

## Chapter 2

# The International Human Rights System

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### Contents

1	Introduction . . . . .	1
2	UN instruments . . . . .	1
3	UN institutions and procedures . . . . .	7
4	Regional human rights systems . . . . .	20
	The European system* . . . . .	20
	The Organisation for Security and Cooperation in Europe* . . . . .	23
	The inter-American system . . . . .	27
	The African system . . . . .	28

### Annexes

I)	Table of main international human rights conventions . . . . .	31
II)	Table of treaty bodies . . . . .	33



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## 1. Introduction

Human rights officers need to have a basic knowledge and understanding of the UN's human rights norms, institutions and procedures. This chapter offers a presentation of this international human rights system.

## 2. UN instruments

This section provides an overview both of international human rights instruments and of international humanitarian law, since human rights officers are likely to work in countries where armed conflict has occurred.

### *Character and evolution of the human rights instruments*

The UN Charter refers to human rights and fundamental freedoms in a number of clauses. It expressly places the Organisation under an obligation to encourage “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”, and makes that respect the very foundation for the achievement of its goals (Articles 1(3) and 55).

The creation of a body of international human rights law is a product of years of negotiations and a major accomplishment of the United Nations. Today, there are about 100 universal human rights *instruments* and a large number of regional treaties. The term instruments covers all the different documents that embody human rights standards: legally binding treaties, covenants and conventions (hard law), as well as commitments expressed in declarations, resolutions, guiding principles, codes of conduct etc. (soft law). The main foundation for this body of human rights law is the *International Bill of Human Rights*, consisting of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocols.

Human rights conventions or covenants are legally binding for those states that have ratified them, once they have entered into force after a sufficient number of ratifications. The Universal Declaration of Human Rights is not a treaty, but many of its provisions have become part of international *customary law* which is binding on all states.

Annex 1 presents an overview of some of the main *international and regional conventions*, but the reader should consult the website of the UN Office of the High Commissioner for Human Rights ([www.ohchr.org](http://www.ohchr.org)) for more details and an updated list of all existing treaties and ratification records.

Numerous other standard-setting initiatives have been expressed by way of declarations, sets of principles, codes of conduct, guidelines etc., which are not legally binding but reflect basic minimum standards for all UN member states. For human rights monitors these instruments will often be useful tools in specific situations. They are especially helpful in training and public information campaigns on human rights. Experience shows that government officials often make no distinction between so-called ‘hard law’ and ‘soft law’ and view these instruments as binding standards that they must enforce and respect.

Examples of 'soft law':

- Declarations (e.g. on minorities, human rights defenders);
- Basic Principles (e.g. on the use of force and firearms);
- Standard Minimum Rules (e.g. on the treatment of prisoners and administration of justice for juveniles);
- Codes of Conduct (e.g. for law enforcement officials);
- Safeguards (e.g. for those facing the death penalty);
- Guidelines (e.g. on internally displaced, the role of prosecutors);
- Model Treaties (e.g. on the supervision of prisoners released on parole).

Human rights officers in Haiti and Rwanda took the UN Code of Conduct for Law Enforcement Officials and translated it into local languages (Creole and Kinyarwanda, respectively), and used these in trainings for the local police and in workshops with local non-governmental organisations. Human rights observers used a similar approach with the UN Standard Minimum Rules on the Treatment of Prisoners for corrections officers in each country.

### ***Human rights treaties***

Depending on the state's national law, it becomes a State Party to a convention either by ratification or accession, signifying an agreement to be legally bound by the terms of the convention. Normally, before actually ratifying or acceding to the convention, a country undertakes a detailed review of the convention's requirements and assesses how it can comply, including by amending national legislation. A country is expected to be in compliance with the convention's obligations within a reasonable time after ratification or accession.

States may submit *reservations* to a human rights instrument which limit the scope of the treaty's applicability. Governments may also declare derogations or suspensions of some treaty provisions in a national public emergency. Unfortunately, this may also be an excuse for limiting political opposition and restricting various rights like freedom of religion, expression and assembly. Human rights officers should carefully examine any such derogations to determine whether they are well-founded and comply with Article 4 of the International Covenant on Civil and Political Rights, which states that such measures must be "strictly required by the exigencies of the situation" and that they may "not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin".

When considering which standards apply to a situation in a given country, the human rights officer must remember to consult the national constitution and laws. As expressed by a former member of the Human Rights Committee, the monitoring body tasked to supervise the implementation of the International Covenant on Civil and Political Rights, "the first requirement of the Covenant is national implementation, which is the alpha and omega of human rights (...) the role of the international machinery is essentially of a subsidiary nature".<sup>1</sup>

### ***The human rights standards***

The first major achievement of the UN in human rights was the adoption of the Universal Declaration of Human Rights by the General Assembly on 10 December 1948. The Assembly proclaimed the Declaration to be “a common standard of achievement for all peoples and all nations”. The Universal Declaration affirms the freedom, equality and dignity of all human beings and establishes basic principles like non-discrimination and equality before the law.

The Universal Declaration includes civil and political, as well as economic, social and cultural rights, but these two ‘categories of human rights’ were later divided into two treaties, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Cold War politics was one reason for the split, the other rationale was that civil and political rights were subject to immediate application, whereas economic, social and cultural rights require progressive realisation, and that therefore different implementation measures were needed. Yet the Committee on Economic, Social and Cultural Rights (the monitoring body tasked to oversee the implementation of the ICESCR) has issued several General Comments (see GC 12 through 15) finding that states have a duty to ensure the immediate enjoyment of a certain minimum level of the rights to food, shelter and education. This manual reflects the reality that most human rights field missions give priority to civil and political rights.

#### *Civil and political rights*

The Universal Declaration contains the main civil and political rights in Articles 3 to 21. The ICCPR develops these and makes them binding for all States Parties:

- the right to life (Art. 6);
- the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Art. 7);
- the prohibition of slavery (Art. 8);
- the right not to be subjected to arbitrary arrest or detention (Art. 9);
- all persons deprived of their liberty shall be treated with humanity (Art. 10);
- equality before the courts and tribunals, and guarantees in criminal and civil procedure (Art. 14);
- prohibition against retroactive criminal legislation (Art. 15);
- the right to recognition everywhere as a person before the law (Art. 16);
- equality before the law (Art. 26);
- the prohibition of arbitrary or unlawful interference with an individual’s privacy, family, home or correspondence (Art. 17);
- the rights to freedom of thought, conscience and religion (Art. 18), expression (Art. 19), assembly (Art. 21) and association (Art. 22), including trade union membership;
- the rights to freedom of movement and freedom to choose a residence (Art. 12);
- the right of every citizen to take part in the government of his or her country (Art. 25).

The ICCPR prohibits any propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (Art. 20). Measures protecting members of ethnic, religious or linguistic minorities are stipulated in Art. 27.

The ICCPR allows a state to limit or suspend the enjoyment of certain rights in cases of officially proclaimed public emergencies which threaten the life of the nation. Such limitations or suspensions are permitted only “to the extent strictly required by the exigencies of the situation” and may never involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. (Such limitations or suspensions must also be reported to the UN.) However, certain rights may never be suspended or limited even in emergency situations. These are the rights to life; freedom from torture; freedom from enslavement or servitude; protection from imprisonment for debt; freedom from retroactive penal laws; the right to recognition as a person before the law; and freedom of thought, conscience and religion.

*Economic, social and cultural rights*

Articles 22 to 27 of the Universal Declaration set forth economic, social and cultural rights. These are later elaborated in further detail in a number of human rights instruments, especially the International Covenant on Economic, Social and Cultural Rights:

- the right to work (Art. 6);
- the right to enjoy just and favourable conditions of work (Art. 7);
- the right to form trade unions and join the trade union of one’s choice (Art. 8);
- the right to social security (Art. 9);
- the right to protection and assistance of the family (Art. 10);
- the right to an adequate standard of living, including adequate food, clothing and housing, and the fundamental right to be free from hunger (Art. 11);
- the right to the enjoyment of the highest attainable standards of physical and mental health (Art. 12);
- the right to education (Art. 13).

Under Article 2(1) of the Covenant, each State Party undertakes to “take steps, individually and through international assistance and cooperation (...) to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant”. Obviously, it is harder for a monitor to determine violations of these rights, especially determining what constitutes ‘the maximum of available resources’ and ‘progressive realisation’. This is one reason why mandates of human rights operations often do not include monitoring economic, social and cultural rights.

The principle of *non-discrimination* in Article 2(2) of the ICESCR applies universally and is a powerful tool for human rights officers to promote and protect economic, social and cultural rights. In Kosovo, human rights observers verified that Roma were not receiving their allotment of coal for heating and cooking. The authorities were diverting their coal to ethnic Albanian neighbourhoods. Once the human rights officers pointed out this discriminatory treatment which affected the Romas’ rights to shelter and food, the authorities started to deliver the coal allotment to Roma communities, under the watchful eyes of human rights officers.

### *The rights of particular groups*

Certain treaties and instruments cover the rights of especially vulnerable groups who need specific legal protection due to centuries of abuse and discrimination. Among the groups protected by specific instruments are *women, children, indigenous peoples* (ILO Convention No. 169), *migrant workers*, the *disabled* and *refugees*.

### *Specific topics*

In 1984 the General Assembly adopted the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 1 of the Convention defines 'torture' as:

*[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

No exceptional circumstances whatsoever, nor any order from a superior officer or a public authority, may be invoked as a justification of torture (Article 2). This absolute prohibition of torture has been questioned by several states following the attacks on the United States on 11 September 2001. Human rights officers need to be aware of police and military practices in detention centres and have good collaboration with local medical and legal experts to combat torture.

