civil and political rights of individuals as in many ways some may supersede the rights of communities, and the disagreement over their universality and relativity. The 1993 Vienna Conference on Human Rights reaffirmed that "**all human rights are universal, indivisible and independent**".

The protection of human rights in international treaties represented a new phenomenon in international law, which had traditionally focused only on relations and obligations between States. International treaties formulated obligations for the contracting parties as to the treatment of each other's subjects but did not create rights for individuals. States were obliged to ensure minimum standards of protection within their jurisdiction. Such treaties on diplomatic protection were for a long time the only attention that individuals received within international law.

The first international treaties on the protection of human rights date from the early nineteenth century when a number of bilateral and multilateral treaties on the abolition of slavery were concluded. The earliest treaties concluded within the framework of international organisations date from the end of World War I, when various declarations were adopted within the League of Nations [2] (for example, the protection of minorities in Eastern Europe).

However, it was after World War II that comprehensive work on the international protection of human rights began. The atrocities committed during the war of 1939-1945, which caused the death of millions of people and traumatised other millions for the rest of their lives, strongly motivated post-war efforts to adapt international standards for the protection of human rights.



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One of the most crucial aspects of international human rights protection is the method of implementation of those provisions. It is one thing for states to agree on international standards, but it is quite another for them to agree that they will be legally bound by those standards or they will allow individuals and/or other states to invoke those standards before their national/international courts.

Thus, human rights treaties heralded a new era in international law. Never before had individuals played such an important role in the implementation of the international obligations of sovereign states. However, without going into details, this role depends very much on the status and effect of international human rights provisions in national legal orders.

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2. Global introduction of human rights through the UN system

2.1 The Universal Declaration of Human Rights - 1948

Human rights are at the core of the establishment of the United Nations. The UN Charter reaffirmed, in its preamble, *"the faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small"*, and considers that developing friendly relations among nations should be based on respect for the principle of equal rights and self-determination of people. The promotion and protection of these values became the chief responsibility for the newly established United Nations.

The Universal Declaration of Human Rights (Preamble and 30 Articles) was proclaimed on 10th December 1948 **through a resolution passed by the UN General Assembly** that includes, among others:

- ▣ the right to life, liberty, and security of the person
- ▣ freedom from slavery and servitude
- ▣ freedom from torture or cruel, inhuman or degrading treatment
- ▣ equality before the law and equal protection of law
- ▣ freedom from arbitrary arrest, detention or exile
- ▣ freedom from arbitrary interference with privacy, family, home or correspondence
- ▣ the right to marry and establish a family
- ▣ equality of men and women in marriage and its dissolution, upon the free will and consent of the intending spouses
- ▣ the right to own property and not to be arbitrarily deprived of it
- ▣ the right to freedom of thought, conscience and religion, opinion, expression
- ▣ the right to a standard of living adequate for the health and well being of him/her and the family

The Universal Declaration is not a treaty [3], but its provisions were drafted to be developed in treaties which would hypothetically create legally binding obligations for states party to them (see paragraphs 2.4 & 2.5 below).

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

Article 1 of the Convention stipulates that States Parties to the Convention are required to punish genocide whether committed in time of peace or time of war, while its article 2



defines genocide as acts [4] committed with the intent to destroy in whole or in part, a national, ethnic, racial or a religious group.

Persons charged with genocide are to be tried only in the State where the crime was committed or by the International Penal Tribunal. These crimes are not to be considered a political crime for the purpose of extradition.

To enforce the impunity of grave human rights violations, the UN Security Council, acting under Chapter VII of the Charter, established two ad hoc International Tribunals. These tribunals were charged with the prosecution of persons responsible for serious violations of international humanitarian law committed in the Territory of former Yugoslavia (ICTY - 1993) and in the Territory of Rwanda (ICTR - 1994). Moreover, and in conjunction with the pro-active advocacy of human rights defenders and activists, the works of the two above-cited tribunals led to the adoption by the UN Diplomatic Conference of Plenipotentiaries held in Rome in July 1998, of the statutes of a permanent international criminal court. It is expected that the Court will become operational in the near future.

2.3 International Convention on the Elimination of All Forms of Racial Discrimination - 1965

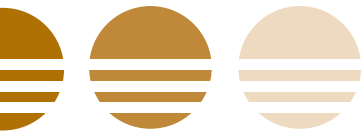
Racial discrimination mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin. The States Parties to this Convention pledged to introduce immediate action to fight prejudices that lead to racial discrimination, mainly in the fields of teaching, education, culture and information.

States Parties to the Convention undertook to condemn racist propaganda and organisations, prohibit them, and declare illegal the dissemination of ideas inciting to racial discrimination.

