

# Preface

Promoting human rights and assisting the victims of violations is often a perilous task for human rights defenders around the world. Indeed, human rights defenders face a wide variety of problems and threats, ranging from refusal to legally recognise their associations and respect their rights to freedom of movement, expression and assembly, to slander campaigns and harassment by State authorities, death threats, arbitrary detention, and even extra judicial killings and “disappearances”. Such risks are on the increase all over the world<sup>1</sup>.

The basic international human rights standards set down by the United Nations require States to provide domestic remedies and ensure conditions wherein human rights defenders may carry out their tasks without impediment. However, many States disregard such norms: they restrict and ban the work of human rights defenders both within and sometimes even outside their own territories.

The *Human Rights Defenders Office* of the *International Service for Human Rights* has prepared this reference manual as a tool for human rights defenders to help improve their level of protection and to support their activities. It begins with an outline of the rights that are important and useful to performing such work freely and safely, and is followed by the international standards that sustain each of these rights. The extent to which these standards are legally binding depends on both the type of standard and whether or not the State has agreed to its content and implementation. This is explained in the “Legal Introduction”, specifically designed for users not acquainted with international human rights law.

The aim of this publication is to enable human rights defenders in the field to make more efficient use of the relevant international standards; this should in turn lead to greater awareness of and respect for the rights of human rights defenders.

We would like to thank Mr Mark Thomson and Mr Federico Andreu for their kind and invaluable advice during the preparation of this manual, as well as Ms Jorunn Smith of HRDO and other staff members of the ISHR for their dedication and hard work.

This manual is dedicated to human rights defenders in the field, and more particularly to Ms Hina Jilani, Special Representative of the Secretary-General on Human Rights Defenders. Her outstanding commitment and marvellous work are a great source of inspiration to human rights activists around the world.

Finally, we wish to express our gratitude to the Permanent Mission of Germany to the United Nations in Geneva for financially supporting this publication.

Geneva, July 2002

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<sup>1</sup> See Report submitted by Ms Hina Jilani, Special Representative of the Secretary-General on Human Rights Defenders, pursuant to the Commission on Human Rights Resolution 200/61; E/CN.4/2002/106

# Legal Introduction

Human rights first became acknowledged in international law in the Charter of the United Nations (UN), as established in 1945. The Second World War had shown that a purely national treatment of human rights was inadequate. In the first article of the Charter of the UN, the Member States committed themselves to the promotion and encouragement of *"respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion"*<sup>1</sup>.

Three years later, on 10 December 1948, the Member States of the United Nations adopted the Universal Declaration of Human Rights. In the same year, the members of the Organisation of American States adopted the American Declaration of the Rights and Duties of Man. When the United Nations had completed its work on the Universal Declaration of Human Rights, it began drafting a general convention on human rights that would legally bind the States that ratify it. What was originally intended as a single and consolidated treaty on international human rights became two documents, as the Commission on Human Rights was divided on the question of distinguishing between different *"categories"* of rights. Thus, in 1966, two treaties were adopted: the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. The Universal Declaration of Human Rights, together with the two International Covenants, are often referred to as *"The International Bill of Human Rights"*.

Parallel to the process of creating this general set of human rights instruments, United Nations' conventions were drafted on specific issues: the Convention on the Prevention and Punishment of the Crime of Genocide (1948); the International Convention on the Elimination of All Forms of Racial Discrimination (adopted in 1963); the Convention on the Elimination of All Forms of Discrimination against Women (adopted in 1970); and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted in 1984). Increased UN involvement in matters of human rights during this period was followed by a growing regional interest in human rights issues, as illustrated by the entry into force in 1953 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; the establishment of the Inter-American Commission on Human Rights in 1959; the entry into force of the American Convention on Human Rights in 1978; and that of the African Charter on Human and Peoples' Rights in 1986. The Convention on the Rights of the Child, adopted in 1989, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted in 1990, are the last of the existing seven United Nations 'core' conventions on human rights.

In addition to the numerous treaties adopted after the Second World War, many other instruments for the protection of human rights were created. These include declarations, resolutions, recommendations and principles. Four sources of law are generally recognised in international law<sup>2</sup>:

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<sup>1</sup> Charter of the United Nations, Article 1, paragraph 3.

<sup>2</sup> Statute of the International Court of Justice, Article 38 (1)

- a) *International conventions*
- b) *International custom*
- c) *General principles of law*
- d) *Judicial teachings of the most qualified publicists of the various nations, as subsidiary means for the determination of rules of law*

This compilation focuses mainly on the first source of international law, that is to say, on treaties. It will additionally deal with non-binding instruments such as declarations, principles, guidelines, rules, resolutions and recommendations. In light of the matters dealt with in this manual, the following two categories of instruments should therefore be distinguished:

- The first category is composed of ***legally binding treaties, conventions, covenants and protocols***;
- The second, of ***non-binding international declarations, standards, principles, guidelines, resolutions and recommendations***, adopted by the UN or other international organisations or conferences.

What follows is a definition of the different types of standards contained in this manual.

## A. Treaties

In the context of public international law, a treaty is a written agreement between States and/or intergovernmental organisations that is enforced by international law<sup>3</sup>. The name or the form of a treaty is of little concern (Convention, Covenant, etc.): what matters is the content and the language of the treaty. A treaty always contains language where the signing parties expressly agree to a legally-binding engagement. A solemn name for a document does not necessarily mean that it is a treaty. For example, the "1975 Final Act of the Conference on Security and Co-operation in Europe" (The Helsinki Accord) is not a treaty because the text clearly expresses that the States do not wish the document to be of legally-binding character. The text lacks any consent to a legally-binding engagement.

The parties to a treaty are legally bound to fulfil and implement the obligations contained in the treaty. These obligations should be met in good faith by the parties (the principle of *Pacta sunt servanda*). A State adhering to a treaty cannot invoke its national law (whether it be the Constitution, national legislation, judicial decisions or administrative acts) to justify the non-fulfilment of these obligations<sup>4</sup>. It is legally required to uphold the terms of the Treaty.

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<sup>3</sup> See the Vienna Convention on the Law of Treaties (Article 1) and the Vienna Convention on the Law of Treaties between the States and International Organisations or between international Organisations (Article 2).

<sup>4</sup> This principle is enshrined in Articles 26 and 27 of the Vienna Convention on the Law of Treaties.

- **General**

In general, treaties are landmarks which guide nations in their relations with each other. They express intentions, promises, and normally appear to contain advantages. Treaties represent attempts to reduce the measure of uncertainty inherent in the conduct of international affairs. However, universal or regional treaties, including human rights treaties, have a different character. They contain both the commitment of States and the rights and freedoms of individuals under their jurisdiction. The following characteristics illustrate the difference between human rights treaties and other treaties, and clarify why human rights treaties should receive alternative treatment:

- The spirit and philosophy of human rights treaties is focused on the individual, on the rights that uphold the inherent dignity of the individual person, and on his or her relation to others and society. These rights are not exclusive to any one group, but rather seek to protect the human rights of every person<sup>5</sup>;
- Human rights inhere universally in all human beings, throughout their lives, by virtue of their humanity alone, and they are inalienable;
- Human rights treaties define and create specific rights for individuals over whom States exercise power; however, these individuals are not party to the instrument itself.

Thus human rights treaties are not set up to regulate State relations, but rather are established in the interest of creating a better world for all human beings. As human rights treaties are dedicated to the rights and freedoms of the individual, their essential aim is to protect these rights. The European Human Rights Commission, for example, confirms this: *"The obligations agreed to by the States that are parties to the Convention have a particularly objective character, since they aim to protect the fundamental rights of individuals against transgressions by the State Parties more than to create legal subjects of the latter"*<sup>6</sup>.

The way a government treats its citizens constitutes a legitimate concern of the international community. This is clearly stated in the Charter of the United Nations and in many important human rights treaties. If a State has agreed to the standards of a human rights convention, then that State is obliged to abide by the rules set down in the convention. Human rights treaties call on State Parties to account for their measures to implement these standards and to answer any allegations that may arise.

The way in which international obligations are incorporated into national law depends on the legal system of the country in question. In some countries, a ratified treaty automatically becomes part of domestic law; in others, specific legislation is required to create domestic effect.

Some human rights treaties establish bodies and procedures through which state compliance can be measured. This is most commonly done through two different means:

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<sup>5</sup> An exemption is the African Charter that also refer to the rights of the People, i.e. collective rights.

<sup>6</sup> European Commission on Human Rights, Annuary of the European Commission on Human Rights, communication no. 788/60, Volume 4, p.139 ff (translated from French original).

- **State reporting**

The UN human rights treaties require State Parties to *report* periodically on the steps they have taken to implement their commitments on the national level.

- **Individual complaints procedures**

Individuals can bring complaints of violations of human rights directly before some international human rights bodies. Some treaties, such as the American Convention on Human Rights, the European Social Charter, and the International Convention on the Elimination of All Forms of Racial Discrimination allow groups and/or non-governmental organisations to submit complaints or communications regarding the violation of rights protected under such treaties.

This kind of *individual complaints procedure* is possible under the International Covenant on Civil and Political Rights, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights.

- **Protocols**

A protocol is a complement to an already existing treaty. It forms a separate treaty to which, under normal circumstances, only the signatories of the 'mother treaty' can become a party. However, there are exceptions where a State has signed a protocol but not the main treaty. For example, the USA is party to the Protocol relating to the Status of Refugees but not to the Convention relating to the Status of Refugees.

- **Law of Treaties**

Customary law on treaties is codified in the Convention on the Law of Treaties (Vienna, 1969). This treaty is not restricted to written agreements between States. A State that is not a party to the Convention on the Law of Treaties is still obliged to observe customary law on treaties. The implementation of a treaty is the responsibility of the State Party. A State Party cannot withdraw itself from its treaty obligations by referring to treaty obligations with other States or to its national law. Article 103 of the Charter of the United Nations states: "*In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.*"

- **The Rome Statute establishing an International Criminal Court**

The Rome Statute, adopted in 1998, is a treaty that sets up an International Criminal Court. It entered into force in July 2002. The Court is the first permanent international tribunal with powers to prosecute individuals, not States, accused of genocide, war crimes or crimes against humanity. Its jurisdiction also includes the

crime of aggression. The court is to be complementary to national judicial systems and will be able to assume jurisdiction only after it determines that a national system is unwilling or unable to prosecute the crimes relevant to the Statute.