### ***International humanitarian law***

Human rights monitors need to know certain parts of international humanitarian law or the 'law of armed conflict' since many missions deploy to areas of armed conflict. These are most often civil wars or 'internal conflicts' where human rights violations are common. *International humanitarian law* contains principles and rules limiting the use of violence in internal and international armed conflict. The law aims to protect persons who are not, or are no longer, directly engaged in hostilities, such as the wounded, shipwrecked, prisoners of war and civilians. International humanitarian law has also been defined as 'the human rights component of the law of war'.

Common Article 3 of the Geneva Conventions contains the most important rules for the human rights observer. It has been called the 'human rights charter for internal armed conflict', precisely the situation the human rights officer is most likely to encounter. This article establishes the responsibility to protect civilians in internal conflicts and defines prohibited acts binding on both the state and insurgent forces.

### **Common Article 3 of the Geneva Conventions**

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- b) Taking of hostages;
- c) Outrages upon personal dignity, in particular humiliating and degrading treatment
- d) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court affording all the judicial guarantees which are recognised as indispensable by civilised peoples.

2. The wounded and sick shall be collected and cared for.

(...) The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

#### *The Geneva Conventions*

An international diplomatic conference held in Geneva from April to August 1949 adopted the four Geneva Conventions as we know them today, covering, respectively, the sick and wounded on land (First Convention), the wounded, sick and shipwrecked members of the armed forces at sea (Second Convention), prisoners of war (Third Convention), and civilian victims (Fourth Convention).

Since 1949 new forms of armed conflict have arisen, with civilians comprising the greatest number of casualties rather than armed combatants. The changing nature of armed struggle called for further action. In 1977 two *Additional Protocols* to the 1949 Conventions were enacted. Protocol I deals with the protection of victims of international conflicts. Protocol II concerns the victims of internal armed conflicts, including those between the armed forces of a government and dissidents or other organised groups which control part of its territory. Protocol II does not deal with internal disturbances and tensions in the form of riots, or other isolated and sporadic acts of violence. Protocol II will usually be important for human rights observers since it establishes basic minimum standards of behaviour toward non-combatants binding on both government and insurgent/dissident forces.



*Genocide*

*The Convention on the Prevention and Punishment of the Crime of Genocide*, approved by the General Assembly in 1948, was one of the earliest steps in the field. The Convention confirms that genocide, whether committed in peace or in war, is a crime under international law which the Contracting Parties undertake to prevent and punish. It is thus the one convention within humanitarian law which applies at all times.

*Ad hoc tribunals and the International Criminal Court*

Widespread violations of international humanitarian law occurred in former Yugoslavia in the early 1990s, prompting the UN Security Council to pass a series of resolutions reaffirming the principle of individual criminal responsibility of persons who commit or give orders to commit grave breaches of international humanitarian law. The jurisdiction of the *ad hoc* International Criminal Tribunal for the Former Yugoslavia (ICTY) includes grave breaches of the 1949 Geneva Conventions as well as genocide, crimes against humanity and violations of the laws or customs of war.

*Crimes against humanity* refer to inhumane acts of a serious nature, such as wilful killing, torture or rape, committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds. Such crimes were first recognised by the Nuremberg Tribunal after the Second World War. The ICTY Statutes also refer to violations of the law or customs of war which usually involve the use of prohibited weapons or military tactics as defined by the Geneva Conventions and other treaties covering the conduct of warfare.

*The International Criminal Tribunal for Rwanda* was established by a United Nations Security Council Resolution in 1994 “for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States”.<sup>2</sup>

The Rome Statute of the International Criminal Court (ICC) was adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. On July 1, 2002 the Court began its existence and as of May 2007, 104 countries are members. The ICC issued its first indictments for crimes committed in northern Uganda, eastern Democratic Republic of Congo and Darfur, Sudan. (See Chapter 10 for more on the ICC and international criminal justice.)

### **3. UN institutions and procedures**

International human rights law, much more so than most other branches of international law, has evolved in the institutional context of international organisations; these bodies are its principal actors and lawmakers. One cannot consequently hope to understand the emerging human rights law without studying its relation to and interaction with these organisations.<sup>3</sup>

*Introduction*

Former UN Secretary-General Kofi Annan declared that all UN departments must “mainstream” human rights. As part of his 1997 reform package, the work of the UN was

divided into four substantive categories: peace and security, development cooperation, international economic and social affairs, and humanitarian affairs. *Human rights were designated a cross-cutting issue* in all four categories. Therefore, human rights officers should expect to see more concerted interaction with the entire UN family in the field.

#### *Charter-based and treaty-based organs*

The *Charter-based organs* (the General Assembly, the Security Council and the Economic and Social Council) have broad mandates, including promoting awareness and responding to violations of human rights standards. These political organs focus on a wide range of issues, and every state is an actual or potential respondent or client, regardless of its specific treaty obligations.

The Charter-based organs have a constantly expanding mandate to respond to crises as they emerge. The treaty-based organs like the Human Rights Committee and the Committee on the Rights of the Child, charged with overseeing specific human rights conventions, have a narrower but crucial objective: developing the content and jurisprudence of the rights and obligations in each treaty. Treaty bodies usually try to avoid confrontations with the States Parties, preferring a 'constructive dialogue'. NGOs, however, have increasingly engaged with the treaty bodies by submitting 'shadow reports' on the state of human rights in their country. Human rights officers in Colombia, Haiti and Sierra Leone have assisted NGOs in preparing these reports which have led to more contentious meetings.

#### *Charter-based and treaty-based mechanisms*

One important way to exchange views and information is the periodic reporting to the treaty bodies which is required in all the core human rights conventions. In addition to such regular supervisory procedures, several investigatory or special mechanisms have evolved over the last 30 years focusing on country situations or thematic issues (see Chapter 1). These 'special procedures' were mostly established by the now defunct Commission on Human Rights, which in 2006 was replaced by the Human Rights Council (HRC). One major concern is whether the Special Rapporteurs and Working Groups created for specific rights or country situations will survive under the new HRC.

Mechanisms for the protection of human rights have several functions: to advise, to assist, to correct, and to provide relief or remedy. All UN human rights mechanisms are based on the concept that member states voluntarily ratify treaties and support other instruments, agreeing to cooperate with any relevant UN committee or official. Governments, however, often refuse to reply to communications related to their human rights performance. Thus, embarrassment of a government in an international arena is usually the most potent remedy the UN can offer to correct human rights abuses.

### ***The UN Charter-based organs***

#### *General Assembly*

The General Assembly is the supreme governing body of the UN, in which all the member states are represented, each with one vote. The General Assembly elects the ten non-permanent members of the Security Council. It also elects the 54 members of the Economic and Social Council, which is the source of most of the human rights mechanisms within the UN.

The UN Charter in Article 13(1)(b) allows the General Assembly to “initiate studies and make recommendations” for the purpose of “assisting in the realisation of human rights and fundamental freedoms for all”. This includes the final decision in the adoption of new human rights standards, expressed in resolutions by the General Assembly. The recommendations are not legally binding on States. Nevertheless, the impact of an Assembly recommendation may be particularly strong in the case of a text adopted unanimously, by consensus or without dissenting vote, as was the case for example with the Universal Declaration on Human Rights and several key instruments frequently used by human rights officers like the Code of Conduct for Law Enforcement Officials and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

### *Security Council*

The Security Council consists of five permanent and ten non-permanent members elected for two years. Article 24 of the UN Charter entrusts the Security Council with the primary responsibility for the maintenance of international peace and security. The Security Council now sees that gross human rights violations creating conflict and mass movements of refugees and internally displaced threaten international peace and security. Before the 1990s, however, the Council rarely considered situations of grave human rights violations, deeming them ‘internal matters’ and outside the Council’s mandate. The exceptions were apartheid in South Africa, racial discrimination in Southern Rhodesia and Israel’s treatment of the population in the occupied Palestinian territories.

This reluctance began to melt with the end of the Cold War. In the early 1990s, the Security Council authorised coercive action against Iraq under Chapter VII of the Charter to protect the Kurds in the north. Since then, the wars in the former Yugoslavia and conflicts in Africa have generated numerous Security Council resolutions that explicitly mention human rights and the state’s obligations to protect them.

The fact that it has addressed human rights violations and humanitarian crises (the former Yugoslavia, Liberia, Somalia, Angola, Rwanda, Sierra Leone and Timor-Leste, to name just a few) and the continuation of an illegitimate regime (Haiti) indicate that the Security Council uses a flexible interpretation of what constitutes a ‘threat to international peace and security’.<sup>4</sup>

Since 1999, when it authorised major peacekeeping operations in Kosovo and Timor-Leste, the Security Council has increasingly passed resolutions mandating peacekeepers and host governments to uphold and protect human rights. Peace operations in Angola, Burundi, Cambodia, Central African Republic, Côte d’Ivoire, Croatia, Democratic Republic of Congo, Eritrea, Ethiopia, Haiti, Liberia, Rwanda, Sierra Leone, and Sudan have human rights mandates and human rights officers.

Based on recommendations by the Panel on United Nations Peace Operations (‘The Brahimi Report’)<sup>5</sup> the UN now deploys ‘integrated missions’ where human rights officers work closely with UN police, military and humanitarian officers to address human rights concerns (see Chapter 3). Recent peace operations have tried to implement this approach with varying degrees of success. Human rights officers now must learn to work closely with counterparts adopting a team approach to upholding the rule of law and respect for human rights.

