

A Primer on International Human Rights

The **United Nations** seeks to develop international law; its charter sets the objective of establishing “conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”

- **UN General Assembly:** A deliberative body of all UN member states (one vote per country). It is not a parliament – it makes non-compulsory resolutions and suggestions to the UNSC. On proposal of the UNSC, it decides on the admission of new members; elects the non-permanent members of the UNSC, all members of ECOSOC, and the 15 judges of the ICJ; adopts the budget.
- **UN Secretariat:** The administrative organ of the UN, its chairman is the UN Secretary General (elected by the UNGA for a five-year mandate). It supports the other UN bodies administratively (organization of conferences, writing reports and studies, preparing the budget-plan).
- **International Court of Justice:** The universal court for international law; decides disputes between states that recognize its jurisdiction and creates legal opinions. Judgment is rendered with relative majority/plurality. Only countries can be parties.
- **UN Security Council:** Responsible for international peace and security. It is the most powerful UN body and can adopt compulsory resolutions, mainly on peacekeeping missions and non-military pressures (like embargoes).
- **UN Economic and Social Council:** Responsible for cooperation between states on economic and social fields.

Charter bodies (Human Rights Council; Universal Periodic Review; Special Procedures, etc) derive their establishment from provisions contained in the Charter of the United Nations. They hold broad human rights mandates, address an unlimited audience, and take action based on majority voting.

Treaty bodies (Human Rights Committee; Committee against Torture, etc) derive their existence from provisions contained in a specific legal instrument, hold more narrow mandates (i.e., the set of issues codified in the legal instrument), address a limited audience (i.e., only those countries that have ratified the legal instrument), and base their decision-making on consensus.

International Law

International law covers both human rights law and international humanitarian law. It defines the legal responsibilities of states in their conduct with each other, and their treatment of individuals within state boundaries and regulates the global commons (environment, sustainable development, international waters, outer space, global communications and world trade).

- **Declarations** are considered ‘soft law’ and not legally binding, though they can carry significant political weight
- **Conventions** are legally binding instruments concluded under international law
- **Treaties** are an express agreement entered into by actors in international law, namely sovereign states and international organizations

International humanitarian law is enshrined in the Geneva Convention and the Hague Convention which outline the code of conduct of a state in wartime and its duty and responsibilities toward civilians. Serious violations are considered war crimes.

- The **Geneva Convention** (1949) - comprises 4 treaties and 3 additional protocols that establish the standards of international law for the humanitarian treatment of the victims of war
- The **Genocide Convention** (Convention on the Prevention and Punishment of the Crime of Genocide) (1948). Ratified by 142 states

Human Rights Law in Europe and the UK

The **European Convention on Human Rights** (1950) protects human rights and individual freedoms in European countries. Protocols open for signature include expansion of protections (Protocol 6

requires signatories to restrict the death penalty; Protocol 13 (ratified by the majority of the Council of Europe as of May 2011) calls for complete abolition of the death penalty)

The **Human Rights Act 1998** (UK) aims to further entrench the articles of the Convention in UK law. No UK public body may act in a way that goes against the Convention and UK judges have to take into account decisions made by Strasbourg.

Equality Act 2010 (UK) covers direct discrimination, indirect discrimination, harassment, victimisation

Employment Equality (Religion or Belief) Regulations 2003 (UK) makes direct and indirect discrimination against employee or potential employee on the grounds of religion unlawful.

Role of NGOs

The **OCHCR** is often the best and sometimes the only conduit for complaints on alleged violations of human rights. It provides valuable studies and reports and training and human rights education. It follows up at country level on UN recommendations and observations.

Human Rights Council (UN Charter Body) uses NGOs for working groups and special procedures

Treaty bodies (e.g. Committee on the Elimination of Racial Discrimination)

Human rights complaints procedures (some Treaty bodies have power to hear complaints from individuals, e.g. Human Rights Committee; Committee on the Elimination of Racial Discrimination)

A Brief History of International Law

1945: The UN was founded and its Charter was drawn up with the main objective of saving 'succeeding generations from the scourge of war' and reaffirming 'faith in fundamental human rights.' The Charter is a treaty and so is a legally binding document: all UN member states must fulfil their obligations under it.

1948: The **Universal Declaration of Human Rights** (UDHR) was built on the fundamental principle that human rights are based on the inherent dignity of every person. Not binding but has been incorporated into many countries' basic laws or constitutions.

1969: The International Convention on the **Elimination of All Forms of Racial Discrimination** (ICERD)

1976: The **International Covenant on Civil and Political Rights** (ICCPR) and the **International Covenant on Economic, Social and Cultural Rights** (ICESCR) are legally binding conventions built on the fundamental principle that human rights are based on the inherent dignity of every person. The majority of countries are signatories and, combined with the UDHR, they constitute the **International Bill of Rights**.

1979: The Convention on the **Elimination of All Forms of Discrimination against Women** (CEDAW) is an 'international bill of rights for women.' It requires ratifying states to enshrine male/female equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women.

1987: The United Nations **Convention against Torture** and Other Cruel, Inhuman or Degrading Treatment or Punishment aims to prevent torture around the world. The Convention requires states to take effective measures to prevent torture within their borders, and forbids states to return people to their home country if there is reason to believe they will be tortured.

1990: The **Convention on the Rights of the Child** (CRC) sets out the civil, political, economic, social and cultural rights of children.

1994: Formation of the **Office of the High Commissioner on Human Rights** (OHCHR)

2003: International Convention on the Protection of the **Rights of All Migrant Workers and Members of Their Families** (ICRMW) covers the protection of migrant workers' rights and emphasizes the connection between migration and human rights

2006: Structural reform: Commission on Human Rights replaced by **Human Rights Council** (HRC)