

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

“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.

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-

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

“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

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 broad-based 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.

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.

“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.

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 Secretary-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 so-

ciety’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*

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.

Human Dignity in the African concept:

*“I am a human being
because of your eyes seeing
me as one [...]”*

African Proverb, Mali.

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

*"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.

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 vio-**

lations 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

“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.

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-

mentations 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 **Special 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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