The UN Peacekeeping Mission in Liberia (UNMIL) helped establish a Working Group on Combating Gender-Based Violence (GBV). UN human rights officers, along with UN police specialising in investigating and preventing sexual and domestic violence, meet weekly with local and international NGOs to plan their work, share information and pool resources. One initiative, the 'Stop Rape' campaign, has used the media and schools to address the shockingly high number of rapes. The Working Group has also launched recruiting efforts to get more women to join the Liberian National Police.

The Security Council imposes sanctions on states whose conduct is a 'threat to the peace', but sanctions are controversial because of their impact on the survival needs of the poorest. The Committee on Economic, Social and Cultural Rights has stated that humanitarian exemptions in sanctions do not ensure basic respect for economic, social and cultural rights.<sup>6</sup> The Committee called for greater flexibility and efficiency in the exemption procedures, effective monitoring and response to any disproportionate suffering experienced by vulnerable groups.

Illicit trafficking in diamonds; refugees; internally displaced persons; small arms trafficking; and children in armed conflict are some of the human rights issues that the Security Council has addressed. The Security Council now regularly receives reports from peacekeeping operations that include a section on the human rights situation. Human rights officers usually write this part of the report.

#### *Economic and Social Council*

The Economic and Social Council (ECOSOC) is under the authority of the General Assembly and has 54 members. While most other UN human rights bodies have increased in size and importance, ECOSOC has declined.

ECOSOC established the Commission on Human Rights and the Commission on the Status of Women. The Commission on Human Rights, criticised for being ineffective and politicised, was replaced by the Human Rights Council in 2006. The Sub-Commission on Prevention of Discrimination and Protection of Minorities was renamed in 1999 as the Sub-Commission on the Promotion and Protection of Human Rights. The Committee on Economic, Social and Cultural Rights was established by ECOSOC to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights. Under the Charter, ECOSOC may consult with non-governmental organisations (NGOs) concerned with matters within the ECOSOC's competence. Nearly 2000 NGOs have consultative status with ECOSOC, so human rights officers should determine whether NGOs in their host country have status and be ready to assist them in accessing ECOSOC, the Human Rights Council and the Sub-Commission. (See Chapter 4 on NGOs and the UN system.)

#### *Commission on Human Rights/Human Rights Council*

The Commission on Human Rights was until recently the main UN organ dealing with human rights. The Human Rights Council replaced the Commission in June 2006. One change requires that the 47 members of the HRC be elected based on their own human

rights record. The first year has shown, however, that human rights violators have evaded this requirement; countries like Cuba, Saudi Arabia and China are members. Unfortunately, its first year of work has shown a politicisation equal to the late and unlamented Commission; nine binding resolutions were passed against Israel while only three weaker statements on the horrific situation in Darfur mustered the necessary votes. No other countries were sanctioned.

One of the Commission's accomplishments was establishing programmes for the promotion of human rights, like human rights advisory services, and creating mechanisms to address serious human rights violations. These include the Special Rapporteurs, Working Groups, Special Representatives, and Independent Experts. Yet many fear the HRC will discontinue or weaken the work of these specialised mechanisms.

#### *Sub-Commission on the Promotion and Protection of Human Rights*

The Sub-Commission on the Promotion and Protection of Human Rights bases its work on the studies and reports prepared by its 27 members who serve in their individual capacities. The Sub-Commission meets once a year. Non-governmental organisations in consultative status with ECOSOC may attend meetings of the Sub-Commission and make statements. The NGOs have gradually expanded the scope of their influence.

#### *The Secretariat and Secretary-General*

The Secretariat is one of the principal organs established by the UN Charter. It is headed by the Secretary-General, who is appointed by the General Assembly on the recommendations of the Security Council for a five-year renewable term. The Secretariat consists of the Executive Office of the Secretary-General; the Office for the Coordination of Humanitarian Affairs (OCHA); the Department of Peacekeeping Operations (DPKO); the Department of Economic and Social Affairs; the Department of Political Affairs (DPA); the Department for Disarmament and Arms Regulation; and the Office of Legal Affairs.

The Secretary-General may bring to the attention of the Security Council any matter which, in his opinion, threatens international peace and security. He relies on advice from the Secretariat, including the High Commissioner for Human Rights, to inform his judgement on how best to promote human rights, especially in peace operations.

#### *Office of the High Commissioner for Human Rights*

The Office of the High Commissioner for Human Rights (OHCHR) in Geneva forms part of the Secretariat and is responsible for the UN's overall promotion and protection of human rights. The High Commissioner is appointed by the Secretary-General with the approval of the General Assembly.

The mandates entrusted by the General Assembly to the High Commissioner are broad and include promoting and protecting all human rights; preventing human rights violations; coordinating human rights activities within the UN system; providing technical and financial assistance; coordinating education and public information programmes; strengthening and streamlining the human rights system; and the overall supervision of the Office of the High Commissioner for Human Rights.

OHCHR field activities have significantly increased compared to the early 1990s. Some examples:

- Africa: Angola, Burundi, Central African Republic, Chad, Côte d'Ivoire, Darfur, Democratic Republic of Congo, Ethiopia/Eritrea, Guinea Bissau, Liberia, Madagascar, Malawi, Sierra Leone, Somalia, South Africa, Togo and Uganda;
- Asia and the Pacific: Afghanistan, Cambodia, Indonesia, Mongolia, Nepal and Timor-Leste;
- Europe and Central Asia: Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia/Abkhazia and Serbia, including Kosovo;
- Latin America and the Caribbean: Bolivia, Colombia, El Salvador, Guatemala, Haiti and Mexico;
- Middle East and Northern Africa: Iraq and the Occupied Palestinian Territories.

(For an accurate and up-to-date list of OHCHR field activities, see OHCHR's website at [www.ohchr.org](http://www.ohchr.org).)

Over the years, the legislative basis and nature of OHCHR's presence on the ground has changed. Initially, it was in response to emergency human rights situations, such as in Rwanda; or as a result of action by the Commission on Human Rights, the Security Council or the General Assembly, such as in the former Yugoslavia and Burundi; or following an agreement between the OHCHR and the government concerned, as in Colombia. In these cases, OHCHR field work is a combination of promotion and protection functions. Another important aspect has been the development of human rights components of complex UN missions - both peacekeeping and peacebuilding - and thus the increasing cooperation of OHCHR with the Department of Peacekeeping Operations and the Department of Political Affairs (e.g. in Liberia, Haiti, Sierra Leone, Democratic Republic of Congo etc.).

#### *UN Office on Drugs and Crime*

The Office on Drugs and Crime (ODC) is located in Vienna and focuses on crime prevention and criminal justice. Among its main functions are:

- to provide policy guidelines to UN member states in this field;
- to develop, monitor and review the implementation of the UN crime prevention programme; and
- to facilitate and help coordinate activities on the prevention of crime and the treatment of offenders.

This office may be helpful to the human rights officer, especially for identifying experts and training materials on criminal justice matters, prisons and forensics. In Haiti for example, a prison expert from France identified and deployed by the ODC helped design and implement, along with UN human rights officers, a prison reform project.

#### *Special procedures*

Since the late 1960s, a number of public, non-treaty based procedures, both thematic and country-oriented, have been established to investigate alleged human rights violations. These mandates, mostly initiated by the Commission on Human Rights, are entrusted to Special Rapporteurs, Special Representatives, Independent Experts and Working Groups which annually submit public reports to the Commission (now the Human Rights Council) and, in some cases, to the General Assembly.

Special procedures may deal with a particular human rights situation prevailing in a country. (See Factsheet 27 on the OHCHR's website which includes 17 answers to frequently asked questions about the Council's special procedures.)

In addition to investigating cases in specific countries, procedures have been established to examine certain practices affecting large numbers of people in many countries, the so-called 'thematic' mandates. The first such mechanism was the Working Group on Enforced or Involuntary Disappearances, established by the Commission in 1980. The next was a Special Rapporteur appointed in 1982 to investigate summary or arbitrary executions, and in 1985, torture. Special Rapporteurs have recently conducted joint visits, for example, the Rapporteurs on Torture and Summary Executions visited Colombia together.

When compiling a report, the Special Rapporteurs examine communications sent by individuals or non-governmental organisations and, if the governments concerned agree, the rapporteur(s) may visit the country in question to verify, meet the authorities, gather evidence, visit detention centres, and interview victims and witnesses. The reports are submitted to the Commission on Human Rights (now HRC), which examines, publishes and circulates them without restrictions. The Special Rapporteurs also play an increasingly important role in initiating measures to prevent or remedy violations of certain rights in urgent cases.

Working Groups and Special Rapporteurs have similar functions and follow similar procedures, and states dislike appearing on their agendas. As long as complaints are within the respective mandates, anyone may submit a complaint to Working Groups and Special Rapporteurs alike.

Human rights officers should ask themselves how best to use the Special Rapporteurs and Working Groups, including what kind of information to send them, and should arrange contacts between them and the government and local NGOs when they visit. This is an opportunity often overlooked in UN human rights field missions.

UN human rights field officers in Rwanda prepared the visit of the Special Rapporteur on Rwanda who was appointed by the Human Rights Commission in 1997. Arranging meetings, providing reports and briefing the Special Rapporteur were some ways in which the monitors on the ground supported the SR, who was only in the country for one week. In Haiti, human rights field officers supplied regular reports to the Special Rapporteur on Torture, while in Kosovo human rights officers informed the Working Group on Disappearances of cases of missing Serbs and Albanians.