2.4 International Covenant on Civil and Political Rights - 1966

Since its inception, the United Nations has overseen the codification of the standards set up in the Universal Declaration and deployed efforts to turn them into binding instruments. As of January 1999, 144 countries ratified the covenant under reference, which entails, among others, the following rights and freedoms:

- ▣▣▣▣ self-determination
- ▣▣▣▣ non-discrimination
- ▣▣▣▣ equality
- ▣▣▣▣ the right to life
- ▣▣▣▣ freedom from torture and cruel, inhuman or degrading treatment or punishment
- ▣▣▣▣ the right to liberty and security
- ▣▣▣▣ treatment of prisoners/detainees
- ▣▣▣▣ liberty of movement
- ▣▣▣▣ freedom of thought conscience and religion
- ▣▣▣▣ prohibition of war propaganda
- ▣▣▣▣ freedom of association, right to peaceful assembly
- ▣▣▣▣ the right to culture for minorities



2.5 International Covenant on Economic, Social and Cultural Rights - 1966

As of January 2000, this Covenant was ratified by 140 countries and covers the following rights:

- ▣ self-determination
- ▣ equality in the enjoyment of these rights
- ▣ the right to work and trade unions
- ▣ social security
- ▣ adequate standards of living (food, clothing, housing)
- ▣ health, education, culture

The 2 Covenants together with the Universal Declaration are known as the "International Bill of Human Rights".

2.6 Convention on the Elimination of All forms of Discrimination Against Women - 1979 (CEDAW)

One of the objectives of the United Nations Charter is to endeavour for the realisation of the human rights and fundamental freedoms for all. Every major human rights instrument prohibits discrimination on the basis of gender, and the Convention, after defining discrimination against women [5], spells out the obligations of States:

- ▣ to eliminate discrimination through legislative and other measures
- ▣ to bring in special temporary measures to combat effects of discrimination

The Convention deals with the private sphere as well as the public one and recognises that violence against women is a form of discrimination – whoever commits it. Moreover, it condemns traffic in women and forced prostitution.

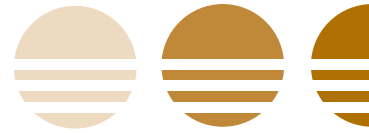
As of January 2000, 163 countries ratified the Convention.

2.7 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - 1984

The Convention describes in article 1 torture to be any act by which severe pain or suffering whether physical or mental, is being inflicted on a person... The four Geneva Conventions and their two additional Protocols contain provisions prohibiting the use of torture and any other cruel, inhuman or degrading treatment or punishment, during international and domestic armed conflicts, notwithstanding the circumstances.

The Convention requires States Parties to investigate complaints of acts of torture and/or cruel, inhuman or degrading treatment or punishment and considers these aforementioned acts, offences under criminal law. Moreover, it states that victims of torture have a right to reparation and redress.

The above instrument was used by ICTY to condemn rape as a war crime. As of January 2000, 112 countries ratified the Convention.



2.8 Convention on the Rights of the Child - 1989

For the terms of this Convention, a child is a person who is under the age of eighteen. The following rights and freedoms are guaranteed:

- ▣▣▣▣ protection against discrimination
- ▣▣▣▣ state obligation to ensure welfare of the child
- ▣▣▣▣ the right to life
- ▣▣▣▣ the right to nationality and identification
- ▣▣▣▣ freedom of expression and thought, religion
- ▣▣▣▣ the right to education and access to information
- ▣▣▣▣ recognition of the responsibilities of the parents

The Convention listed specific areas where States are obliged to initiate measures to protect children's interests that enfold:

- ▣▣▣▣ illegal transfer of children abroad, abduction and sale, adoption
- ▣▣▣▣ physical and psychological abuse or negligence
- ▣▣▣▣ child labour, adequate standards of living
- ▣▣▣▣ sexual exploitation
- ▣▣▣▣ disabled children
- ▣▣▣▣ prohibition against torture
- ▣▣▣▣ respect in case of armed conflict

Article 40 of the Convention asserts that any child alleged to have committed a criminal offence should be treated in a manner consistent with the child's statute... and is entitled to the presumption of innocence. A child should not be charged in the absence of his parents or legal guardians. States are invited to introduce measures for rehabilitation and reintegration of child victims consisting of care, education, guidance and supervision, counselling, probation and vocational training programmes and other alternatives.

As of January 2000, 191 countries ratified the Convention.