## B. Declarations

Declarations relevant to human rights have been adopted by the United Nations and other international organisations or conferences. These instruments are **not binding in a legal sense; however, they establish widely recognised standards**, particularly when adopted by consensus or accepted by many States. They are referred to by national and international courts and bodies in their conclusions, recommendations and decisions.

- **The Universal Declaration of Human Rights**

The most important declaration is the Universal Declaration of Human Rights, which was unanimously adopted by the UN General Assembly in 1948. The Universal Declaration was a recommendation of the General Assembly and was not intended to be a legally binding document. During the course of more than half a century some of the rights enshrined in the Declaration have become '*ius cogens*', or imperative norms of international law. Respect for human rights has now become part of international customary law. Support for this can be found in the fact that no government challenges the Declaration.

The International Conference on Human Rights, held in Iran in May 1968, stated in the Proclamation of Teheran that the Universal Declaration of Human Rights is "*a common understanding of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family*", and that it constitutes "*an obligation for the members of the international community*". Every country can therefore be held accountable for serious human rights violations, irrespective of whether or not a country is a party to human rights treaties.

Although the American Declaration of the Rights and Duties of Man (1948) was not initially conceived as a legally binding international instrument, the creation of the Inter-American Commission on Human Rights (1959), and its competence to treat individual cases of violations to rights guaranteed in the American Declaration has meant that observance of this instrument has come to be considered as obligatory for the members of the Organisation of American States. Only in one case has a State – the United States of America<sup>7</sup> – contested the obligatory character of the American Declaration of the Right and Duties of Man.

Progressive interdependence between States, as well as between peoples, has diminished the unqualified nature of State sovereignty. A recent example can be found in the Vienna Declaration and the Programme of Action, in which the World Conference on Human Rights in 1993 approved "*the promotion and protection of all human rights as a legitimate concern of the international community*". Another important instrument is the 1975 Final Act of the Conference on Security and Co-

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<sup>7</sup> Concerning case No 9647, Pinkerton versus United Nations.

operation in Europe (The Helsinki Accord), which has acquired major political significance for international human rights ventures. The Final Act is not a treaty or convention that requires ratification by national parliaments; however, representatives of the 35 participating States, including the United States of America, signed the Final Act to declare their determination to fulfil the obligations therein.

- **The UN Declaration on Human Rights Defenders**

On 9 December 1998, after more than twenty years of research and laborious negotiations, the UN General Assembly adopted, by consensus, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms<sup>8</sup>. All states are requested to promote and give effect to all steps necessary to ensure the rights and freedoms referred to in the Declaration. The Declaration reaffirms the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights, and complies with the aims and principles of the United Nations Charter for the promotion and protection of human rights and fundamental freedoms.

### **C. Other instruments**

Principles, guidelines, rules and standards all constitute a collection of *non-binding norms*, sometimes referred to as '*soft law*', in protecting human rights. They are an expression of intent, policy and ideals (rather than binding or '*hard law*'). They set down the basic principles and standards that have been agreed upon and elaborated by the United Nations or other organisations in the form of guidelines for international action and national legislation. While these instruments are not directly legally binding, they are more appropriately considered as quasi-legal rather than non-legal in their effect. Standards provide recommendations and guidance for governments in developing national legislation. They also often lead to the adoption of internationally binding instruments. Furthermore, international human rights standards may form a basis for State practice, and thus contribute to the formation of customary international law.

### **D. General comments and general recommendations adopted by human rights treaty bodies**

Until now, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, and the Committee Against Torture have adopted general comments. The Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women have adopted general recommendations. These general comments and recommendations appear in the United Nations document HRI/GEN/1/Rev.5 of 26 April 2001, according to which these Treaty Bodies interpret the applicability and content of the various rights that appear in the Treaty, and as such control the applicability and content of the obligations set down for

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<sup>8</sup> United Nations document A/RES/53/144 (see Annex III).

States. The general comments and general recommendations of the different Treaty Bodies proceed from their experience in examining periodic reports submitted by State Parties and seek to facilitate and promote the application of human rights treaties. They also constitute an important source of interpretation with regard to the rights and obligations that appear in the treaties.<sup>9</sup>

Finally, the conclusions of the Executive Committee (Excom) of the United Nations High Commissioner for Refugees (UNHCR) constitute an important reference for protection. In addition to the 1951 Convention and 1967 Protocol on the status of refugees, both of which are legally binding international treaties, Excom has developed many standards that appear in international refugee law. While its conclusions do not legally bind States in the same way as treaties do, they have nevertheless been adopted by consensus by over 40 States. As such, they are widely recognized as an accurate representation of the views of the international community. This lends them a good deal of persuasive authority.

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<sup>9</sup> The Inter-American Commission on Human Rights has also adopted several general recommendations during the last three years.

# 1. The Right to Freedom of Association<sup>1</sup>

## Treaties

### Article 22, International Covenant on Civil and Political Rights

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interest of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights of freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorise States Parties to the International Labour Organisation Convention 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or to apply the law in such manner as to prejudice the guarantees provided for in that Convention.

### Article 8, International Covenant on Economic, Social and Cultural Rights

1. The States Parties to the Present Covenant undertake to ensure:
  - (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
  - (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organisations;
  - (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
  - (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

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<sup>1</sup> Note from the editor:

*The articles of the different human rights instruments are listed in the order of their legal binding power or effectiveness. Therefore, rights derived from treaties are quoted first, followed by the norms of declarations, standards, guidelines and principles. A distinction between universal and regional instruments is also made.*

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
3. Nothing in this article shall authorise States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such manner as would prejudice, the guarantees provided for in that Convention.

#### **Article 5 (d) (ix), International Convention on the Elimination of All Forms of Racial Discrimination**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (...)

(d) Other civil rights, in particular: (...)

(ix) The right to freedom of peaceful assembly and association; (...)

» *Reference is made to General recommendation XX adopted by the Committee on the Elimination of Racial Discrimination.*

#### **Article 5 (e) (ii), International Convention on the Elimination of All Forms of Racial Discrimination**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (...)

(e) Other civil rights, in particular: (...)

(ii) The right to form and join trade unions; (...)

» *Reference is made to General recommendation XX adopted by the Committee on the Elimination of Racial Discrimination.*

#### **Article 15, The Convention on the Rights of the Child**

1. States Parties recognise the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 2 Convention (No 87), concerning freedom of association and protection of the right to organise**

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

### **Article 3 Convention (No 87), concerning freedom of association and protection of the right to organise**

1. Workers' and employers organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.
2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

### **Article 5 Convention (No 87), concerning freedom of association and protection of the right to organise**

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

### **Article 11 Convention (No 87), concerning freedom of association and protection of the right to organise**

Each member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

### **Article 1, Right to Organise and Collective Bargaining Convention**

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to:
  - (a) Make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
  - (b) Cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employers, within working hours.

### **Article 1, Workers' Representatives Convention**

Workers' representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

### **Article 15, Convention relating to the Status of Refugees**

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

### **Article 11, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

### **Article 5, European Social Charter / Revised European Social Charter**

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that the national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

### **Article 6, European Social Charter / Revised European Social Charter**

With a view to ensuring the effective exercise of the right to bargain collectively the Contracting Parties undertake: (...)

2. to promote where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements; (...)
4. (and recognise) the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

### **Article 10, The African Charter for Human and Peoples' Rights**

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in Article 29 no one may be compelled to join an association.

### **Article 8, African Charter on the Rights and Welfare of the Child**

Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law.

### **Article 16, American Convention on Human Rights**

1. Everyone has the right to associate freely for ideological, religious, political, economic, labour, social, cultural, sports, or other purposes.
2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.
3. The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.

### **Article 8, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights**

1. The States Parties shall ensure:
  - (a) The right of workers to organise trade unions and to join the union of their choice for the purpose of protecting and promoting their interests. As an extension of that right, the States Parties shall permit trade unions to establish national federations or confederations, or to affiliate with those that already exist, as well as to form international trade union organisations and to affiliate with that of their choice. The States Parties shall also permit trade unions, federations and confederations to function freely; (...)
2. The exercise of the rights set forth above may be subject only to restrictions established by law, provided that such restrictions are characteristic of a democratic society and necessary for safeguarding public order for protecting public health or morals or the rights and freedoms of others. Members of the armed forces and the police and of other essential public services shall be subject to limitations and restrictions established by law.
3. No one may be compelled to belong to a trade union.

### **Article 4, Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: (...)

- (h) the right to associate freely; (...)

## **Declarations**

### **Article 20, Universal Declaration on Human Rights**

1. Everyone has the right to freedom of peaceful assembly and association

2. No one may be compelled to belong to an association.

**Article 1, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels.

**Article 5, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (...)

(a) To form, join and participate in non-governmental organisations, associations or groups; (...)

**Article 2 paragraph 4, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities**

Persons belonging to minorities have the right to establish and maintain their own associations.

**Article XXII, American Declaration of the Rights and Duties of Man**

Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labour union or other nature.

**Charter of Paris for a new Europe: A New Era of Democracy, Peace, and Unity**

Human Rights, Democracy and the Rule of Law

(...) We affirm that, without discrimination every individual has the right to: (...)

Freedom of association and peaceful assembly, (...)

**Others**

**Article 23, Basic Principles on the Role of Lawyers**

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice, and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognised standards and ethics of the legal profession.

### **Article 8, Guidelines on the Role of Prosecutors**

Prosecutors like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional disadvantage by reason of their lawful action or their membership in a lawful organisation. In exercising these rights, prosecutors shall always conduct themselves in accordance with the law and the recognised standards and ethics of their profession.