### *Thematic procedures*

A complete list of current thematic procedures can be found at OHCHR's website ([www.ohchr.org](http://www.ohchr.org)).

Some of the key thematic procedures are:

(a) Commission on Human Rights/Human Rights Council:

- Working Group on Arbitrary Detention (since 1991; 5 members);
- Working Group on Enforced or Involuntary Disappearances (since 1980; 5 members);
- Special Rapporteur on the Right to Education (since 1998);
- Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (since 1982);
- Special Rapporteur on Torture (since 1985);
- Special Rapporteur on Violence Against Women (since 1994);
- Special Rapporteur on Adequate Housing (since 2000);
- Special Rapporteur on the Right to Food (since 2000);

(b) Entrusted to the Secretary-General:

- Representative on Internally Displaced Persons (since 1992);
- Special Representative on the Situation of Human Rights Defenders (since 2000);
- Special Representative on Children and Armed Conflict (since 1996).

### *Country mandates*

Some of the country mandates in place as of July 2007:

- Special Rapporteur on Myanmar (since 1992);
- Special Rapporteur on the Palestinian territories occupied since 1967 (since 1993);
- Independent Expert on Burundi (since 2004);
- Special Rapporteur on the Democratic People's Republic of Korea (since 2004);
- Special Rapporteur on the Sudan (since 2005).

For a complete and up-to-date list of country mandates, see the OHCHR website ([www.ohchr.org](http://www.ohchr.org)).

### *Human Rights Council complaint procedure (The 1503 procedure)*

ECOSOC Resolution 1503 in 1970 allowed the Commission on Human Rights for the first time to receive and consider individual complaints of human rights violations. The first cases came from South Africa, Rhodesia and Chile.

The so-called 1503 procedure authorised the Sub-Commission on Prevention of Discrimination and Protection of Minorities (later renamed the Sub-Commission on the Promotion and Protection of Human Rights) to examine and then refer to the Commission complaints about “situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms” in a country. Like many of the UN human rights mechanisms, the 1503 procedure was cumbersome and slow. In 2006, at the request of the General Assembly, the newly created Human Rights Council (which replaced the Commission on Human Rights) launched a review of the 1503 procedure, with the stated aim of ensuring that the complaint procedure be impartial, objective,



efficient, victims-oriented and conducted in a timely manner. Though it is too early to conclude whether the review process will in fact result in improvements, indications are that the criteria for admissibility and the confidential nature of the procedure will remain unchanged. For more information on the Human Rights Council's evolving complaint procedure, see the OHCHR website ([www.ohchr.org](http://www.ohchr.org)).

Human rights officers in UN missions will not use Human Rights Council complaint procedures very often, but as part of their human rights education and awareness-raising efforts, information about the procedure should be given to local NGOs and human rights defenders. Complaints should be sent to [CP@ohchr.org](mailto:CP@ohchr.org).

### *Urgent action procedures*

The UN machinery is slow and unsuitable for urgent cases. However, some of the mechanisms react relatively swiftly in serious cases. The following mechanisms have some capacity for urgent action in order to prevent a serious human rights violation:

- Special Rapporteur on Torture;
- Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions;
- Special Rapporteur on Freedom of Religion;
- Working Group on Arbitrary Detention;
- Working Group on Enforced or Involuntary Disappearances;
- Human Rights Committee.

OHCHR has contributed its human rights expertise to prevention activities and early warning. Coordination with the Office for the Coordination of Humanitarian Affairs (OCHA) has improved on issues like the internally displaced (IDPs) and increases in prison populations. OHCHR now attends meetings to plan for complex humanitarian and human rights emergencies.

### *Treaty-based organs*

In addition to ICCPR and ICESCR, four other treaties are considered the major instruments of international human rights law. These are the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention against Torture (CAT); and the Convention on the Rights of the Child (CRC). Each of these treaties has established a body to monitor the implementation of its provisions by States Parties. The six main treaty bodies are committees of independent experts nominated by their governments and elected by the States Parties as individuals of high moral standing and competence in the field covered by the respective conventions. The committee members serve terms of four years. (See Annex 2 for an overview of the main treaty bodies.)

States Parties must periodically submit reports to the relevant treaty body, indicating the measures they have adopted to give effect to the provisions of the Conventions. During annual sessions, Committee members review these reports with government representatives and explore with them areas for further action. A recurring problem is that the States Parties fail to submit reports when they are due. Dozens of reports are long overdue for each treaty body. The Committees also make general recommendations to the States Parties on how they can improve their performance.

Despite the magnitude of the tasks and the terms of the Conventions, the Committees are understaffed and do not possess sufficient resources. This is why information provided by non-governmental organisations in their 'shadow reports' is so important. Human rights officers should make it a priority to assist NGOs in submitting reports to the various Committees and to circulate the Committees' findings.

*Some positive trends common to the treaty bodies*

The human rights treaty bodies have accelerated issuing *General Comments* and *General Recommendations* based on trends they observe while considering dozens of country-specific reports. These Comments and Recommendations are the most persuasive interpretations of the often general and vague treaty language and thus constitute the jurisprudence of all human rights treaties. General Comments are adopted by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights. In addition, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination Against Women have issued General Recommendations on CERD and CEDAW respectively. The Committee on the Rights of the Child and the Committee against Torture also issue General Comments interpreting treaty provisions to guide state practice and improve compliance with treaty obligations.

Concerning economic, social and cultural rights, which many development actors and human rights observers find difficult to monitor and assess, the General Comments provide useful clarifications and guidelines. They define the exact content of these rights and the corresponding obligations of states and others. Since 1989, the Committee on Economic, Social and Cultural Rights has issued eighteen General Comments on various rights like shelter, education, access to health care and clean water. Human rights observers should be familiar with these comments as they can be very useful when working with development partners, local NGOs and governments. All General Comments can be found on the OHCHR's website, many of them in all the UN's official languages. They make excellent training tools and form the basis for development projects.

The Human Rights Committee has adopted numerous General Comments over the past thirty years on civil and political rights. The Comments cover most of the rights in the ICCPR: the right to legal redress; gender equality; the Article 4 derogation clause; the right to life; the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; prohibition of slavery; the right to liberty and security of person, etc. Similarly, the CEDAW Committee has issued General Recommendations that identify development challenges and guideposts for women's rights.

The reporting procedures are becoming more streamlined with the use of consolidated reports. The Committees hope to increase their interaction with UN specialised agencies and NGOs. The findings of the treaty bodies are becoming more closely connected with the programme of advisory services and technical cooperation. Also, the recommendations of the Committees are more focused. These are useful tools for human rights observers who have used the treaty bodies' findings in advocacy efforts in Liberia and Haiti and to show governments how they must design programmes to address deficiencies identified by the Committees. This was a particularly effective strategy in Colombia concerning the rights of indigenous and Afro-Colombian women.

The Committees now visit field missions to understand better the conditions in which human rights must be protected, to try to defuse situations of tension and to help develop concrete solutions to problems. They are also beginning to establish procedures aimed at preventing human rights violations and escalation of existing problems into full-blown conflicts. They have, for example, requested *special reports* on an urgent basis in connection with situations requiring urgent action, undertaken *good offices missions* and carried out *technical assistance missions*. The human rights field officer can expect to have increased contacts with some or all of the six main human rights treaty bodies.

### ***Treaty-based mechanisms***

#### *State reporting*<sup>7</sup>

Reporting is at the heart of international supervision of domestic implementation of treaty obligations. Reporting strengthens accountability. The treaty bodies devote much time to examining and responding to state reports, noting progress and deficiencies. In addition, UNESCO and ILO oversee States' reports and procedures to deal with complaints relating to treaties under their respective supervision.

The reports are considered in public meetings in the presence of representatives of the reporting states. NGOs can submit 'shadow reports' providing an often contrary assessment of the situation which the Committee members may take into account when questioning the state representatives and when reaching their conclusions and recommendations. Whenever a treaty body finds that a certain state practice violates international human rights standards, it invites the state to include in the following periodic report information on measures taken to eliminate the violations.

#### *Conventional complaints procedures*

The complaints procedures give individuals the opportunity to bring violations perpetrated by a government to the attention of an international forum. The international supervisory bodies have jurisdiction only in those cases where domestic remedies have been exhausted, that is, when the national courts or administrative bodies have heard and rejected the claim and there is no national recourse left.

#### *The First Optional Protocol to the Covenant on Civil and Political Rights*

A state which is party to the Optional Protocol recognises the competence of the Human Rights Committee to receive and consider communications from individuals who claim that their human rights under the Covenant have been violated by that state. As of October 2007, 110 states had accepted the competence of the Committee to deal with individual complaints. The complaint, or 'communication', is admitted if it has been submitted by or on behalf of the alleged victim, and if national remedies have been exhausted, and if it is compatible with the provisions of the Covenant.

When the Committee expresses its views on a case, this is not a legally binding decision. While formally not prescribed by the Optional Protocol, the Committee nevertheless makes its views public. This has contributed to the increasing deference shown toward the Committee's findings and the implementation of measures recommended by the Committee, including amendments to previous judicial rulings. In some cases, however, this happens only after a shift of political regimes.