2.9 Declaration on the Protection of Enforced Disappearances - 1992

This Declaration contains detailed guidance on countries' obligations regarding enforced disappearance, which can be summed up by:

- ▣▣▣▣ persons are arrested, detained, or abducted against their will or otherwise deprived of their liberty by officials...and kept in only officially recognised places of detention
- ▣▣▣▣ government refusal to disclose the fate or whereabouts of persons concerned or refusal to acknowledge their deprivation of liberty

Enforced disappearance is a violation or a threat to the right to life guaranteed by the Bill of Human Rights. An assumed case of enforced disappearance remains open until the whereabouts of the disappeared persons are disclosed. The latter have rights for redress and reparation.

Articles 14 & 18 state that any person allegedly responsible for an enforced disappearance shall be brought before competent authorities for trial and shall not benefit from any special amnesty.



2.10 Global Perspectives for Human Rights

After more than 50 years spent on codification of human rights into binding law, the United Nations nearly completed setting standards in the domain of international human rights law. A new era started with the UN optimising its resources to ensure the compliance of Member States with the different human rights instruments, to stress Member States to promote a culture of human rights and to introduce effective monitoring mechanisms.

A look backward to the 20th century and its destructive wars and conflicts, an analysis of the evolution of human rights procedures during the same epoch lead us to ascertain that respect of human rights in our day is a '*conditio sine qua non*' for sustainable peace, development and democracy.

The question can be posed: how does the compliance with human rights affect our daily lives and that of our families and communities?

It is strongly believed that the observance of human rights leads to more harmonious societies, where, regardless of personal beliefs, the respect of each other is paramount. Without a commitment to compliance with human rights, the future would seem bleak in so far that you should become your society's role models. Not for the adult population only, but for the younger generations who, in many regions of the world, are the children of war; whose conceptual realisation of human rights should just begin to take hold through your actions and enforcement.

3. Regional protection of human rights

While national representatives in New York were trying to build a new vision for the world society, at regional levels, various initiatives were taken not only to promote human rights but also to establish institutional co-operation in the economic field. The region, which moved most quickly in this direction, was Europe, which had been hit hardest by the effects of World War II, both in terms of human loss and economic devastation.

3.1 Europe

Post-war efforts aimed at the protection of human rights and fundamental freedoms were made within the Council of Europe.

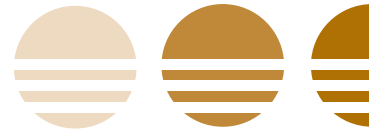
The Council of Europe was established in 1950 [6] and has its seat in Strasbourg, France. Its institutional structure consists of a Parliamentary Assembly, a Committee of Ministers and a Secretary General. The Council of Europe's main achievement is its most important instrument - the European Convention for the Protection of Human Rights and Fundamental Freedoms [7], better known as the European Convention on Human Rights (ECHR) or simply the European Convention.

Because of their limited relevance for the subject matter of this lecture, we shall mention only briefly the other human rights instruments adopted within the framework of other regional organisations.

3.2 Other regions

3.2.1 America

The Organisation of American States (OAS) [8], established in 1948 in Bogota, Colombia, is concerned with the peace and security of the American continent (including North and South America). Its basic document is the American Declaration of the Rights and Duties



of Man (proclaimed on 2nd May 1948). It contains civil and political rights and duties, but no economic and social rights. These were added in a complementary document - the Inter-American Charter of Social Guarantees.

The American Convention on Human Rights (which was opened for signature on 20 November 1969 and entered into force on 18 July 1978), i.e. the American version of the ECHR, has not had the same success as its European equivalent, even though the organisation established a Court of Human Rights in 1979. Unlike its European counterpart, however, the Court cannot make binding decisions and there is no appeal from the Inter-American Commission of Human Rights which was established 20 years earlier. The Commission is the principal organ of the OAS system. It can receive complaints about violations of human rights, make recommendations to member states and report to the OAS Conference.

3.2.2 Africa

In 1963, the Organisation of African Unity (OAU) [9] was established in Addis Ababa. It aims at co-operation between African and Malagasy States in a number of policy areas, such as economic policy, transport, communication, health, sanitation and nutritional policy, defence and security. At its 1981 meeting in Nairobi, Kenya, the Assembly of the Heads of State and Government adopted the African Charter on Human and Peoples' Rights (which entered into force on 21 October 1981).

The Charter comprises the three categories of human rights:

- *civil and political rights* based on the provisions of the UN instruments
- *economic, social and cultural rights* (for example, the right to work under equitable and satisfactory conditions, the right to equal pay for equal work, the right to education)
- *people's rights* (for example, the right to existence, the right to self-determination, the right to peace and security, the right to a satisfactory environment)

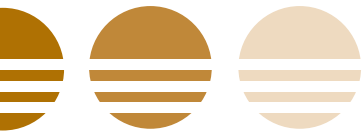
In 1988, a Commission was charged with the Charter's implementation, which is based on regular reports by States Parties as well as inter-state and individual complaints of alleged violations.