### **Article 9, Guidelines on the Role of Prosecutors**

Prosecutors shall be free to form and join professional associations or other organisations to represent their interests, to promote their professional training and to protect their status.

## 2. The Right to Freedom of Assembly

### Treaties

#### **Article 21, International Covenant on Civil and Political Rights**

The right to peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security or public safety, public order (*ordure public*), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 5 (d) (ix), International Convention on the Elimination of All Forms of Racial Discrimination**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (...)

(d) Other civil rights, in particular: (...)

(ix) The right to freedom of peaceful assembly and association; (...)

» *Reference is made to General recommendation XX adopted by the Committee on the Elimination of Racial Discrimination.*

#### **Article 15, The Convention on the Rights of the Child**

1. States Parties recognise the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 11, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful

restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

### **Article 8, African Charter on the Rights and Welfare of the Child**

Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law.

### **Article 11, The African Charter for Human and Peoples' Rights**

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

### **Article 15, American Convention on Human Rights**

The right of peaceful assembly, without arms, is recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedoms of others.

## **Declarations**

### **Article 20, Universal Declaration on Human Rights**

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

### **Article 5 (a), Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully; (...)

### **Article 2 paragraph 5, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities**

Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

### **Article XXI, American Declaration of the Rights and Duties of Man**

Every person has the right to assemble peaceably with others in a formal public meeting or in informal gathering, in connection with matters of common interest of any nature.

### **Charter of Paris for a new Europe: A New Era of Democracy, Peace, and Unity**

Human Rights, Democracy and the Rule of Law

(...) We affirm that, without discrimination every individual has the right to:  
Freedom of association and peaceful assembly, (...)

## **Others**

### **Article 12, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political rights, Governments and law enforcement agencies and officials shall recognise that force and firearms may be used only in accordance with principles 13 and 14.

### **Article 13, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

### **Article 14, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

### **Article 23, Basic Principles on the Role of Lawyers**

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice, and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognised standards and ethics of the legal profession.



# 3. The Right to Freedom of Thought

## Treaties

### Article 18, International Covenant on Civil and Political Rights

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or in private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

» *Reference is made to General comment 22 adopted by the Human Rights Committee.*

### Article 5 (d) (vii), International Convention on the Elimination of All Forms of Racial Discrimination

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (...)

(d) Other civil rights, in particular: (...)

(vii) The right to freedom of thought, conscience and religion; (...)

» *Reference is made to General recommendation XX adopted by the Committee on the Elimination of Racial Discrimination.*

### Article 14 (1), The Convention on the Rights of the Child

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

### Article 14 (3), The Convention on the Rights of the Child

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

#### **Article 4, Convention relating to the Status of Refugees**

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedoms as regards the religious education of their children.

#### **Article 9, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

#### **Article 8, The African Charter for Human and Peoples' Rights**

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

#### **Article 9, African Charter on the Rights and Welfare of the Child**

1. Every child shall have the right to freedom of thought, conscience and religion.
2. Parents, and where applicable, legal guardians shall have a duty to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interest of the child.
3. States Parties shall respect the duty of parents and where applicable, legal guardians to provide guidance and direction in the in the enjoyment of these rights subject to the national laws and policies.

#### **Article 12, American Convention on Human Rights**

1. Everyone has the right to freedom of conscience and of religion. This right includes freedom to maintain or to change one's religion or beliefs, and freedom to profess or disseminate one's religion or beliefs, either individually or together with others, in public or in private.
2. No one shall be subject to restrictions that might impair his freedom to maintain or to change his religion or beliefs.
3. Freedom to manifest one's religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the rights or freedoms of others.

4. Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions.

### **Article 13, American Convention on Human Rights**

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
  - (a) respect for the rights or reputations of others;
  - (b) the protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar illegal action against any person or group of persons on any grounds including those of race, colour, religion, language, or national origin shall be considered as offences punishable by law.

### **Article 4 (i), Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: (...)

- (i) the right of freedom to profess her religion and beliefs within the law;  
(...)

## **Declarations**

### **Article 18, Universal Declaration of Human Rights**

Everyone has the right to freedom of thought, conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone or in

community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

### **Article 1, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief**

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.
3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

### **Article 2 paragraph (1) (2) and (3), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities**

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in decisions on the national, and where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

### **Article III, American Declaration of the Rights and Duties of Man**

Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private.

### **Conference on Security and Co-operation in Europe: Final Act, 1 (a) VII, Respect for Human Rights and Fundamental Freedoms, Including the Freedom of thought, Conscience, Religion or Belief**

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

## **Charter of Paris for a new Europe: A New Era of Democracy, Peace, and Unity**

Human Rights, Democracy and the Rule of Law

(...) We affirm that, without discrimination every individual has the right to:

Freedom of thought, conscience and religion or belief, (...)

## 4. The Right to Freedom of Expression and the Right to Information and to Communicate

### Treaties

#### Article 19, International Covenant on Civil and Political Rights

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

» *Reference is made to General Comment 10 adopted by the Human Rights Committee*

#### Article 13, The Convention on the Rights of the Child

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) for respect of the rights or reputations of others; or
  - (b) for the protection of national security or of public order (ordre public), or of public health or morals.

#### Article 10, European Convention for the Protection of Human Rights and Fundamental Freedoms

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the

prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

### **Article 9, The African Charter for Human and Peoples' Rights**

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

### **Article 7, African Charter on the Rights and Welfare of the Child**

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

### **Article 13, American Convention on Human Rights**

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
  - (a) respect for the rights or reputations of others; or
  - (b) the protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, colour, religion, language, or national origin shall be considered as offences punishable by law.

## Declarations

### **Article 19, Universal Declaration on Human Rights**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

### **Article 6, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

### **Article 5 (c), Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (...)

- (c) To communicate with non-governmental or intergovernmental organisations.

### **Article 7, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

**Article 8, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organisations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realisation of human rights and fundamental freedoms.

**Article 14, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.
2. Such measures shall include, *inter alia*:
  - (a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;
  - (b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.
3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

**Article 6 (i), Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief**

In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom thought, conscience, religion or belief shall include, *inter alia*, the following freedoms: (...)

- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

**Article 6, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities**

States should co-operate in questions relating to persons belonging to minorities, inter alia, exchanging information and experiences, in order to promote mutual understanding and confidence.

#### **Article IV, American Declaration of the Rights and Duties of Man**

Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

### **Others**

#### **Principle 4, Guidelines for the Regulation of Computerised Personal Data Files**

Everyone who offers proof of identity has the right to know whether information concerning him is being processed and to obtain it in an intelligible form, without undue delay or expense, and to have appropriate rectifications or erasures made in the case of unlawful, unnecessary or inaccurate entries and, when it is being communicated, to be informed of the addressees. Provision should be made for a remedy, if need be with the supervisory authority specified in principle 8 below. The cost of any rectification shall be borne by the person responsible for the file. It is desirable that the provisions of this principle should apply to everyone, irrespective of nationality or place of residence.

#### **Principle 5, Guidelines for the Regulation of Computerised Personal Data Files**

Subject to cases of exceptions restrictively envisaged under principle 6, data likely to give rise to unlawful or arbitrary discrimination, including information on racial or ethnic origin, colour, sex life, political opinions, religious, philosophical and other beliefs as well as membership of an association or trade union, should not be compelled.

#### **Principle 6, Guidelines for the Regulation of Computerised Personal Data Files**

Departures from principles 1 to 4 may be authorised only if they are necessary to protect national security, public order, public health or morality, as well as, inter alia, the rights and freedoms of others, especially persons being persecuted (humanitarian clause) provided that such departures are expressly specified in a law or equivalent regulation promulgated in accordance with the internal legal system which expressly states their limits and sets forth appropriate safeguards.

Exceptions to principle 5 relating to the prohibition of discrimination, in addition to being subject to the same safeguards as those prescribed for exceptions to principles 1 to 4, may be authorised only within the limits prescribed by the International Bill of Human Rights and the other relevant instruments in the field of protection of human rights and the prevention of discrimination.

#### **Principle 9, Guidelines for the Regulation of Computerised Personal Data Files**

When the legislation of two or more countries concerned by a transborder data flow offers comparable safeguards for the protection of privacy, information should be able

to circulate as freely as inside each of the territories concerned. If there are no reciprocal safeguards, limitations on such circulation may not be imposed unduly and only in so far as the protection of privacy demands.

### **Principle 10, Guidelines for the Regulation of Computerised Personal Data Files**

The present principles should be made applicable, in the first instance, to all public and private computerised files as well as, by means of optional extension and subject to appropriate adjustments, to manual files. Special provision, also optional, might be made to extend all or part of the principles to files on legal persons particularly when they contain some information on individuals.

### **Article 1, Declaration on fundamental principles concerning the contribution of the mass media to strengthening peace and international understanding, to the promotion of human rights and to countering racialism, apartheid and incitement to war (UNESCO)**

The strengthening of peace and international understanding, the promotion of human rights and the countering of racialism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information. To this end, the mass media have a leading contribution to make. This contribution will be the more effective to the extent that the information reflects the different aspects of the subject dealt with.

### **Article 2, Declaration on fundamental principles concerning the contribution of the mass media to strengthening peace and international understanding, to the promotion of human rights and to countering racialism, apartheid and incitement to war (UNESCO)**

1. The exercise of freedom of opinion, expression and information, recognised as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding.
2. Access by the public to information should be guaranteed by the diversity of the sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively. To this end, journalists must have freedom to report and the fullest possible facilities of access to information. Similarly, it is important that the mass media be responsive to concerns of peoples and individuals, thus promoting the participation of the public in the elaboration of information.
3. With a view to the strengthening of peace and international understanding, to promoting human rights and to countering racialism, apartheid and incitement to war, the mass media throughout the world, by reason of their role, contribute to promoting human rights, in particular by giving expression to oppressed peoples who struggle against colonialism, neo-colonialism, foreign occupation and all forms of racial discrimination and oppression and who are unable to make their voices heard within their own territories.
4. If the mass media are to be in the position to promote the principles of this Declaration in their activities, it is essential that journalists and other agents of the mass media, in their own country or abroad, be assured of protection guaranteeing them the best conditions for the exercise of their profession.