*The Convention against Torture*

The Committee against Torture is empowered by Article 20 of the Convention against Torture to receive information and to institute inquiries concerning allegations of systematic torture in the States Parties. This competence of the Committee is optional, however, and states must submit a declaration recognising the Committee's competence to receive complaints from or on behalf of individuals. Human rights officers should know whether their host country has filed what is called an 'Article 22 declaration'. Similarly, Article 21 provides for a state to declare the Committee's competence to receive complaints from another state that it is not fulfilling its obligations. As of 2007, dozens of such complaints have been filed with the Committee under both articles.

The Optional Protocol to the Convention against Torture came into force in June 2006 and currently has 34 state ratifications. The Optional Protocol establishes a system of regular visits undertaken by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to places where people are deprived of their liberty. The Subcommittee has the right to visit any place of detention and have access to all detainees and documents. Ratifying states are supposed to establish independent mechanisms to prevent torture. The Optional Protocol is available at the OHCHR website.

*The Convention on the Elimination of Racial Discrimination*

The Convention establishes a procedure which makes it possible for an individual or a group of persons who claim to be victims of racial discrimination to lodge a complaint with the Committee on the Elimination of Racial Discrimination against their state. This requires that the State Party has declared that it recognises the competence of the Committee to receive such complaints (Article 14).

All complaints procedures are confidential, the meetings of the implementing bodies are closed and the working documents are not released publicly. Under the treaty based procedures, however, all final decisions are made public.

*Optional Protocol to the Convention on the Elimination of Discrimination Against Women*

The Optional Protocol entered into force in December 2000 with 90 states having ratified as of November 2007. It establishes a mechanism for individuals to file claims alleging violations under CEDAW to the Committee on the Elimination of Discrimination against Women.

***Other UN organs***

With the centrality of human rights in the UN reforms, all parts of the UN are gradually becoming more involved in human rights work and collaborating with human rights field officers. Some key partners are:

*UNICEF* – The United Nations Children's Fund is a special programme of the UN devoted to aiding national efforts to improve the health, nutrition, education and general welfare of children. Since the adoption of the Convention on the Rights of the Child (CRC) in 1989, UNICEF has mobilised governments to ratify the Convention. In the CRC, UNICEF is specifically given an active role in monitoring its implementation. In January 1996, a UNICEF Mission Statement stated that all of UNICEF's work in the

future will be guided by the principles enshrined in the CRC. Every country in the world except the USA and Somalia has ratified the CRC, so it will be an important tool in virtually every human rights monitor's kit.

*UNHCR* – The United Nations High Commissioner for Refugees works to protect refugees by promoting their human rights and, where appropriate, helping people return home or find a safe alternative. UNHCR also provides direct protection in certain individual cases that involve individuals confronted with a direct threat to life or personal safety. UNHCR is present in conflict areas where UN peace operations are mounted and UNHCR protection officers have worked closely with UN human rights officers in Darfur, DRC, Timor-Leste and Liberia. UNHCR increasingly addresses the rights and needs of the world's 26 million internally displaced persons (IDPs). The Guiding Principles on Internal Displacement should be available to all human rights officers.

*UNDP* – The United Nations Development Programme administers and coordinates a large portion of the UN's development technical assistance. Special attention is paid to the needs of the least developed countries. In 1998, UNDP adopted a policy document entitled Integrating Human Rights with Sustainable Human Development (available at the UNDP's website, [www.undp.org](http://www.undp.org)). The UN Millennium Development Goals (MDGs) have a significant human rights component, embodying the principle of progressive realisation of fundamental economic, social and cultural rights. Human rights field officers and UNDP counterparts should explore creative ways to collaborate to promote the right to health, education and combating HIV/AIDS contained in the MDGs. (For more information see [www.undp.org](http://www.undp.org).)

*UNIFEM* – The United Nations Development Fund for Women was created in 1976 to promote protection of women's rights. UNIFEM works to increase women's access to and use of the international human rights system, supports capacity building of national and regional women's organisations to advocate for women's human rights, and assists in mainstreaming women's rights into the UN system. UNIFEM administers the Trust Fund on Violence Against Women.

*ILO* – The International Labour Organisation (established in 1919 and a specialised agency of the UN since 1946) seeks to improve working and living conditions through the adoption of international labour conventions and recommendations setting minimum standards in such fields as wages, hours of work and conditions of employment, and social security. It also conducts research and technical cooperation activities, including vocational training and management development to promote democracy and human rights, alleviate unemployment and poverty, and protect working people. ILO has long experience in monitoring and providing technical assistance to implement international labour conventions, and increasingly cooperates with the UN on human rights questions. ILO conventions provide substantive detail to the broader 'right to work' and 'right to a decent standard of living' found in human rights treaties. Human rights officers will find especially helpful the ILO Conventions on forced labour and child labour, two issues that frequently arise in field missions.

*UNESCO* – The United Nations Educational, Scientific and Cultural Organisation was established in 1946. Its mandate is "to contribute to peace and security by promoting col-

laboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms." UNESCO has adopted several conventions and recommendations relating to human rights and, in particular, freedom of opinion and expression, education, and cultural participation and intellectual property.

## 4. Regional human rights systems

The 1993 World Conference on Human Rights reaffirmed the fundamental role of regional and sub-regional organisations in promoting and protecting human rights, and stressed that regional groups should reinforce universal human rights standards.

Regional arrangements exist in three parts of the world. In Africa, the Organisation of African Unity (OAU) enacted the African Charter on Human and Peoples' Rights. The regional human rights mechanism for the Americas is located within the Organisation of American States and is based upon the American Convention on Human Rights. Finally, the European human rights system forms one part of the Council of Europe. Its founding instrument is the European Convention on Human Rights.

### *The European system*

There are in fact several systems for the protection of human rights within Europe. The European Union (EU), the Council of Europe (CoE) and the Organisation for Security and Cooperation in Europe (OSCE) all voice their concern with human rights issues. One should bear in mind, though, the interplay between the different European organisations. The Council of Europe human rights protection scheme plays, for instance, an important part in the European Union's fundamental rights protection system as set forth in the EU's Amsterdam Treaty of 1998. The EU considers human rights field missions and election missions as part of its mandate and this is a rapidly evolving area. So far the EU has been active mostly in the area of election observation, but a comprehensive training scheme has also been developed for the preparation of personnel for human rights field missions. The EU also has a police mission in place in Bosnia and Herzegovina (EUPM). The European systems should be viewed not as competing but complementary, although inevitably, there is a certain tension between the organisations in a few cases.

### **The Council of Europe**

Set up originally as an international organisation for Western European states in 1949, the Council of Europe today consists of 47 European member states and one applicant country, Belarus. (Belarus' special guest status was however suspended on 13 January 1997 due to its lack of respect for human rights and democratic principles.) The main objectives of the Council of Europe are to protect human rights, pluralist democracy and the rule of law; to promote awareness and encourage the development of Europe's cultural identity and diversity; to find common solutions to the challenges facing European society, such as discrimination against minorities, xenophobia, intolerance, bioethics and cloning, terrorism, trafficking in human beings, organised crime and corruption, cyber-crime, and violence against children; and to consolidate democratic stability in Europe by backing political, legislative and constitutional reform.

### Organisational structure

**The Committee of Ministers** is the decision-making body of the CoE and is comprised of the foreign ministers of the 47 member states or their permanent diplomatic representatives. **The Parliamentary Assembly** is the deliberative body with 315 members from the 47 national parliaments and delegations from non-member states. They are active in the field in particular through election observations. **The Congress of Local and Regional Authorities of the Council of Europe** bases its work on the European Charter of Local Self-Government in which the signatory States undertake to recognise the principle of local self-government in domestic legislation. It is a forum for dialogue where representatives of local and regional authorities discuss common problems, compare notes about their experiences and then put their points of view to the national governments. **The Commissioner for Human Rights** promotes education, awareness and respect for human rights in member states and ensures compliance with the Council of Europe's conventions and recommendations. The Commissioner conducts official country missions for a comprehensive evaluation of the human rights situation and issues reports that contain both an analysis of human rights practices and detailed recommendations about possible ways of improvement. **The European Court of Human Rights** sits permanently in Strasbourg, and receives petitions from member states as well as private actors (individuals, non-governmental organisations, groups of individuals) claiming specific violations of the human rights guarantees of the European Convention on Human Rights.

**The European Convention on Human Rights (ECHR)** is the cornerstone of European human rights protection and ratification of the Convention is a precondition for membership in the Council of Europe.

The Convention and its protocols guarantee the right to:

- life, liberty and security of person;
- a fair trial in civil and criminal matters;
- vote and be a candidate in elections;
- freedom of thought, conscience and religion;
- freedom of expression (including freedom of the media);
- property.

It prohibits:

- torture and inhuman or degrading treatment or punishment;
- the death penalty;
- discrimination in the enjoyment of rights and freedoms guaranteed by the Convention;
- expulsion of a state's own nationals or denying them entry;
- the collective expulsion of aliens.

Each member state must ensure that every single individual within their jurisdiction can enjoy these rights. If member states fail to safeguard these rights, each individual may, subject to certain conditions, lodge an application with the European Court of Human Rights. The individual application system, which dominates the Court's work totally, is unique. It is the only treaty system in which individual human rights victims and their alleged state violator meet face to face in an international court of law. States may also lodge applications against other states.

**The European Court of Human Rights'** jurisdiction is compulsory for all contracting parties. It deals with all the stages of a case, from the preliminary examination of applications to the issuing of judgements. For a case to be declared admissible applicants must show that they have exhausted all effective remedies in the country where the alleged violation took place and the application must have been made within six months of the final decision by the courts or authorities of that state.