3.2.3 The Middle East

The League of Arab States (1945) established a Permanent Arab Commission on Human rights in 1969. In addition, in 1971 a draft Declaration for an Arab Charter of Human Rights was completed. Unfortunately, the draft has still not been adopted.

3.2.4 The Far East

There is no regional organisation or instrument focused on the protection of human rights in the Far East (Pacific Rim) region. The Association of South East Asian Nations (ASEAN), which was established in 1967 concentrates on only general political and economic matters.



4. The European perspective of the international human rights law

4.1 The European Convention on Human Rights

At the Congress of Europe in The Hague in 1948, representatives of European states came together with the aim of establishing an organisation in which all of them would cooperate to build a region in which democracy and human rights would be safeguarded.

As a result, the Council of Europe was established in August 1949, counting among its members most countries of Western Europe. At the first meeting of the Consultative Assembly – renamed Parliamentary Assembly in 1973 – it was decided to start work immediately on the drafting of treaties which would serve as the basis for human rights protection in Europe.

The Universal Declaration of Human Rights (UDHR) [10] served as a basis, but the Convention was from the beginning intended to be a binding legal document.

On 4 November 1950, in Rome, the European Convention on Human Rights (ECHR) was signed and adopted. It entered into force on 3 September 1953.

The work on the definition of economic and social rights progressed much more slowly until the signature of the European Social Charter (ESC or the Charter) in Turin, Italy, (opened for signature on 18 October 1961 and which entered into force on 26 February 1965).

The ECHR structure, scope and effect in national law

Structure

The Convention is divided into three sections. There is also an introductory section, which consists of a single article laying down the primary obligation undertaken by the contracting states, which is to respect the Convention.

➡ Section I (Articles 2-18) sets out the substantive rights and freedoms (the right to life, the prohibition of torture and inhuman treatment, the prohibition of slavery and forced labour, the right to liberty and security of person...). Added to these are the substantive rights included in certain of the Additional Protocols to the Convention:

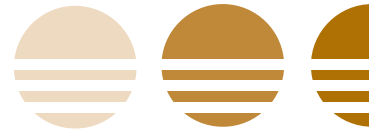
- the right to property
- the right to education
- the right to free elections by secret ballot
- the prohibition of expulsion of nationals (...)

The remaining provisions in this Section contain general principles on the enjoyment of these rights and the limits that apply to them.

➡ Section II consists of provisions laying down the composition, powers and procedure of the Court (Articles 19-51).

➡ Section III consists of supplementary and procedural provisions dealing with, among others, the application of the Convention and the setting of reservations (Articles 52-59).

Over these last years, amendments have been made to the Convention in the form of additional protocols [11]. Whereas some enshrine additional substantive rights, other concern procedural and institutional matters. The most important of those is Protocol 11 [11] which restructures the Convention's control system (in a single judicial system) by abolishing the Commission and Court and replace them by a single Court.



Scope

The Convention's High Contracting Parties must respect the rights of all persons within their jurisdiction of nationality or residence. It can even be argued that the Convention applies to persons who are illegally within the jurisdiction of a State party. It is clear it might seem strange for an individual to claim rights in a country where, legally, he or she does not exist, but that does not absolve a state from its duty to protect such a person (see the case of *D v. United Kingdom*, 1997).

Effect in national law

The effect of the Convention in domestic law depends on the relevant national constitutional provisions. If they provide that an international treaty is part of national law, then individuals can invoke the Convention before their national courts. If that is not the case, the Convention does apply directly in the national courts.

4.2 Human rights protection in the European Union

The three organisations established after the World War II (the *Organisation for Economic Co-operation and Development* /OECD/, the *Council of Europe* and the *European Communities*) sought to combat two major problems:

- complete economic downfall
- the aftermath of one of the most vicious attacks on dignity to humanity

Whereas the Council of Europe focused on the protection of human rights, fundamental freedoms and democratic values, the OECD and the European Communities were concerned with the economic restoration of Europe. This was to be achieved through close cooperation of states, with a view to avoiding economic excuses for future inhumanity.

This separation of focus explains mainly why human rights were not included in the foundation treaties of the European Communities. The protection of human rights was not completely overlooked by those who drafted the treaties.

At the present, action is being undertaken by Community institutions to remedy the lack of express provisions concerning the protection of human rights (see the case law of the European Court of Justice (ECJ) and recent political developments within the institutional texts).