## 5. Right Related to the Defence of Human Rights

### Treaties

#### **Article 7 (c), Convention on the Elimination of All Forms of Discrimination against Women**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (...)

- (c) To participate in non-governmental organisations and associations concerned with the public and political life of the country.

» *Reference is made to General recommendation 23 adopted by the Committee on the Elimination of Discrimination against Women.*

#### **Article 11, African Charter on the Rights and Welfare of the Child**

1. Every child shall have the right to an education.
2. The education of the child shall be directed to: (...)
  - (a) fostering respect for human rights and fundamental freedoms with particular reference to those set up in the provisions of various African instruments on human and people's rights and international human rights declarations and conventions;
  - (b) the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups;
  - (c) the preservation of national independence and territorial integrity;
  - (d) the promotion and achievements of African Unity and Solidarity;
  - (e) the development of respect for the environment and natural resources;
  - (f) the promotion of the child's understanding of primary health care.

### Declarations

#### **Article 28, Universal Declaration of Human Rights**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.

#### **Article 29, Universal Declaration of Human Rights**

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the

just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purpose principles of the United Nations.

### **Article 1, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels.

### **Article 7, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

### **Article 8, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organisations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realisation of human rights and fundamental freedoms.

### **Article 10, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

### **Article 11, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or

her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

#### **Article 12, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

#### **Article 13, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others, to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

#### **Article 18, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organisations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organisations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realised.

## **Article 2 (1) (2) and (3), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities**

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in decisions on the national, and where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

## **Article 3, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities**

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

## **Others**

### **Principle 23, Basic Principles on the Role of Lawyers**

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice, and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognised standards and ethics of the legal profession.

## 6. The Right to Receive Funding

### Declarations

#### **Article 13, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

Everyone has the right, individually and in association with others, to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

#### **Article 6 (f), Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief**

In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom thought, conscience, religion or belief shall include, inter alia, the following freedoms: (...)

- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions.

# 7. The Right to Respect for Privacy

## Treaties

### **Article 17, International Covenant on Civil and Political Rights**

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

» *Reference is made to General comment 16 adopted by the Human Rights Committee.*

### **Article 16, The Convention on the Rights of the Child**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

### **Article 8, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### **Article 10, African Charter on the Rights and Welfare of the Child**

No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the laws against such interference or attacks.

### **Article 11, American Convention on Human Rights**

1. Everyone has the right to have his honour respected and his dignity recognised.

2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honour or reputation.
3. Everyone has the right to the protection of the law against such interference of attacks.

#### **Article 4 (a) (b) and (e), Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

(a) the right to have her life respected;

(b) the right to have her physical, mental and moral integrity respected;(...)

(e) the right to have the inherent dignity of her person respected and her family protected.

### **Declarations**

#### **Article 12, Universal Declaration on Human Rights**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

#### **Article V, American Declaration on the Rights and Duties of Man**

Every person has the right to the protection of the law against abusive attacks upon his honour, his reputation and his private and family life.

#### **Article IX, American Declaration of the Rights and Duties of Man**

Every person has the right to the inviolability of his home.

#### **Article X, American Declaration on the Rights and Duties of Man**

Every person has the right to the inviolability and transmission of his correspondence.

### **Others**

#### **Principle 1, Guidelines for the Regulation of Computerised Personal Data Files**

Information about persons should not be collected or processed in unfair or unlawful ways, nor should it be used for ends contrary to the purposes and principles of the Charter of the United Nations.

#### **Rule 8 (1), United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules")**

The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.

**Rule 8 (2), United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”)**

In principle, no information that may lead to the identification of a juvenile offender shall be published.

## 8. The Right to Freedom of Movement

### Treaties

#### **Article 12, International Covenant on Civil and Political Rights**

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognised in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

» *Reference is made to General Comment 27 adopted by the Human Rights Committee*

#### **Article 5 (d) (i), International Convention on the Elimination of All Forms of Racial Discrimination**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (...)

(d) Other civil rights, in particular: (...)

(i) The right to freedom of movement and residence within the border of the State; (...)

» *Reference is made to General recommendations XX and XXII adopted by the Committee on the Elimination of Racial Discrimination.*

#### **Article 26, Convention relating to the Status of Refugees**

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.

» *Reference is made to the Executive Committee Conclusions No 80 (1996, Comprehensive and Regional Approaches Within a Protection Frame Work) of the United Nations High Commissioner for Refugees.*

#### **Article 2, Fourth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of morals, or for the protection of the rights and freedoms of others.
4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.

### **Article 3, Fourth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national.
2. No one shall be deprived of the right to enter the territory of the State of which he is a national.

### **Article 12, The African Charter on Human and Peoples' Rights**

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of other countries and international conventions.
4. A non-national legally admitted in a territory of a State party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.
5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

### **Article 22, American Convention on Human Rights**

1. Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.
2. Every person has the right to leave any country freely, including his own.
3. The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others.
4. The exercise of the rights recognised in paragraph 1 may also be restricted by law in designated zones for reasons of public interest.
5. No one can be expelled from the territory of the state of which he is a national or be deprived of the right to enter it.

6. An alien lawfully in the territory of a State Party to this Convention may be expelled from it only pursuant to a decision reached in accordance with law.
7. Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offences or related common crimes.
8. In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions.
9. The collective expulsion of aliens is prohibited.

## **Declarations**

### **Article 13, Universal Declaration of Human Rights**

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

### **Charter of Paris for a new Europe: A New Era of Democracy, Peace, and Unity**

Human Rights, Democracy and the Rule of Law

(...) We affirm that, without discrimination every individual has the right to: (...)  
Freedom of movement.

### **Article VIII, American Declaration of the Rights and Duties of Man**

Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will.

## 9. Prohibition of Torture and Ill-Treatment

### Treaties

#### **Article 7, International Covenant on Civil and Political Rights**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

» Reference is made to General comments 20 and 29 adopted by the Human Rights Committee.

#### **Article 1, Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is 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.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

#### **Article 2, Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. Any order from a superior officer or a public authority may not be invoked as a justification of torture.

#### **Article 3, Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**

1. No State Party shall expel, return (refouler) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

» *Reference is made to General Comment No. 1 adopted by the Committee against Torture*

### **Article 16, Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

### **Article 5 (b), International Convention on the Elimination of All Forms of Racial Discrimination**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (...)

- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

» *Reference is made to General recommendation XX adopted by the Committee on the Elimination of Racial Discrimination.*

### **Article 37 (a), The Convention on the Rights of the Child**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age;

» Reference is made to the Executive Committee Conclusions Nos 72 (1993, Personal Security of Refugees) and 80 (1996, Comprehensive and Regional Approaches Within a Protection Frame Work) of the United Nations High Commissioner for Refugees.

### **Common Article 3 of the Four Geneva Conventions<sup>1</sup>**

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; (...)
  - (c) Outrages upon personal dignity, in particular humiliating and degrading treatment; (...)
2. The wounded and sick shall be collected and cared for.

An impartial body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

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

### **Article 3, European Convention for the Protection of Human Rights and Fundamental Freedoms**

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### **Article 1, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment**

There shall be established a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the "Committee"). The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the

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<sup>1</sup> The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; the Geneva Convention relative to the Treatment of Prisoners of War; and the Geneva Convention relative to the Protection of Civilian Persons in Time of War. See also Article 11 and 75 (1), (2) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); and Article 4 (1) (2,a) and (2,e), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

protection of such persons from torture and from inhuman or degrading treatment or punishment.

### **Article 2, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment**

Each Party shall permit visits, in accordance with this Convention, to any place within its jurisdiction where persons are deprived of their liberty by a public authority.

### **Article 5, The African Charter on Human and Peoples' Rights**

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

### **Article 16, African Charter on the Rights and Welfare of the Child**

1. States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.
2. Protective measures under this Article shall include effective procedures for the establishment or special monitoring units to provide necessary support for the child and for those who have the care for the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.

### **Article 17 1 and 2 (a), African Charter on the Rights and Welfare of the Child**

1. Every child found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.
2. States Parties to the present Charter shall in particular:
  - (a) ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment .

### **Article 5, American Convention on Human Rights**

1. Every person has the right to have his physical, mental, and moral integrity respected.
2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.
3. Punishment shall not be extended to any person other than the criminal.
4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.

5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialised tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors.
6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaption of the prisoners.

#### **Article 4, Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: (...)

- (d) the right not to be subjected to torture; (...)

#### **Article 1, Inter-American Convention to Prevent and Punish Torture**

The State Parties undertake to prevent and punish torture in accordance with the terms of this Convention.

#### **Article 3, Inter-American Convention to Prevent and Punish Torture**

The following shall be held guilty of the crime of torture:

- (a) A public servant or employee who acting in that capacity orders, instigates or induces the use of torture, or who directly commits it or who, being able to prevent it, fails to do so.
- (b) A person who at the instigation of a public servant or employee mentioned in subparagraph (a) orders, instigates or induces the use of torture, directly commits it or is an accomplice thereto.

#### **Article 4, Inter-American Convention to Prevent and Punish Torture**

The fact of having acted under orders of a superior shall not provide exemption from the corresponding criminal liability.

#### **Article 5, Inter-American Convention to Prevent and Punish Torture**

The existence of circumstances such as a state of war, threat of war, state of siege or of emergence, domestic disturbance or strife, suspension of constitutional guarantees, domestic political instability, or other public emergencies or disasters shall not be invoked or admitted as justification for the crime of torture.

Neither the dangerous character of the detainee or prisoner, nor the lack of security of the prison establishment or penitentiary shall justify torture.