The Council of Europe is also concerned with internal human rights issues beyond the law of the ECHR. **The European Social Charter** is the counterpart of the European Convention on Human Rights in the field of social and economic rights. It guarantees such rights as the right to work and to professional training, fair working conditions and pay, union membership, social and medical assistance and social security. **The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** provides additional safeguards for prisoners and detainees who may be subject to torture or to inhuman or degrading treatment. A committee is empowered to visit places where persons are detained by a public authority - prisons, juvenile detention centres, police stations, military barracks, psychiatric hospitals etc. It examines how people deprived of their liberty are treated and draws up recommendations to strengthen their protection. **The Framework Convention for the Protection of National Minorities** is the first legally binding multilateral instrument to protect national minorities in general. It is implemented through national laws and policies. The Convention sets out the principles to be respected by states that ratify it. These include equality before the law; taking measures to preserve and develop cultures and to safeguard identities, religions, minority languages and traditions; ensuring access to the media; and establishing free and peaceful contacts across borders with people legally resident in other states. The Convention provides for implementation machinery which gives the Committee of Ministers, assisted by an advisory committee, powers to evaluate how the Convention is being put into practice.

The Council of Europe is active in the field of human rights protection also outside the province of these three conventions through numerous other formal and informal arrangements and offices which are important parts of the overall human rights protection scheme in Strasbourg. Worthy of particular note is the **Council of Europe Commission for Democracy through Law** (the Venice Commission), which is composed of senior academics, particularly in the fields of constitutional or international law, supreme or constitutional court judges or members of national parliaments. The Commission provides legal advice on the development and functioning of democratic institutions and constitutional law.

### **Field presence**

The Council of Europe does not have an extensive field presence; however, it does have representation in Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Moldova, Montenegro and Serbia. These are either offices of the Special Representative of the Secretary General of the Council of Europe or other outposts of the Council of Europe. In addition the Council of Europe has information offices in several countries.



In 2001 the Council of Europe Secretary General Walter Schwimmer appointed a committee of independent experts to determine whether the people on a list of 716 prisoners in Azerbaijan, submitted by non-governmental organisations, were political prisoners. The independent experts provided the Secretary General with confidential case-by-case opinions.

### ***The Organisation for Security and Cooperation in Europe***

The Organisation for Security and Cooperation in Europe (OSCE) is the only security organisation in Europe that is considered a regional arrangement in the sense of Chapter VIII of the United Nations Charter. It was the first international security organisation to recognise human rights as an integral part of security.<sup>8</sup> When the Helsinki Final Act, which is the founding document of the OSCE (then the CSCE), was adopted in 1975, it marked the first occasion that the ‘human dimension’ of security – in essence, human rights principles – was included as an explicit element of a regional security framework on the same basis as politico-military and economic issues.<sup>9</sup> The Helsinki Final Act recognises human rights as “an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation” among states.

The OSCE process is essentially a political process that does not create legally binding norms and principles. Unlike many other human rights documents, OSCE human dimension commitments are politically, rather than legally, binding. This is an important distinction, since it limits the legal enforceability of OSCE standards. However, this should not be mistaken as indicating that the commitments lack binding force. The distinction is between legal and political and not between binding and non-binding.<sup>10</sup> This means that OSCE commitments are more than a simple declaration of will or good intention; they constitute a political commitment to comply with these standards.

OSCE commitments are adopted by consensus among all participating States and they are immediately binding on all OSCE participating States. This allows the OSCE to react quickly to new needs. For example, when allegations of human rights violations with regard to minorities increased at the beginning of the 1990s, it was the OSCE that reacted first and drafted a comprehensive set of standards in the field of minority protection. Later these political standards served as a basis for the legally binding Council of Europe Framework Convention on the Protection of National Minorities.

### **The OSCE comprehensive approach to security - the OSCE human rights framework**

The OSCE characterises its approach to regional security as both comprehensive and cooperative. Comprehensive in that the OSCE seeks to deal with an unusually wide range of security-related issues, including preventive diplomacy, politico-military confidence- and security-building measures, arms control, human rights, democratisation, election monitoring, and steps to strengthen both economic and environmental security. Cooperative in the sense that the OSCE is broadly inclusive in nature: it is not directed against any country; all participating States have equal status; and its decisions are based on consensus. With initiatives, workshops and training projects, it tries to dispel deep-rooted mistrust, to renew civil dialogue and to encourage the spirit of cooperation. The philosophy

is that the various elements that make up peaceful, stable, and democratic societies are inter-linked.

The comprehensive security concept is comprised of three dimensions:

1. **The human dimension** is used to describe the set of standards and activities related to human rights and fundamental freedoms, democracy, elections, tolerance, and the rule of law, as well as national minorities, human contacts, and international humanitarian law.<sup>11</sup> The main institutions involved in the human dimension are the Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw, the Representative for the Freedom of Media in Vienna, and the High Commissioner for National Minorities in The Hague.
2. **The politico-military dimension** includes confidence- and security-building measures through regional security agreements and treaties. The main body in this dimension is the Forum for Security Cooperation which meets every week in Vienna.
3. **The economic-environmental dimension** includes monitoring of economic and environmental developments and joint projects. The main actor is the Economic and Environmental Coordinator, a section within the OSCE Secretariat in Vienna.

As indicated above, the OSCE human dimension standards cover a wider area than traditional human rights law. In international human rights treaties, individual (or group) rights are formulated, and the state party is obligated to respect and/or guarantee those rights. How to implement these obligations, however, is most often left to the discretion of states. The OSCE human dimension goes further in linking human rights with the institutional and political system of a state. In essence, OSCE states have agreed through their human dimension commitments that pluralist democracy based on the rule of law is the only system of government suitable to guarantee human rights effectively.

### **Organisational structure**

The OSCE is equipped with a variety of mechanisms, structures, and activities aimed at the effective implementation of human dimension commitments. The human dimension is fully integrated into the OSCE political consultation process and in the work of the decision-making bodies and the OSCE field missions. The principal OSCE bodies concerned with human rights in the participating States include:

**The Permanent Council (PC)**, composed of representatives of all participating States, is the regular body for political consideration and decision-making on all issues pertinent to the OSCE. The PC routinely discusses human rights issues, including individual cases, as part of its political dialogue. Heads of all OSCE field operations address the PC regularly on developments in their mission area or country, including human rights developments. The participating States have various options for action in response to a violation, e.g. sending a fact-finding mission or reinforcing an existing field operation, but they usually limit themselves to exerting political pressure.

**Human Dimension Meetings**, including the annual Human Dimension Implementation Meeting in Warsaw, Supplementary Human Dimension Meetings held three times a year in Vienna, and Human Dimension Seminars, are designed to promote discussion of human dimension issues and concerns in all of the OSCE participating States. The Implementation Meeting in particular is intended to provide a forum for detailed review of how

the participating States are implementing their human rights commitments. Unlike the PC, Human Dimension Meetings are open to the press and to NGOs.

**The Chairman-in-Office (CiO)** is vested with overall responsibility for executive action by the OSCE and for representing the organisation. CiOs often raise human rights issues with participating States. Often, such interventions are made during visits to countries, but they may also be made from afar. Because the CiO is the most senior political figure in the OSCE, his or her interventions are normally at a very high level, often directly with the head of state or government of a country, and are taken very seriously. The CiO may raise a case with a government publicly or privately and may do so either because of his or her own concerns or at the recommendation of a field operation or an OSCE institution.

**Personal or Special Representatives of the Chairman-in-Office** may be appointed by the CiO to deal with certain events, conflicts, crises, or regions. These individuals, depending on the mandate and instructions given to them by the CiO, may also be in a position to raise individual cases of human rights violations, and they frequently do so. For example, special representatives appointed to lead short-term election observation missions often comment on non-compliance by governments with their OSCE commitments on democratic elections. Special representatives dealing with conflict situations may raise conflict-related human rights violations.

**The Office for Democratic Institutions and Human Rights (ODIHR)** is the main OSCE institution concerned with the human dimension. Its mandate includes assisting the participating States in building democratic institutions and implementing their human dimension commitments. The ODIHR also provides advice and assistance to the OSCE Chairman-in-Office and the OSCE field operations. It assists the monitoring of implementation by participating States of their human dimension commitments by serving as a venue for bilateral meetings, acting as a clearing house for the exchange of information, and providing support to field missions.

When allegations of indiscriminate killings by the Uzbek authorities in the city of Andijan, Uzbekistan, surfaced in May 2005, ODIHR sent a human rights team to interview refugees in Kyrgyzstan. A report was presented to the CiO and later discussed in the PC.

**The Representative on Freedom of the Media** promotes full compliance with OSCE principles and commitments in respect of freedom of expression and free media. The Representative concentrates on rapid response to serious non-compliance with OSCE commitments and seeks direct contacts with the participating State and other parties involved.

**The High Commissioner on National Minorities (HCNM)** provides early warning and, as appropriate, early action with regard to tensions involving national minority issues. The High Commissioner's goal is to develop a process to exchange views, cooperate, and take concrete steps to de-escalate tensions and resolve underlying issues.

**OSCE field missions**

OSCE missions are generally regarded as being at the front line of the Organisation's work, as important tools for implementing the Organisation's objectives in countries facing transition challenges. The concrete tasks of a mission as well as its composition are described in the mandate, which is based on an agreement between the Permanent Council and the host country and is renewed every year. The Chairman-in Office will typically lead discussions in the Permanent Council. The Secretary General can provide analytical support to the Chairman-in-Office in this process. Missions are lead by a head of mission, appointed by the OSCE Chairman-in-Office.