4.2.1 Main Human rights provisions in the TEU (1992 Maastricht Treaty)

The third recital of the Maastricht Treaty's preamble confirms the commitment of the Member States to the "*principles of liberty, democracy and respect for human rights and fundamental freedoms and the rule of law*".

Article F (1) TEU provides that the Union "*shall respect the national identities of its Member States, whose systems of government are founded on the principles of democracy*".

Article F (2) provides that "*the Union shall respect fundamental human rights, as guaranteed by the European Convention for the protection of human rights and fundamental freedoms... and as they result from the constitutional traditions common to the Member States, as general principal of Community law*".

Article F (3) added that the Union "*shall provide itself with the means necessary to attain its objectives and carry through its policies*".



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The Treaty's provisions on a common foreign and security policy include article J.1 (2) which states that the policy's objectives shall be, among others, **“to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms”**.

4.2.2 Main Human rights provisions in the Treaty of Amsterdam (1997)

Here a new fourth recital has been added to the TEU's preamble: **“Confirming their attachment to fundamental social rights as defined in the European Social Charter... and the 1989 Community Charter of the Fundamental Social Rights of Workers”**. This amendment is reinforced by a similar reference to both Charters in the new Article 117 TEC.

In terms of protection of human rights, other major significant developments concern judicial control and enforcement, reflecting the desire of member states to establish an area of freedom, security and justice.

4.3 Interface between EU law and the ECHR

One thing we can note about the ECHR and its protocols is that it sets out only a limited number of rights. The minimum nature of these rights is also shown by the fact that Convention may provide for higher standards in their national laws and other agreements.

The second point is that these rights are predominantly traditional or “negative” rights guaranteeing that individuals will be left in peace by the state and ensuring that they can exercise their political freedoms which act as controls on the power of the state.

4.3.1 Freedom of movement

Article 2(1) of Protocol n°4 to the European Convention provides that **“Everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose his residence”**.

The free movement persons is also one of the fundamental objectives of the EC Treaty [12]. The right to freedom of movement is no longer restricted to people who are economically active. Article 8a (1) TEC provides that **“Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down by his Treaty and by the measures adopted to give it effect”**.

4.3.2 Principle of non-discrimination

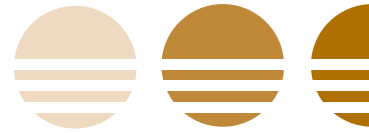
Article 14 ECHR provides that all persons, without discrimination on any grounds, shall enjoy the rights and freedoms set forth in the Convention.

In other words, Article 14 imposes an additional obligation on States to ensure equality in fields which are governed by the Convention. Discrimination occurs if **“the distinction has no objective and reasonable justification”** [13]. While the margin of appreciation that states enjoy is sometimes broad, Strasbourg case law shows that discrimination on the grounds of sex is particularly serious and very weighty reasons must be shown for its justification [14].

According to the European Court of Justice, freedom from discrimination on the grounds of sex is a fundamental human right the observance of which it has a duty to ensure [15]. The Court favours a broad interpretation of this right.

4.3.3 Freedom of information

The Strasbourg Court has very often declared that pluralism, tolerance and broadmindedness are hallmarks of a democratic society which require respect according to the Convention [16].



The right to freedom of information, which is enshrined in Article 10 ECHR, extends to information or ideas which offend, shock or disturb the State or any sector of the population. It complements the right of privacy (Article 8 ECHR), which is protected by the Community legal system [17] and informs Community legislation [18]. The relevance of freedom of information to the operation of the common market is illustrated by the case law of the European Court of Justice [19].

4.3.4 Right to property

The right to property (ECHR, Protocol 1, Article 1) is controversial, basically because of inequalities in society and finite economic resources. To provide for a strong right to property in such circumstances is to run the risk of “freezing” the existing inequitable division of property in society.

Article 1, Protocol 1 contains three separate rules:

- a general recognition of the right to property in the first sentence of paragraph 1
- the rule in the second sentence of paragraph 1 that a person may only be deprived of his or her property in the public interest and subject to certain conditions
- the rule in paragraph 2 that the state nonetheless has the right to control the use of property rights in the general interest

The right to property is also one of the fundamental rights guaranteed by Community Law [20].

4.3.5 Environmental protection

Under Article 173(4) of the EC Treaty, individuals who seek the annulment of community acts, which are not addressed to them must establish “**direct and individual concern**” [21].

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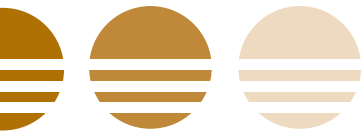
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- [1] Currently known as Iraq
- [2] Predecessor organisation to the United Nations until 1945.
- [3] Treaty: international binding document based on a convention.
Covenant: signatories are not bound as they can sign covenants, and conventions with reservations (the way of enforcement procedure).
- [4] The following acts shall be punishable: genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide.
- [5] Discrimination against women is defined 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 of their human rights.
- [6] See the London Statute signed in 1949.
- [7] Signed on 4 November 1950 and entered into force on 3 September 1953.