#### **Article 6, Inter-American Convention to Prevent and Punish Torture**

In accordance with the terms of Article 1, the States Parties shall take effective measures to prevent and punish torture within their jurisdiction.

The States Parties shall ensure that all acts of torture and attempts to commit torture are offences under their criminal law and shall make such acts punishable by severe penalties that take into account their serious nature.

The States Parties likewise shall take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment within their jurisdiction.

#### **Article 7, Inter-American Convention to Prevent and Punish Torture**

The States Parties shall take measures so that, in the training of police officers and other public officials responsible for the custody of persons temporarily or definitively deprived of their freedom, special emphasis shall be put on the prohibition of the use of torture in interrogation, detention, or arrest.

The States Parties likewise shall take similar measures to prevent other cruel, inhuman, or degrading treatment or punishment.

#### **Article 11, Inter-American Convention to Prevent and Punish Torture**

The States Parties shall take the necessary steps to extradite anyone accused of having committed the crime of torture or sentenced for commission of that crime, in accordance with their respective national laws on extradition and their international commitments on this matter.

#### **Article 12, Inter-American Convention to Prevent and Punish Torture**

Every State Party shall take the necessary measures to establish its jurisdiction over the crime described in this Convention in the following cases:

- (a) When torture has been committed within its jurisdiction;
- (b) When the alleged criminal is a national of that State; or
- (c) When the victim is a national of that State and it so deems appropriate.

Every State Party shall also take the necessary measures to establish its jurisdiction over the crime described in this Convention when the alleged criminal is within the area under its jurisdiction and it is not appropriate to extradite him in accordance with Article 11.

This Convention does not exclude criminal jurisdiction exercised in accordance with domestic law.

### **Declarations**

#### **Article 5, Universal Declaration on Human Rights**

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

#### **Article 2, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the

Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

**Article 3, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

**Article 4, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Each State shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised within its jurisdiction.

**Article 5, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons.

**Article 6, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Each State shall keep under systematic review interrogation methods and practices as well as arrangements for the custody.

**Article 7, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Each State shall ensure that all acts of torture as defined in article 1 are offences under its criminal law. The same shall apply in regard to acts which constitute participation in, complicity in, incitement to or an attempt to commit torture.

**Article 8, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned.

### **Article 9, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Wherever there is reasonable ground to believe that an act of torture as defined in article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.

### **Article 10, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

If an investigation under article 8 or article 9 establishes that an act of torture as defined in article 1 appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings.

### **Article 1, Declaration on the Protection of All Persons from Enforced Disappearance**

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.
2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

### **Charter of Paris for a new Europe: A New Era of Democracy, Peace, and Unity**

Human Rights, Democracy and the Rule of Law

(...) We affirm that (...)

No one will be:

Subject to torture or other cruel, inhuman or degrading treatment or punishment; (...)

### **Article I, American Declaration of the Rights and Duties of the Man.**

Every human being has the right to life, liberty and the security of his person.

### **Others**

### **Principle 6, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

**Principle 5, Code of Conduct for Law Enforcement Officials**

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

# 10. The Right to Freedom and Security: Disappearance

## Treaties

### Article 9, International Covenant on Civil and Political Rights

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

» Reference is made to General Comments 8 and 29 adopted by the Human Rights Committee.

### Article 16, International Covenant on Civil and Political Rights

Everyone shall have the right to recognition everywhere as a person before the law.

### Article 1, Inter-American Convention on Forced Disappearance of Persons

The States Parties to this Convention undertake:

- (a) Not to practice, permit, or tolerate the forced disappearance of persons, even in states of emergency or suspension of individual guarantees;
- (b) To punish within their jurisdictions, those persons who commit or attempt to commit the crime of forced disappearance of persons and their accomplices and accessories;
- (c) To cooperate with one another in helping to prevent, punish and eliminate the forced disappearance of persons;
- (d) To take legislative, administrative, judicial, and any other measures necessary to comply with the commitments undertaken in this Convention.

### Article 2, Inter-American Convention on Forced Disappearance of Persons

For the purposes of this Convention, forced disappearance is considered to be the act of depriving a person or persons of his or their freedom, in whatever way, perpetrated by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by an absence of information or a refusal to acknowledge that deprivation of freedom or to give information on the whereabouts of that person, thereby impeding his or her recourse to the applicable legal remedies and procedural guarantees.

#### **Article 4, Inter-American Convention on Forced Disappearance of Persons**

The acts constituting the forced disappearance of persons shall be considered offences in every State Party. Consequently, each State Party shall take measures to establish its jurisdiction over such cases in the following instances:

- (a) When the forced disappearance of persons or any act constituting such offence was committed within its jurisdiction;
- (b) When the accused is a national of that state;
- (c) When the victim is a national of that state and that state sees fit to do so.

Every State Party shall, moreover, take the necessary measures to establish its jurisdiction over the crime described in this Convention when the alleged criminal is within its territory and it does not proceed to extradite him.

This Convention does not authorise any State Party to undertake, in the territory of another State Party, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of that other Party by its domestic law.

#### **Article 7, Inter-American Convention on Forced Disappearance of Persons**

Criminal prosecution for the forced disappearance of persons and the penalty judicially imposed on its perpetrator shall not be subject to statutes of limitations.

However, if there should be a norm of a fundamental character preventing application of the stipulation contained in the previous paragraph, the period of limitation shall be equal to that which applies to the gravest crime in the domestic laws of the corresponding State Party.

#### **Article 8, Inter-American Convention on Forced Disappearance of Persons**

The defence of due obedience to superior orders or instructions that stipulate, authorise, or encourage forced disappearance shall not be admitted. All persons who receive such orders have the right and duty not to obey them.

The States Parties shall ensure that the training of public law-enforcement personnel or officials includes the necessary education on the offence of forced disappearance of persons.

#### **Article 10, Inter-American Convention on Forced Disappearance of Persons**

In no case may exceptional circumstances such as a state of war, the threat of war, internal political stability, or any other public emergency be invoked to justify the forced disappearance of persons. In such cases, the right to expeditious and effective

judicial procedures and recourses shall be retained as a means of determining the whereabouts or state of health of a person who has been deprived of freedom, or of identifying the official who ordered or carried out such deprivation of freedom.

In pursuing such procedures of recourse, and in keeping with applicable domestic law, the competent judicial authorities shall have free and immediate access to all detention centres and to each of their units, and to all places where there is reason to believe the disappeared person might be found including places that are subject to military jurisdiction.

#### **Article 4 (a) (b) and (c), Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- (a) the right to have her life respected;
- (b) the right to have her physical, mental and moral integrity respected;
- (c) the right to personal liberty and security; (...)

### **Declarations**

#### **Article 3, Universal Declaration of Human Rights**

Everyone has the right to life, liberty and security of person.

#### **Article 1, Declaration on the Protection of All Persons from Enforced Disappearance**

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.
2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

#### **Article 2, Declaration on the Protection of All Persons from Enforced Disappearance**

1. No State shall practise, permit or tolerate enforced disappearances.
2. States shall act at the national and regional levels and in co-operation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

#### **Article 4, Declaration on the Protection of All Persons from Enforced Disappearance**

1. All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.
2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases of enforced disappearance.

#### **Article 5, Declaration on the Protection of All Persons from Enforced Disappearance**

In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organise, acquiesce in or tolerate such disappearances liable under civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law.

#### **Article 6, Declaration on the Protection of All Persons from Enforced Disappearance**

1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.
2. Each State shall ensure that orders or instructions directing, authorising or encouraging any enforced disappearance are prohibited.
3. Training of law enforcement officials shall emphasise the provisions in paragraphs 1 and 2 of the present article.

#### **Article 7, Declaration on the Protection of All Persons from Enforced Disappearance**

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

#### **Article 9, Declaration on the Protection of All Persons from Enforced Disappearance**

1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7 above.
2. In such proceedings, competent national authorities shall have access to all places where persons deprived of their liberty are being held and to each part of

those places, as well as to any place in which there are grounds to believe that such persons may be found.

3. Any other competent authority entitled under the law of the State or by any international legal instrument to which the State is a party may also have access to such places.

# 11. The Right to Freedom and Security: Detention

## Treaties

### Article 9, International Covenant on Civil and Political Rights

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

» Reference is made to General Comments 8 and 29 adopted by the Human Rights Committee.

### Article 10, International Covenant on Civil and Political Rights

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;  
(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall compromise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

» Reference is made to General comments 9, 21 and 29 adopted by the Human Rights Committee.

### Article 37 (b) (c) and (d), The Convention on the Rights of the Child

- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of their age. In particular every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.

» Reference is made to the Executive Committee Conclusion No 44 (1986, Detention of Refugees and Asylum-Seekers) of the United Nations High Commissioner for Refugees .

» Reference is made to the Executive Committee Conclusions No 72( (1993, Personal Security of Refugees) of the United Nations High Commissioner for Refugees.

## **Article 5, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
  - (a) the lawful detention of a person after conviction by a competent court;
  - (b) the lawful arrest or detention of a person effected for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonable considered necessary to prevent his committing an offence or fleeing after having done so;
  - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
  - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
  - (f) the unlawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

### **Article 6, The African Charter on Human and Peoples' Rights**

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

### **Article 7, American Convention on Human Rights**

1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment.
4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
5. Any person detained shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for nonfulfillment of duties of support.

### **Article 11, Inter-American Convention on Forced Disappearance of Persons**

Every person deprived of liberty shall be held in an officially recognised place of detention and be brought before a competent judicial authority without delay, in accordance with applicable domestic law.

The States Parties shall establish and maintain official up-to-date registries of their detainees and, in accordance with their domestic law, shall make them available to

relatives, judges, attorneys, any other person having a legitimate interest, and other authorities.

## **Declarations**

### **Article 3, Universal Declaration on Human Rights**

Everyone has the right to life, liberty and the security of person.

### **Article 9, Universal Declaration on Human Rights**

No one shall be subjected to arbitrary arrest, detention or exile.