OSCE missions vary in aim, size and scope. The mandates as well as tools and instruments to implement them vary accordingly. While some missions do not have explicit human dimension mandates, others refer to all three dimensions. In large missions with an extended network of field offices, it is often possible to monitor general trends in the human rights situation, to investigate individual incidents, and to react systematically to allegations. Small field operations will necessarily be more limited in how they can react.

When the Kosovo Verification Mission was evacuated in March 1999, the human rights officers interviewed the refugees in Albania and the Former Yugoslav Republic of Macedonia. The statements were passed on to the International Criminal Tribunal for Yugoslavia and also published in the report "As Seen, As Told."

Currently the OSCE has field operations in Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, Moldova, Montenegro, Serbia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.<sup>12</sup>

OSCE field staff members are generally seconded by OSCE participating States who in almost all cases second nationals of their own country. There have been a few cases where states that are partners for cooperation with the OSCE have seconded staff to the field missions (Japan and Korea). The OSCE promotes itself as a non-career organisation which simply means that staff are hired on a limited appointment for a specific position. Currently, the period for maximum continuous length of service to the OSCE is seven years in a single field mission and ten years in total. As with other staff, the length of service of the human rights field officer depends on the policies of the seconding state, but the standard contract for a secondee is six months.

Because missions vary so much in size and mandate, a human rights professional seconded to the OSCE may face a range of tasks depending on the mission in question. The experience of working as one human rights officer among 200 others in one of the larger missions in Southeastern Europe will differ significantly from being the sole international human dimension officer in an OSCE field presence in a Central Asian country. When seconded to a small mission in Central Asia, the staff member is seconded in a broad human dimension capacity covering the entire spectrum of the OSCE human dimension as relevant to the host country and the general situation in the region. When seconded to a

large mission such as the ones currently deployed in Southeastern Europe, a staff member may be recruited in a much more specialised capacity such as a rule of law officer, capacity building officer, or human rights officer in a structure where the human dimension is typically addressed by the three or four specialised departments of elections, democratisation, human rights and/or rule of law.

#### THE HELSINKI DECALOGUE

1. Sovereign equality, respect for the rights inherent in sovereignty
2. Refraining from the threat or use of force
3. Inviolability of frontiers
4. Territorial integrity of States
5. Peaceful settlement of disputes
6. Non-intervention in internal affairs
7. Respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion and belief
8. Equal rights and self-determination of peoples
9. Cooperation among States
10. Fulfilment in good faith of obligations under international law

#### *The inter-American system*

The inter-American human rights system has two distinct legal sources: one has evolved from the Charter of the Organisation of American States (OAS), the other is based on the American Convention on Human Rights. The Charter-based system applies to all member states of the OAS, while the Convention system is legally binding only on the States Parties to it. The two systems overlap and interact in a variety of ways.

The American Declaration of the Rights and Duties of Man, adopted in May 1948 (seven months before the Universal Declaration), contains 27 human rights – civil and political as well as economic, social and cultural – and ten duties. While initially a non-binding resolution, the American Declaration is now considered the authoritative interpretation of the “fundamental rights of the individual” as proclaimed in Article 3(l) of the Charter of the OAS.

The American Convention on Human Rights was adopted in 1969 and entered into force in 1978. Both the substantive law and the procedures of the American Convention are strongly influenced by the UN covenants and the European Convention. The two major organs established to safeguard the implementation of the American Convention are the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, each consisting of experts elected in their individual capacities.

The Inter-American Commission on its own initiative can issue recommendations to any member state of the OAS concerning its obligations under the American Declaration. With permission or invitation from the host government, the Commission may also conduct on-site investigations. As a Convention organ, the Commission (see Article 41) can act on individual complaints in regard to a number of basic rights in countries that have

ratified the Convention. Complaints may be filed by any person, group or non-governmental entity that is legally recognised in an OAS member state (Article 44). Thus, under the American Convention the right of petition operates automatically, whereas under the UN system the right of petition applies only when the state concerned has become a party to the Optional Protocol of the ICCPR, and under the European system a special declaration by the state concerned is required. On the other hand – again in contrast to the European system, but not the UN system – inter-state complaints under the American Convention are optional. The decisions of the Commission are not legally binding and their power of enforcement lies in public embarrassment if the accused party does not comply with the recommendations.<sup>13</sup>

The Inter-American Court of Human Rights has two main responsibilities. First, to hear cases submitted to it by the Commission or a State Party to the Convention and judge whether or not a violation has been committed. The sentence is binding and cannot be appealed, but the system does not provide for means of enforcement. Second, the Court gives advisory opinions interpreting the American Convention or other international agreements relevant to the protection of human rights in the Americas. All OAS member states, the Commission, and OAS organs to a limited extent, can ask the Court for an advisory opinion. The member states can also ask for an opinion on the compatibility of national law with international instruments.

An Additional Protocol to the American Convention on Human Rights in the Areas of Economic, Social and Cultural Rights (the Protocol of San Salvador) entered into force in November 1999. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para Convention) entered into force in March 1995. The Inter-American Convention on Forced Disappearance of Persons came into effect in March 1996.

For a current view of the status of these instruments and ratification records, see the OAS website ([www.oas.org](http://www.oas.org)).

### ***The African system***

In 1981, the Organisation of African Unity (OAU) adopted the African Charter on Human and Peoples' Rights, which entered into force in 1986. The African Charter (also referred to as the Banjul Charter) has been ratified by 53 states and enumerates civil and political rights and economic, social and cultural rights. While the African Charter incorporates principles of universal dimension, it also reflects the virtues and values of African traditions. Thus, the African Charter is characterised by the concept of a reciprocal relationship between the individual and the community, linking individual and collective rights. It recognises the rights of groups in addition to the family, women and children. The aged and the infirm are accorded special protection, and the right of peoples to self-determination is elaborated in the right to existence, equality, and non-domination. The African Charter also enumerated duties owed by individuals.

Like its European and American counterparts, the African Charter establishes an African Commission for Human Rights, with promotional and protective functions, and allows individuals to file a complaint with the Commission. Thus signatory states, individuals, groups of individuals, and non-governmental organisations, whether or not they are vic-

tims of the alleged violation, may all file a complaint. In contrast to the European and American procedures, however, concerned states are encouraged to reach a friendly settlement without formally involving the investigative or conciliatory mechanisms of the Commission. African customs and traditions, it is said, emphasize mediation, conciliation, and consensus rather than the adversarial and adjudicative procedures that are common to Western legal systems.

The eleven-member Commission is an organ linked to the Assembly of Heads of State and Government of the African Union (AU), which replaced the OAU in 2003. The Commission has its seat in Banjul, Gambia. The Commission considers periodic reports prepared by States Parties on legislative or other measures taken to enact the Charter's provisions. The activities of the Commission are administered by a Secretariat (which, however, is understaffed and insufficiently funded).

Despite the African Charter's innovations, it also contains serious shortcomings. As a product of political compromise, the rights enumerated in the Charter are brief and vague. The Charter has procedural and structural defects concerning human rights protection, and the commitment to uphold human rights has been more rhetorical than actual. Nevertheless, some positive developments can be noted. Although the African Charter did not establish a human rights court, a Protocol to the African Charter on the establishment of an African Court of Human and Peoples' Rights was adopted by the OAU in June 1998. The Court does not yet exist and funding remains a serious obstacle to its creation.

In 1999, both the Protocol on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the Child entered into force.

Collaboration with NGOs has become indispensable to the work of the African Commission. By 2007, over 300 NGOs held observer status with the Commission. The NGOs file complaints on behalf of victims and participate in the consideration of State reports since they provide much information, sometimes contradicting the official report. As with their UN treaty body counterparts, NGOs with observer status may prepare and submit 'shadow reports' on the human rights situation in their countries. These 'shadow reports' enable the Commission to have a constructive dialogue with State representatives when their country's periodic report is being considered. However, the Commission itself has expressed concern that only few of the NGOs have submitted their reports in time or at all. Human rights officers should assist NGOs in preparing shadow reports to the Commission as well as to UN treaty bodies.

The African Commission has recognised the importance of national institutions to protect and promote human rights and as essential partners in implementing the African Charter at the national level. Half the countries in Africa now have national human rights commissions, while only one country (Togo) did in 1989. However, Human Rights Watch in a major study released in 2001 stated that "rapid growth in government-sponsored human rights commissions across Africa has not generally led to better human rights protection." Many of the commissions appear designed to deflect international criticism of human rights abuses rather than to address the abuses themselves, but there are several positive experiences too, for example the commissions in Ghana, South Africa and Uganda.<sup>14</sup>

The African Commission has designated special rapporteurs on some thematic issues: extra-judicial, summary and arbitrary executions; prisons and conditions of detention; and women's rights. It also undertakes country missions and adopts country-specific resolutions.