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- [8] The OAS is a regional inter-governmental organisation which includes among its 35 members all sovereign states of the Americas.
- [9] The OAU is a regional inter-governmental organisation which includes 53 states.
- [10] See UN General Assembly Resolution 217 A (III).
- [11] This amending protocol entered into force on 1 November 1998, in accordance with Article 4 of Protocol N° 11.
- [12] See Report of the High Level Panel on the Free Movement of Persons chaired by Mrs Simone Veil, presented to the Commission on 18 March 1997.
- [13] See the *Belgian Linguistic Case*, 23 July 1968 (A-6).
- [14] See *Adulaziz, Cabales and Balkandi v. United Kingdom*, 28 May 1985 (A-94).
- [15] See *Defrenne v. Sabena*, 149/77 (1978).
- [16] See *Handyside v. United Kingdom*, 7 December 1976 (A-23).
- [17] See *National Panasonic v. EC Commission*, 136/79 (1980).
- [18] See the Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 N° L 281/31).
- [19] See for example Case C-159/90.
- [20] See *Irish Farmers Association v. Minister of agriculture, food and forestry Ireland*, 22/94, 15 April 1997.
- [21] See the *Steiner and Woods Case*.





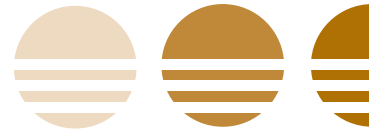
Appendix 1: United Nations Landmarks in Human Rights - A Brief Chronology

- 26 June 1945** Signing of the Charter of the United Nations and Statute of the International Court of Justice, in San Francisco.
- 21 June 1946** The Economic and Social Council (ECOSOC) establishes the Commission on Human Rights and the Commission on the Status of Women.
- 9 December 1948** The General Assembly adopts the Convention on the Prevention and Punishment of the Crime of Genocide (entered into force 1951).
- 10 December 1948** The General Assembly adopts the Universal Declaration of Human Rights.
- 12 August 1949** The Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War adopts four Geneva Conventions, relating to the Amelioration of the Condition of Wounded and Sick Members of Armed Forces in the Field and at Sea, the Treatment of Prisoners of War and the Protection of Civilians in Wartime (entered into force 1950).
- 20 December 1952** The General Assembly adopts the Convention on the Political Rights of Women (entered into force 1954).
- 1 August 1956** ECOSOC calls for periodic reports (every three years) on human rights and studies of specific rights or groups of rights. This resolution represents the first call for reports from Member States, and was a precursor to the reporting requirements contained in the many subsequent human rights covenants.
- 20 November 1959** The General Assembly adopts the Declaration of the Rights of the Child (see also 20 November 1989).
- 21 December 1965** The General Assembly adopts the International Convention on the Elimination of All Forms of Racial Discrimination (entered into force 1969). This Convention provides for the establishment of the Committee on the Elimination of Racial Discrimination.
- 16 December 1966** The General Assembly adopts the International Covenant on Economic, Social and Cultural Rights (entered into force 3 January 1976) and the International Covenant on Civil and Political Rights with an Optional Protocol (entered into force 23 March 1976). This Covenant provides for the establishment of the Human Rights Committee (see also 28 May 1985).
- 6 June 1967** ECOSOC adopts resolution 1235 (XLII), authorising the Commission on Human Rights and the Sub commission on Prevention of Discrimination and Protection of Minorities to examine information relevant to gross violations of human rights and fundamental freedoms.
- 7 November 1967** The General Assembly adopts the Declaration on the Elimination of Discrimination against Women.
- 13 May 1968** The International Conference on Human Rights adopts the Proclamation of Tehran.
- 26 November 1968** The General Assembly adopts the Convention on the Non-Applicability of Statutory Limitations to War Crimes against Humanity (entered into force 1970).