### **Article 10, Declaration on the Protection of All Persons from Enforced Disappearance**

1. Any person deprived of liberty shall be held in an official recognised place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.
2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.
3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralised registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

### **Article 11, Declaration on the Protection of All Persons from Enforced Disappearance**

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability full to exercise their rights are assured.

### **Article 12, Declaration on the Protection of All Persons from Enforced Disappearance**

1. Each State shall establish rules under its national law indicating those officials authorised to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.
2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions,

arrests, detentions, custody, transfers and imprisonment, and of other officials authorised by law to use force and firearms.

### **Article XXV, American Declaration of the Rights and Duties of Man**

No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law.

No person may be deprived of liberty for non-fulfilment of obligations of a purely civil character.

Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

### **Charter of Paris for a new Europe: A New Era of Democracy, Peace, and Unity**

Human Rights, Democracy and the Rule of Law

(...)We affirm that, (...)

No one will be:

Subject to arbitrary arrest or detention, (...)

## **Others**

### **Basic Principles for the Treatment of Prisoners**

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings

### **Basic Principles for the Treatment of Prisoners**

2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### **Basic Principles for the Treatment of Prisoners**

3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

### **Basic Principles for the Treatment of Prisoners**

5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural rights, and the International Covenant on Civil and Political Rights and

the Optional Protocols thereto, as well as such other rights as are set out in other United Nations covenants.

**Principle 1, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

**Principle 2, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorised for that purpose.

**Principle 3, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognised or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognise such rights or that it recognises them to a lesser extent.

**Principle 4, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

**Principle 6, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

**Principle 11, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

**Principle 33, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.
2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.
3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.
4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.

**Principle 34, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

Whenever the death or disappearance of a detained or imprisoned person occurs, during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case. When circumstance so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardise an ongoing criminal investigation.

**Principle 36, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.

**Principle 37, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody.

**Principle 38, Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment**

A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.

**Principle 6, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**

Governments shall ensure that persons deprived of their liberty are held in officially recognised places of custody, and that accurate information on their custody and whereabouts, including transfers, is made promptly available to their relatives and lawyer or other person of confidence.

**Principle 7, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**

Qualified inspectors, including medical personnel, or an equivalent independent authority, shall conduct inspections in places of custody on a regular basis, and be empowered to undertake unannounced inspections on their own initiative, with full guarantees of independence in the exercise of this function. The inspectors shall have unrestricted access to all persons in such places of custody, as well as to all their records.

**Principle 15, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

**Principle 16, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

### **Principle 17, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**

The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

### **Principle 5, Basic Principles on the Role of Lawyers**

Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.

### **Principle 6, Basic Principles on the Role of Lawyers**

Any such persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

### **Principle 7, Basic Principles on the Role of Lawyers**

Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.

### **Principle 8, Basic Principles on the Role of Lawyers**

All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within hearing, of law enforcement officials.

### **Rule 6, Standard Minimum Rules for the Treatment of Prisoners**

1. The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

### **Rule 7, Standard Minimum Rules for the Treatment of Prisoners**

1. In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received;

- (a) Information concerning his identity;
  - (b) The reasons for his commitment and the authority therefor;
  - (c) The day and hour of his admission and release;
2. No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.

### **Rule 27, Standard Minimum Rules for the Treatment of Prisoners**

Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

### **Rule 35, Standard Minimum Rules for the Treatment of Prisoners**

1. Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorised methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life in the institution.
2. If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

### **Rule 36, Standard Minimum Rules for the Treatment of Prisoners**

1. Every prisoner shall have the opportunity each weekday of making requests or complaints to the director of the institution or the officer authorised to represent him
2. It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.
3. Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.
4. Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

### **Rule 37, Standard Minimum Rules for the Treatment of Prisoners**

Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

### **Rule 38, Standard Minimum Rules for the Treatment of Prisoners**

Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

#### **Rule 55, Standard Minimum Rules for the Treatment of Prisoners**

There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

#### **Rule 84, Standard Minimum Rules for the Treatment of Prisoners**

1. Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) have not yet been tried and sentenced, will be referred to as "untried prisoners" hereinafter in these rules.
2. Unconvicted prisoners are presumed to be innocent and shall be treated as such.
3. Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special regime which is described in the following rules in its essential requirements only.

#### **Rule 95, Standard Minimum Rules for the Treatment of Prisoners**

Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political rights, persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C. Relevant provisions of part II, section A, shall likewise be applicable where their application may be conducive to the benefit of his special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

#### **Rule 18, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

- (a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;

- (b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of detention;
- (c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

**Rule 22, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

**Rule 56, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

**Rule 63, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64 below.

**Rule 64, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorised and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

**Rule 72, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and

should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

**Rule 75, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorised representative.

**Rule 76, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

Every juvenile should have the right to make a request or complaint, with censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

**Rule 78, United Nations Rules for the Protection of Juveniles Deprived of their Liberty**

Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organisations which provide legal counsel or which are competent to receive complaints.

**Rule 7.1, United Nations Standard Minimum rules for the Administration of Juvenile Justice**

Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

**Rule 13, United Nations Standard Minimum Rules for the Administration of Juvenile Justice**

- 13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time
- 13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.
- 13.3 Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.
- 13.4 Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

13.5 While in custody, juveniles shall receive care, protection and all necessary, individual assistance - social, educational, vocational, psychological, medical and physical - that they may require in view of their age, sex and personality.

# 12. The Right to Life

## Treaties

### **Article 6, International Covenant on Civil and Political Rights**

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
1. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorise any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
2. Anyone sentenced to death shall have the right to seek pardon or communication of the sentence. Amnesty, pardon or communication of the sentence of death may be granted in all cases.
3. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
4. Nothing in this article shall be invoked to delay or prevent the abolition of capital punishment by any State Party to the present Covenant.

» *Reference is made to General comments 6, 14 and 29 adopted by the Human Rights Committee.*

### **Article 1, Protocol II to the International Covenant on Civil and Political Rights**

1. No one within the jurisdiction of a State Party to the Present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

### **Article 6 (1), The Convention on the Rights of the Child**

1. States Parties recognise that every child has the inherent right to life.

### **Article 33, Convention relating to the Status of Refugees**

1. No Contracting State shall expel or return ("refouler") a refugee in any matter whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement

of a particularly serious crime, constitutes a danger to the community of that country.

» Reference is made to the Executive Committee Conclusions No 7(1993, Personal Security of Refugees), 80 (1996, Comprehensive and Regional Approaches Within a Protection Frame Work) and 83 (1997, Conclusions on Safety of UNHCR Staff and other Humanitarian Personnel) of the United Nations High Commissioner for Refugees.

» Reference is made to the Executive Committee Conclusions No 6 (1977, Non-Refoulement), 50 (1988, General Conclusion on International Protection) 55 (1989, General Conclusion on International Protection), 74 (1994, General Conclusion on International Protection) and 77 (1995, General Conclusion on International Protection) of the United Nations High Commissioner for Refugees.

» Reference is made to the Executive Committee Conclusions No 84(1997, Conclusion on Refugee children and adolescents) of the United Nations High Commissioner for Refugees.

### **Article I, Convention on the Prevention and Punishment of the Crime of Genocide**

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

### **Article II, Convention on the Prevention and Punishment of the Crime of Genocide**

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

### **Article III, Convention on the Prevention and Punishment of the Crime of Genocide**

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (c) Attempt to commit genocide;
- (d) Complicity in genocide.

### **Article IV, Convention on the Prevention and Punishment of the Crime of Genocide**

Persons committing genocide or any the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rules, public officials or private individuals.

## **Article V, Convention on the Prevention and Punishment of the Crime of Genocide**

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

## **Article VI, Convention on the Prevention and Punishment of the Crime of Genocide**

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

## **Article VII, Convention on the Prevention and Punishment of the Crime of Genocide**

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

## **Common Article 3 of the Four Geneva Conventions.<sup>1</sup>**

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) 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.

## **Article 2, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

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<sup>1</sup> The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; the Geneva Convention relative to the Treatment of Prisoners of War; and the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
  - (a) in defence of any person from unlawful violence;
  - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

#### **Article 1, Sixth Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms**

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

#### **Article 4, The African Charter on Human and Peoples' Rights**

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

#### **Article 5, African Charter on the Rights and Welfare of the Child**

1. Every child has an inherent right to life. This right shall be protected by law.
2. State Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child.
3. Death sentence shall be pronounced for crimes committed by children.

#### **Article 4, American Convention on Human Rights**

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.
2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgement rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.
3. The death penalty shall not be re-established in states that have abolished it.
4. In no case shall capital punishment be inflicted for political offences or related common crimes.
5. Capital punishment shall be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.
6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.

### **Article 1, Protocol to the American Convention on Human Rights to Abolish the Death Penalty**

The States Parties to this Protocol shall not apply the death penalty in their territory to any person subject to their jurisdiction.

### **Article 4 (a) (b) and (c), Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- (a) the right to have her life respected;
- (b) the right to have her physical, mental and moral integrity respected;
- (c) the right to personal liberty and security; (...)

## **Declarations**

### **Article 3, Universal Declaration on Human Rights**

Everyone has the right to life, liberty and security of person.

### **Article 12 (2) and (3), Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

### **Article 1, Declaration on the Protection of All Persons from Enforced Disappearance**

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.

2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

### **Article I, American Declaration of the Rights and Duties of Man**

Every human being has the right to life, liberty and the security of his person.

## **Others**

### **Principle 1, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**

Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognised as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other person acting in an official capacity or by a person acting at the instigation, or with the consent or acquiescence of such person, and situations in which deaths occur in custody. This prohibition shall prevail over decrees issued by governmental authority.

### **Principle 3, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**

Governments shall prohibit orders from superior officers or public authorities, authorising or inciting other persons to carry out any such extra-legal, arbitrary or summary executions. All persons shall have the right and the duty to defy such orders. Training and law enforcement officials shall emphasise the above provisions.