## Notes

- <sup>1</sup> Opsahl, T. "The Human Rights Committee", in P. Alston (ed.), *The United Nations and Human Rights. A Critical Appraisal*. Oxford: Clarendon Press, 1992, p. 371.
- <sup>2</sup> Security Council Resolution 955 (1994).
- <sup>3</sup> Burgenthal, T. *International Human Rights in a Nutshell*. St. Paul, Minn.: West Publishing, 1988.
- <sup>4</sup> Rosas, A. In Beetham, D. (ed.), *Politics and Human Rights*. Oxford: Blackwell, pp. 68-69.
- <sup>5</sup> Security Council Resolution 1327 (2000).
- <sup>6</sup> The Committee on Economic, Social and Cultural Rights, General Comment No. 8 (1997).
- <sup>7</sup> Reference is made to the UN Centre for Human Rights and the UN Institute for Training and Research (UNITAR) *Manual on Human Rights Reporting*. New York: United Nations, 1991. (The manual is intended for training of national government officials in preparation of reports required under international human rights treaties.)
- <sup>8</sup> For more on the origins of the OSCE and its early history see Thomas, Daniel C., *The Helsinki Effect, International Norms, Human Rights, and the Demise of Communism*, Princeton University Press, 2001. More on secondary literature on the OSCE and its commitments can be found through the Centre for OSCE Research in Hamburg, Germany.
- <sup>9</sup> The text of the Helsinki Final Act and other OSCE documents are available in full at the OSCE website ([www.osce.org](http://www.osce.org)). Documents containing OSCE human dimension commitments have been compiled both thematically and chronologically in *OSCE Human Dimension Commitments*, Vols. I and II (Warsaw: OSCE/ODIHR, 2005), which is also available electronically at the ODIHR website ([www.osce.org/odihhr](http://www.osce.org/odihhr)) and is searchable by issue or by document.
- <sup>10</sup> For more on the discussion of the nature of OSCE commitments see Manton, Eric, "The OSCE Human Dimension Process and the Process of Customary International Law Formation" in *Institut für Friedensforschung und Sicherheitspolitik* (ed.), *OSCE Yearbook 2005* (Baden-Baden: Institute for Peace Research and Security Policy, University of Hamburg, 2006).
- <sup>11</sup> For more details on what constitutes the Human Dimension, see "OSCE Human Dimension Commitments: Chronological Compilation", available at the ODIHR website ([www.osce.org/odihhr](http://www.osce.org/odihhr)). For more on the Human Dimension in general see Binder, Johannes, "The Human Dimension of the OSCE: From Recommendation to Implementation", *Studienreihe des Ludwig Boltzmann Instituts für Menschenrechte*, Vienna, 2001.
- <sup>12</sup> For more information on OSCE field operations see the "Survey of OSCE Long-Term Missions and other OSCE Field Activities" by the OSCE Conflict Prevention Centre, available at the OSCE website ([www.osce.org](http://www.osce.org)).
- <sup>13</sup> Contact details of the Inter-American Commission on Human Rights: 1889 F St., NW, Washington, D.C., USA 20006; E-mail: [cidhoea@oas.org](mailto:cidhoea@oas.org); Telephone: (202)458-6002; Fax: (202)458-3992.
- <sup>14</sup> The 407-page report "*Protectors or Pretenders?*", examining Africa's twenty-two commissions over a two-year period, can be obtained at the Human Rights Watch website (<http://www.hrw.org/reports/2001/africa/>).



**ANNEX I: Table of main international human rights conventions**

<b>Table 1*</b>		<b>Instrument</b>	<b>Adoption/ Into force</b>	<b>States Parties</b>
<b>General conventions</b>  Concern all or a large proportion of human rights	Universal Conventions	<i>International Covenant on Economic, Social and Cultural Rights</i>	1966/1976	156
		<i>International Covenant on Civil and Political Rights</i>	1966/1976	160
		+ <i>1<sup>st</sup> Optional Protocol</i> (individual complaints procedure)	1966/1976	109
		+ <i>2<sup>nd</sup> Optional Protocol</i> (abolition of the death penalty)	1989/1991	60
	Regional Conventions	<i>European Convention on Human Rights</i> + 12 additional protocols	1950/1953	47
		<i>European Social Charter</i> + 3 additional protocols	1961/1965	27
		<i>European Social Charter (Revised)</i>	1996/1999	24
		<i>American Convention on Human Rights</i> + additional protocol in the area of economic, social and cultural rights	1969/1978 1988/1999	25 12
		+ additional protocol on abolition of the death penalty	1990	8
		<i>African Charter on Human and Peoples' Rights</i> + additional protocol establishing the African Court of Human Rights	1981/1986	53
	<i>Arab Charter on Human Rights</i>	1994/2008	7	
<b>Specific conventions</b>	Genocide, war crimes and crimes against humanity	<i>UN Convention on the Prevention and Punishment of the Crime of Genocide</i>	1948/1951	140
		<i>UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity</i>	1968/1974	50
		<i>European Convention on the Non-Applicability of Statutory Limitation to Crimes Against Humanity and War Crimes</i>	1974/2003	3
		<i>Rome Statute of the International Criminal Court</i>	1998/2002	104
	Slavery, etc.	Several UN and ILO conventions on slavery, traffic in persons, and forced labour		
	Prevention of torture	<i>UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>	1984/1987	144
		<i>European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</i> + additional protocols	1987/1989	41
		<i>Inter-American Convention to Prevent and Punish Torture</i>	1985/1987	17

<b>Table 1 (continued)</b>		<b>Instrument</b>	<b>Adoption/ Into force</b>	<b>States Parties</b>
Conventions on group protection	Refugees	<i>UN Convention Relating to the Status of Refugees</i>	1951/1954	146
		+ additional protocol	1967/1967	146
	Stateless persons	Treated by regional instruments and the 1960 <i>UN Convention Relating to the Status of Stateless Persons</i>	1954/1960	57
		Workers	<i>ILO Migrant Workers Convention</i> <i>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</i>	1975/1978 1990/2003
	Women	Both UN and inter-American conventions relate to women, their political rights, questions of marriage and nationality, and violence against women		
	Children	<i>UN Convention on the Rights of the Child</i> + Optional Protocol (involvement of children in armed conflicts)	1989/1990 2000/2002	193 119
		+ Optional Protocol (sale of children, child prostitution and child pornography)	2000/2002	124
		<i>European Convention on the Exercise of Children's Rights</i>	1996/2000	5
<i>African Charter on the Rights and Welfare of the Child</i>		1990/1999	37	
Minorities	<i>European Convention on Nationality</i>	1997/2000	6	
Persons in times of armed conflict	The four <i>Geneva Conventions</i> on combatants, prisoners of war and civilian persons in time of armed conflict	1948/1950	186	
Discrimination based on race or sex	Sexual discrimination	<i>UN Convention on the Elimination of All Forms of Discrimination against Women</i> + Optional Protocol	1979/1981 1999/2000	185 27
	Racial discrimination	<i>International Convention on the Elimination of All Forms of Racial Discrimination</i> <i>International Convention on the Suppression and Punishment of the Crime of Apartheid</i>	1965/1969 1973/1976	173 101

\* Status of ratification of UN instruments as of April 2007 at the OHCHR website ([www.ohchr.org](http://www.ohchr.org)). Status of inter-American human rights instruments as of April 2007 at the OAS website ([www.oas.org](http://www.oas.org)); instruments of international humanitarian law as of April 2007 at the OHCHR website; European instruments as of May 2007 at the Council of Europe treaty website ([www.conventions.coe.int](http://www.conventions.coe.int)); African instruments as of April 2007 at the African Commission on Human and Peoples' Rights website ([www.achpr.org](http://www.achpr.org)).

**ANNEX II: Table of treaty bodies**

<b>Table 2</b>	<b>Year established/ No. of members</b>	<b>Treaty</b>	<b>States Parties (April 2007)</b>	<b>Individual complaints procedure (States Parties)</b>
Treaty Bodies:				
Human Rights Committee	1976 18 members	Covenant on Civil and Political Rights and its Optional Protocols	160	First Optional Protocol (109)
Committee on Economic, Social and Cultural Rights (CESCR)	1986 18 members	Covenant on Economic, Social and Cultural Rights	156	Under consideration
Committee on the Elimination of Racial Discrimination (CERD)	1969 18 members	Convention on the Elimination of All Forms of Racial Discrimination	173	Art. 14 (32)
Committee on the Elimination of Discrimination Against Women (CEDAW)	1981 23 members	Convention on the Elimination of All Forms of Discrimination Against Women	185	Optional Protocol (27)
Committee Against Torture (CAT)	1988 10 members	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	144	Optional Protocol (34) Art. 22 (42)
Committee on the Rights of the Child (CRC)	1990 10 members	Convention on the Rights of the Child and its Optional Protocols	193	

*The Norwegian Centre for Human Rights* aims to contribute to the realisation of internationally recognised human rights, through research and reporting, teaching, advisory services, information and documentation. The Centre was founded in 1987 and is organised as an interdisciplinary centre under the Faculty of Law at the University of Oslo. Since 2001 the Centre has been designated as the National Institution for Human Rights in Norway.

*The Norwegian Resource Bank for Democracy and Human Rights – NORDEM* – was established at the Norwegian Centre for Human Rights in 1993 with the support of the Norwegian Ministry of Foreign Affairs. NORDEM aims to accommodate international requests for personnel assistance in subject areas relevant to the promotion of human rights. Requests for personnel to human rights field operations are serviced through the NORDEM Stand-by Force, which is operated jointly with the Norwegian Refugee Council.

The first edition of the Manual on Human Rights Monitoring was developed at the request of the United Nations High Commissioner for Human Rights and published in 1997. The Manual is integral to the generic training provided to members of the NORDEM Stand-by Force in order to prepare them for human rights field operations. This is the third, revised edition (2008). The new edition includes one new chapter (Chapter 10) and three rewritten chapters (Chapters 2, 5 and 11). The remaining chapters are updated according to events and new developments in the field of human rights since the second edition in 2001.

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