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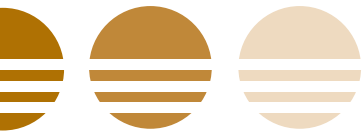
- 11 December 1969** The General Assembly adopts the Declaration on Social Progress and Development.
- 30 November 1973** The General Assembly adopts the International Convention on the Suppression and Punishment of the Crime of Apartheid (entered into force 1976).
- 9 December 1975** The General Assembly adopts the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- 23 March 1976** With entry into force of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, 10 years after being originally opened for signature (see 16 December 1966), the International Bill of Human Rights becomes a reality (see also 10 December 1948).
- 18 December 1979** The General Assembly adopts the Convention on the Elimination of All Forms of Discrimination against Women (entered into force 1981). The Convention provides for the establishment of the Committee on the Elimination of Discrimination against Women.
- 25 November 1981** The General Assembly adopts the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.
- 10 December 1984** The General Assembly adopts the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (entered into force 1987). The Convention provides for the establishment of the Committee against Torture.
- 28 May 1985** ECOSOC establishes the Committee on Economic, Social and Cultural Rights, responsible for monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights.
- 4 December 1986** The General Assembly adopts the Declaration on the Right to Development.
- 9 December 1988** The General Assembly adopts the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 24 May 1989** ECOSOC adopts the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions.
- 20 November 1989** The General Assembly adopts the Convention on the Rights of the Child (entered into force 1990). The Convention provides for the establishment of the Committee on the Rights of the Child.
- 18 December 1990** The General Assembly adopts the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 18 December 1992** The General Assembly adopts the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.
- 25 May 1993** The Security Council adopts resolution 827 (1993), establishing an International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, with its seat at The Hague in the Netherlands.
- 25 June 1993** The World Conference on Human Rights adopts the Vienna Declaration and Programme of Action.



- 20 December 1993** The General Assembly adopts resolution 48/141, establishing the post of United Nations High Commissioner for Human Rights.
- 5 April 1994** Mr. José Ayala Lasso of Ecuador assumes the post of first United Nations High Commissioner for Human Rights.
- 8 November 1994** The Security Council adopts resolution 955 (1994), establishing an International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Crimes against Humanitarian Law Committed in Rwanda during 1994, with its seat in Arusha, Tanzania.
- 23 December 1994** The General Assembly proclaims the United Nations Decade for Human Rights Education (1995-2004).
- 12 September 1997** Ms. Mary Robinson of Ireland becomes the second United Nations High Commissioner for Human Rights.
- 17 July 1998** The Diplomatic Conference of Plenipotentiaries adopts the Rome Statute of the International Criminal Court, establishing the International Criminal Court, with its seat at The Hague.

Appendix 2: On the web

- ▶▶▶▶ **European Court of Justice** (including recent judgments):
<http://www.europa.eu.int/cj>
- ▶▶▶▶ **European Court of Human Rights** (including judgments, forthcoming cases and texts of European human rights law):
<http://www.dhcour.coe.fr>
- ▶▶▶▶ Information on the **Council of Europe's structure, aims and activities**:
<http://stars.coe.fr/gen/aintro.htm>
- ▶▶▶▶ **Statewatch** (monitoring state and civil liberties in the EU):
<http://www.poptel.org.uk/statewatch>



Appendix 3: An overview of substantive rights

The European Convention on Human Rights of the Council of Europe

- Article 2:* The right to life
- Article 3:* Prohibition of torture or inhuman or degrading treatment
- Article 4:* Prohibition of slavery, servitude and forced labour
- Article 5:* The right to liberty and security of person
- Article 6:* The right to a fair trial
- Article 7:* No punishment without law
- Article 8:* The right to respect for private and family life, home and correspondence
- Article 9:* Freedom of thought, conscience and religion
- Article 10:* Freedom of expression
- Article 11:* Freedom of assembly and association
- Article 12:* The right to marry and found a family
- Article 13:* The right to an effective remedy before a national authority
- Article 14:* Prohibition of discrimination

First Protocol to the European Convention on Human Rights of the Council of Europe

- Article 1:* Protection of property
- Article 2:* The right to education
- Article 3:* The right to free elections

Fourth Protocol to the European Convention on Human Rights of the Council of Europe "securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto"

- Article 1:* Prohibition of imprisonment for debt
- Article 2:* Freedom of movement
- Article 3:* Prohibition of expulsion of nationals
- Article 4:* Prohibition of collective expulsion of aliens

Sixth Protocol to the European Convention on Human Rights of the Council of Europe

- Article 1:* Abolition of the death penalty

Seventh Protocol to the European Convention on Human Rights of the Council of Europe

- Article 1:* Procedural safeguards relating to the expulsion of aliens
- Article 2:* The right to appeal in criminal matters
- Article 3:* Compensation for wrongful conviction
- Article 4:* The right not to be tried or punished twice
- Article 5:* Equality of spouses



Appendix 4: European legislation on civil protection

This part of this lecture deals with the European Community legislation in the civil protection sector. This consists of Community Action in the field of co-operation on civil protection.

Main Source: *Handbook on the implementation of EC Environmental Legislation*, Directorate-General Environment, European Commission, rue de la Loi 200, B-1049 Brussels, Belgium, 1999.