### **Principle 4, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**

Effective protection through judicial or other means shall be guaranteed to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

# 13. The Right to a Fair Trial

## Treaties

### Article 14, International Covenant on Civil and Political Rights

1. All persons shall be equal before the courts and tribunal. In the determination of any criminal charge against him, or his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordure public) or national security in a democratic society, or when the interest of the private lives of the Parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public (except where the interest of juvenile persons otherwise requires of the proceedings concern matrimonial disputes of the guardianship of children).
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
  - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
  - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
  - (c) To be tried without undue delay;
  - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
  - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (f) To have free assistance of an interpreter if he cannot understand or speak the language used in court;
  - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to

law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

» *Reference is made to General comments 13 and 29 adopted by the Human Rights Committee.*

#### **Article 11, International Covenant on Civil and Political Rights**

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

#### **Article 15, International Covenant on Civil and Political Rights**

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by the community of nations.

#### **Article 16, International Covenant on Civil and Political Rights**

Everyone shall have the right to recognition everywhere as a person before the law.

#### **Article 26, International Covenant on Civil and Political Rights**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### **Article 15, Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

#### **Article 5 (a), International Convention on the Elimination of All Forms of Racial Discrimination**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race,

colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;

» *Reference is made to General recommendation XX adopted by the Committee on the Elimination of Racial Discrimination.*

#### **Article 40, The Convention on the Rights of the Child**

1. States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's re-integration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
  - (a) No child shall be alleged as, be accused of, or recognised as having infringed the penal law by reason of acts or omissions which were not prohibited by national or international law at the time they were committed;
  - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
    - (i) to be presumed innocent until proven guilty according to law;
    - (ii) to be informed promptly and directly of the charges against him or her, and if appropriate through his or her parents or legal guardian, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
    - (iii) to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
    - (iv) not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
    - (v) if considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
    - (vi) to have the free assistance of an interpreter if the child cannot understand or speak the language used;
    - (vii) to have his or her privacy fully respected at all stages of the proceedings.
3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and in particular:

- (a) the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
  - (b) whenever appropriate and desirable measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programs and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and their offence.

### **Article 16, Convention relating to the Status of Refugees**

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.
2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

### **Common Article 3 of the Four Geneva Conventions.<sup>1</sup>**

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:(...)

2. 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) 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.

### **Article 75, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1)**

1. Any person arrested, detained or interned for actions related to the armed conflict shall be informed promptly, in a language he understands, of the

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<sup>1</sup> The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; the Geneva Convention relative to the Treatment of Prisoners of War; and the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

reasons why these measures have been taken. Except in cases of arrest or detention for penal offences, such persons shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist.

2. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognised principles of regular judicial procedure, which include the following:
  - (a) The procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;
  - (b) No one shall be convicted of an offence except on the basis of individual penal responsibility;
  - (c) No one shall be accused or convicted of a criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;
  - (d) Anyone charged with an offence is presumed innocent until proved guilty according to law;
  - (e) Anyone charged with an offence shall have the right to be tried in his presence;
  - (f) No one shall be compelled to testify against himself or to confess guilt;
  - (g) Anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (h) No one shall be prosecuted or punished by the same Party for an offence in respect of which a final judgement acquitting or convicting that person has been previously pronounced under the same law and judicial procedure;
  - (i) Anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly; and
  - (j) A convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.

**Article 6, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)**

1. This Article applies to the prosecution and punishment of criminal offences related to the armed conflict.
2. No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a

court offering the essential guarantees of independence and impartiality. In particular:

- (a) The procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;
  - (b) No one shall be convicted of an offence except on the basis of individual penal responsibility;
  - (c) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under the law, at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;
  - (d) Anyone charged with an offence is presumed innocent until proved guilty according to law;
  - (e) Anyone charged with an offence shall have the right to be tried in his presence;
  - (f) No one shall be compelled to testify against himself or to confess guilt.
3. A convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.
  4. The death penalty shall not be pronounced on persons who were under the age of eighteen years at the time of the offence and shall not be carried out on pregnant women or mothers of young children.
  5. At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

## **Article 6, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of the justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
  - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - (b) to have adequate time and facilities for the preparation of his defence;

- (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

#### **Article 2, Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.
2. This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal.

#### **Article 3, Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms**

When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed, or he has been pardoned, on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to the law or the practice of the State concerned, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

#### **Article 4, Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms**

1. No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.
2. The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.
3. No derogation from this Article shall be made under Article 15 of the Convention.

#### **Article 4, African Charter on the Rights and Welfare of the Child**

1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.
2. In all judicial and administrative proceedings affecting a child who is capable of communicating his/hers own views, and opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

### **Article 17, African Charter on the Rights and Welfare of the Child**

1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.
2. State Parties to the present Charter shall in particular:
  - (a) ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment;
  - (b) ensure that children are separated from adults in their place of detention or imprisonment;
  - (c) ensure that every child accused of infringing the penal law:
    - (i) shall be presumed innocent until duly recognised guilty,
    - (ii) shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used;
    - (iii) shall be afforded legal or other appropriate assistance in the preparation and presentation of his defence;
    - (iv) shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal;
  - (d) prohibit the press and the public from trial.

### **Article 8, American Convention on Human Rights**

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labour, fiscal, or any other nature.
2. Every person accused of a criminal offence has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:
  - (a) The right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;
  - (b) prior notification in detail to the accused of the charges against him;
  - (c) adequate time and means for the preparation of his defence;

- (d) the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
  - (e) the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
  - (f) the right of the defence to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
  - (g) the right not to be compelled to be a witness against himself or to plead guilty; and
  - (h) the right to appeal the judgement to a higher court.
3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.
  4. An accused person acquitted by a non-appealable judgement shall not be subjected to a new trial for the same cause.
  5. Criminal proceedings shall be public, except insofar as may be necessary to protect the interests of justice.

#### **Article 4 (f), Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: (...)

- (f) the right to equal protection before the law and of the law; (...)

#### **Article 8, Inter-American Convention to Prevent and Punish Torture**

The States Parties shall guarantee that any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of his case.

Likewise, if there is an accusation or well-grounded reason to believe that an act of torture has been committed within their jurisdiction, the States Parties shall guarantee that their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process.

After all the domestic legal procedures of the respective State and the corresponding appeals have been exhausted, the case may be submitted to the international fora whose competence has been recognised by that State.

#### **Article 10, Inter-American Convention to Prevent and Punish Torture**

No statement that is verified as having been obtained through torture shall be admissible as evidence in a legal proceeding, except in a legal action taken against a person or persons accused of having elicited it through acts of torture, and only as evidence that the accused obtained such statement by such means.

## **Declarations**

### **Article 7, Universal Declaration on Human Rights**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against incitement to such discrimination.

### **Article 8, Universal Declaration on Human Rights**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

### **Article 10, Universal Declaration on Human Rights**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

### **Article 11, Universal Declaration on Human Rights**

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for the defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

### **Article 9, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorised representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.
3. To the same end, everyone has the right, individually and in association with others, *inter alia*:
  - (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and

fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

- (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
  - (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.
  5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

#### **Article 12, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

#### **Article XXVI, American Declaration of the Rights and Duties of Man**

Every accused person is presumed to be innocent until proved guilty.

Every person accused of an offence has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

#### **Charter of Paris for a new Europe: A New Era of Democracy, Peace, and Unity**

Human Rights, Democracy and the Rule of Law

(...)We affirm that, (...)

Everyone also has the right: (...)

To fair and public trial if charged with an offence, (...)

### **Others**

#### **Principle 1, Basic Principles on the Independence of the Judiciary**

The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

### **Principle 2, Basic Principles on the Independence of the Judiciary**

The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

### **Principle 3, Basic Principles on the Independence of the Judiciary**

The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.

### **Principle 4, Basic Principles on the Independence of the Judiciary**

There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.

### **Principle 5, Basic Principles on the Independence of the Judiciary**

Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.

### **Principle 6, Basic Principles on the Independence of the Judiciary**

The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.

### **Principle 1, Basic Principles on the Role of Lawyers**

All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.

### **Principle 2, Basic Principles on the Role of Lawyers**

Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without discrimination of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status.

### **Principle 3, Basic Principles on the Role of Lawyers**

Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons.

Professional associations of lawyers shall co-operate in the organisation and provision of services, facilities and other resources.

#### **Principle 5, Basic Principles on the Role of Lawyers**

Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.

#### **Principle 6, Basic Principles on the Role of Lawyers**

Any such persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

#### **Principle 7, Basic Principles on the Role of Lawyers**

Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.

#### **Principle 8, Basic Principles on the Role of Lawyers**

All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within hearing, of law enforcement officials.

#### **Guidelines 10, Guidelines on the Role of Prosecutors**

The office of prosecutors shall be strictly separated from judicial functions.

#### **Guidelines 12, Guidelines on the Role of Prosecutors**

Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.

#### **Rule 15, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”)**

- 15.1 Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.
- 15.2 The parents or guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent

authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

# 14. The Right to Remedy and Reparation

## Treaties

### **Article 2 (3), International Covenant on Civil and Political Rights**

Each State Party to the present Covenant undertakes:

3. (a) To ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
  - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (a) To ensure that the competent authorities shall enforce such remedies when granted.

» Reference is made to General Comments 23 and 29 adopted by the Human Rights Committee.

### **Article 9 (5), International Covenant on Civil and Political Rights**

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation

» Reference is made to General comment 8 adopted by the Human Rights Committee.

### **Article 13, Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**

Each State Party shall ensure that any individual who alleges that he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

### **Article 14, Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

### **Article 6, International Convention on the Elimination of All Forms of Racial Discrimination**

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

### **Article 39, The Convention on the Rights of the Child**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, peer-respect and dignity of the child.

### **Article 10, American Convention on Human Rights**

Every person has the right to be compensated in accordance with the law in the event he has been sentenced by a final judgement through a miscarriage of justice.

### **Article 25, American Convention on Human Rights**

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake:
  - (a) to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
  - (b) to develop the possibilities of judicial remedy; and
  - (c) to ensure that the competent authorities shall enforce such remedies when granted.