Community actions in the field of civil protection are administered by the Civil Protection and Environmental Emergencies Unit DG ENV.

Principal objectives of the Civil Protection and Environmental Emergencies Unit

- To support and supplement efforts at national, regional and local level with regard to disaster prevention, preparedness of those responsible for civil protection, and intervention in the field of disaster
- To contribute to the information of the public in view of increasing the level of self protection of European citizens
- To establish a framework for effective and rapid co-operation between national civil protection services when mutual assistance is needed
- To enhance the coherence of actions undertaken at the international level in the field of civil protection, especially in the context of co-operation with the candidate Central and Eastern European countries in view of enlargement and with partners in the Mediterranean region

Civil protection - a definition

The purpose is to help ensure better protection for people, the environment and property in the event of natural and technological disaster.

The objectives of Community co-operation in the field of civil protection

- To facilitate co-operation, exchange of experience and mutual assistance between member states in the field of civil protection
- To establish a framework for effective and rapid co-operation between national civil protections when mutual assistance is needed
- To support and supplement efforts at national, regional and local level with regard to disaster prevention, the preparedness of those responsible for civil protection and intervention in the event of disaster
- To contribute to the information of the public in view of increasing the level of self-protection of European citizens
- To enhance the coherence of actions undertaken at international level in the field of civil protection especially in the context of co-operation with the candidate Central and Eastern European countries in view of enlargement and with partners in the Mediterranean region



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In May 1985, a first ministerial meeting held in Rome laid the foundations for Community co-operation in the field of civil protection.

Between 1985 and 1994, six resolutions were adopted. Implementation of these Resolutions resulted in the creation of several operational instruments covering the preparedness of those involved in civil protection and response in the event of a disaster.

All civil protection initiatives at Community level are implemented on the basis of the **subsidiarity principle** laid down in the Maastricht Treaty. In fact, the Commission's aim has been to support and encourage efforts made at national, regional and local level.

At the end of 1997, the Council improved the foundations for co-operation still further by adopting a decision establishing a Community Action Programme in the field of civil protection. The Action Programme's implementation is the main priority of the Commission in the field of civil protection.

In December 1999, the Council adopted a Decision establishing a new Community action Programme to run from 1 January 2000 to 31 December 2004.

EC legal Instruments on civil protection

Pending proposal for legislation:

- “Proposal for a Council decision establishing a community mechanism for the co-ordination of civil protection intervention in the event of emergencies (COM (2000) 593 - 2000/0248/CNS - 27/09/2000)”

Texts concerning Community co-operation in the field of civil protection:

- Resolution of the Council and the representatives of the governments of the member states, meeting, within the Council, of 25 June 1987, on the introduction of Community co-operation on civil protection (OJ n° C 176 of 4/7/1987, p.1).
- Resolution of the Council and the representatives of the governments of the member states, meeting, within the Council, of 13 February 1989, on the new developments in Community co-operation on civil protection (OJ n° C 44 of 23/2/1989, p.3).
- Resolution of the Council and the representatives of the governments of the member states, meeting, within the Council, of 23 November 1990, on Community co-operation on civil protection (OJ n° C 315 of 14/12/1990, p.1).
- Resolution of the Council and the representatives of the governments of the member states, meeting, within the Council, of 23 November 1990, on improving mutual aid between Member States in the event of a natural man-made disaster (OJ n° C 315 of 14/12/1990, p.3).
- Resolution of the Council and the representatives of the governments of the member states, meeting, within the Council, of 8 July 1991, on improving mutual aid between member states in the event of a natural man-made disaster (OJ n° C 198 of 27/7/1991, p.1).
- Council Decision of 29 July 1991 on the introduction of a single European emergency call number (OJ n° L 217 of 6/8/1991, p.31).



- Resolution of the Council and the representatives of the governments of the member states, meeting, within the Council, of 31 October 1994, on strengthening Community co-operation on civil protection (OJ n° C 313/01).
- Council Decision of 19 December 1998 establishing a community action programme in the field of civil protection (OJ n° L 8 of 14/1/1998, p.20).
- Council Decision establishing a community action programme in the field of civil protection (OJ n° L 327 of 21/12/1999, p.53).
- Resolution of the Council and the representatives of the governments of the member states, meeting, within the Council, of 9 December 1999, on co-operation with candidate central and eastern European countries and Cyprus on civil protection (OJ n° C 373 23/12/1999, p.2).
- Proposal for a Council decision establishing a community mechanism for the co-ordination of civil protection intervention in the event of emergencies (COM (2000) 593 - 2000/0248/CNS - 27/09/2000).



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