### **Article 27 (1) and (2), American Convention on Human Rights**

1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international

law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.

2. The foregoing provision does not authorize any suspension of the following articles: Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from Ex Post Facto Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.

#### **Article 4 (g), Inter-American Convention on Violence against Women**

Every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: (...)

(a) the right to simple and prompt recourse to a competent court for protection against acts that violate her rights; (...)

#### **Article 9, Inter-American Convention to Prevent and Punish Torture**

The States Parties undertake to incorporate into their national laws regulations guaranteeing suitable compensation for victims of torture.

None of the provisions of this article shall affect the right to receive compensation that the victim or other persons may have by virtue of existing national legislation.

### **Declarations**

#### **Article 8, Universal Declaration on Human Rights**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

#### **Article 11, Declaration on the protection of all persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment**

Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

#### **Article 19, Declaration on the Protection of All Persons from Enforced Disappearance**

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation.

## **Others**

### **Principle 11, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**

Where public officials or other agents in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimising act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

### **Principle 18, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**

“Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognised norms relating to human rights.

### **Principle 19, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**

States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

### **Principle 20, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions**

The families and dependants of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

# 15. Supervision of the Implementation of Legal Obligations of States

## Treaties

### Article 40, International Covenant on Civil and Political Rights

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognised herein and on the progress made in the enjoyment of those rights:
  - (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
  - (b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialised agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.
5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

*» Reference is made to General comments 1 and 2 adopted by the Human Rights Committee.*

### Article 1, Optional Protocol to the International Covenant on Civil and Political Rights

As State Party to the Covenant that becomes a Party to the present Protocol recognises the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a State party to the present Protocol.

## **Article 2, Optional Protocol to the International Covenant on Civil and Political Rights**

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

## **Article 4, Optional Protocol to the International Covenant on Civil and Political Rights**

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provisions of the Covenant.
2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

## **Article 5, Optional Protocol to the International Covenant on Civil and Political Rights**

1. The Committee shall consider communications under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.
2. The Committee shall not consider any communication from an individual unless it has ascertained that:
  - (a) The same matter is not being examined under another procedure of international investigation or settlement;
  - (b) The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonable prolonged.
3. The Committee shall hold closed meetings when examining communications under the present Protocol.
4. The Committee shall forward its views to the State Party concerned and to the individual.

## **Article 16, International Covenant on Economic, Social and Cultural Rights**

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognised herein.
2.
  - (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;
  - (b) The Secretary-General of the United Nations shall also transmit to the specialised agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialised agencies in so far as these reports, or parts

therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

» *Reference is made to General comment 1 adopted by the Committee on Economic, Social and Cultural Rights.*

#### **Article 17, International Covenant on Economic, Social and Cultural Rights**

1. The States Parties to the present covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialised agents concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the United Nations or to any specialised agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

#### **Article 18, International Covenant on Economic, Social and Cultural Rights**

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialised agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

#### **Article 19, International Covenant on Economic, Social and Cultural Rights**

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialised agencies in accordance with article 18.

#### **Article 20, International Covenant on Economic, Social and Cultural Rights**

The States Parties to the present Covenant and the specialised agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

#### **Article 21, International Covenant on Economic, Social and Cultural Rights**

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the

specialised agencies on the measures taken and the progress made in achieving general observance of the rights recognised in the present Covenant.

### **Article 22, International Covenant on Economic, Social and Cultural Rights**

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialised agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

» *Reference is made to General comment 2 adopted by the Committee on Economic, Social and Cultural Rights.*

### **Article 9, International Convention on the Elimination of All Forms of Racial Discrimination**

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:
  - (a) within one year after the entry into force of the Convention of the State concerned; and
  - (b) thereafter every two years and whenever the Committee so requests.The Committee may request further information from the States Parties.
2. The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

» *Reference is made to General recommendation V adopted by the Committee on the Elimination of Discrimination.*

### **Article 14, International Convention on the Elimination of All Forms of Racial Discrimination**

1. A State Party may at any time declare that it recognises the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. Any State Party which make a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a

violations of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.
4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.
5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.
6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups if individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;  
(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged;  
(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.
8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanation and statements of the States Parties concerned and of its own suggestions and recommendations.
9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

#### **Article 18, Convention on the Elimination of All Forms of Discrimination against Women**

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
  - (a) Within one year after the entry into force for the State concerned;
  - (b) Thereafter at least four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

» Reference is made to General recommendations 1 and 2 adopted by the Committee on the Elimination of Discrimination against Women.

#### **Article 21, Convention on the Elimination of All Forms of Discrimination against Women**

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

#### **Article 22, Convention on the Elimination of All Forms of Discrimination against Women**

The specialised agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Conventions as fall within the scope of their activities. The Committee may invite the specialised agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

#### **Article 19, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.
3. Each report shall be considered by the Committee which may take such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

## **Article 20, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

## **Article 22, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

1. A State Party to this Convention may at any time declare under this article that it recognises the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.
3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:
  - (a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
  - (b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonable prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
6. The Committee shall hold closed meetings when examining communications under this article.
7. The Committee shall forward its views to the State Party concerned and to the individual.
8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the State Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

» *Reference is made to General comment 1 adopted by the Committee Against Torture.*

#### **Article 44, Convention on the Rights of the Child**

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognised herein and on the progress made on the enjoyment of those rights:
  - (a) Within two years of the entry into force of the Convention for the State Party concerned;
  - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

#### **Article 45, Convention on the Rights of the Child**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialised agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialised agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialised agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, as it may consider appropriate to the specialised agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;
- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

#### **Article 35, Convention Relating to the Status of Refugees**

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the Convention.
2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:
  - (a) The condition of refugees,
  - (b) The implementation of this Convention, and

- (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

### **Article 36, Convention Relating to the Status of Refugees**

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

### **Article II, Protocol relating to the Status of Refugees**

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.
2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them in the appropriate form with information and statistical data requested, in the appropriate form, concerning:
  - (a) The condition of refugees;
  - (b) The implementation of the present Protocol;
  - (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

### **Article III, Protocol relating to the Status of Refugees**

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

» *Resolution 1503 (XLVIII), adopted by the Economic and Social Council 27 May 1970.*

### **Article 73, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:
  - (a) Within one year after the entry into force of the Convention for the State Party concerned;
  - (b) *Thereafter every five years and whenever the Committee so requests.*
2. Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.

3. The Committee shall decide any further guidelines applicable to the content of the reports.
4. States Parties shall make their reports widely available to the public in their own countries.

#### **Article 74, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article. The Committee may request supplementary information from States Parties when considering these reports.
2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the present Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.
3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies as well as to intergovernmental organizations, copies of such parts of these reports as may fall within their competence.
4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.
5. The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.
6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and to be heard in its meetings whenever matters falling within their field of competence are considered.
7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.
8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

## **Article 76, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
  - (a) If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
  - (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
  - (c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;
  - (d) Subject to the provisions of subparagraph (c) of the present paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Convention;
  - (e) The Committee shall hold closed meetings when examining communications under the present article;
  - (f) In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
  - (g) The States Parties concerned, referred to in subparagraph (b) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

- (h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:
  - (i) If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
  - (ii) If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them. In every matter, the report shall be communicated to the States Parties concerned.
- 2. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph I of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

#### **Article 77, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

- 1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.
- 2. The Committee shall consider inadmissible any communication under the present article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.
- 3. The Committee shall not consider any communication from an individual under the present article unless it has ascertained that:
  - (a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
  - (b) The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.

4. Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
5. The Committee shall consider communications received under the present article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
6. The Committee shall hold closed meetings when examining communications under the present article.
7. The Committee shall forward its views to the State Party concerned and to the individual.
8. The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

#### **Article 42, American Convention on Human Rights**

The States Parties shall transmit to the Commission a copy of each of the reports and studies that they submit annually to the Executive Committees of the Inter-American Economic and Social Council and the Inter-American Council for Education, Science, and Culture, in their respective fields, so that the Commission may watch over the promotion of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organisation of American States as amended by the Protocol of Buenos Aires.

#### **Article 19, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights**

1. Pursuant to the provisions of this article and the corresponding rules to be formulated for this purpose by the General Assembly of the Organisation of American States, the States Parties to this Protocol undertake to submit periodic reports on the progressive measures they have taken to ensure due respect for the rights set forth in this Protocol.
2. All reports shall be submitted to the Secretary General of the OAS, who shall transmit them to the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture so that they may examine them in accordance with the provisions of this article. The Secretary General shall send a copy of such reports to the Inter-American Commission on Human Rights.

3. The Secretary General of the Organisation of American States shall also transmit to the specialised organisations of the inter-American system of which the States Parties to the present Protocol are members, copies or pertinent portions of the reports submitted, insofar as they relate to matters within the purview of those organisations, as established by their constituent instruments.
4. The specialised organisations of the inter-American system may submit reports to the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture relative to compliance with the provisions of the present Protocol in their fields of activity.
5. The annual reports submitted to the General Assembly by the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture shall contain a summary of the information received from the States Parties to the present Protocol and the specialised organisations concerning the progressive measures adopted in order to ensure respect for the rights acknowledged in the Protocol itself and the general recommendations they consider to be appropriate in this respect.
6. Any instance in which the rights established in paragraph 1 of Article 8 and in Article 13 are violated by action directly attributable to a State Party to this Protocol may give rise, through participation of the Inter-American Commission on Human Rights, and when applicable, of the Inter-American Court of Human Rights, to application of the system of individual petitions governed by Article 44 through 51 and 61 through 69 of the American Convention on Human Rights.
7. Without prejudice to the provisions of the preceding paragraph, the Inter-American Commission on Human Rights may formulate such observations and recommendations as it deems pertinent concerning the status of the economic, social and cultural rights established in the present Protocol in all or some of the States Parties, which it may include in its Annual Report to the General Assembly or in a special report, whichever it considers more appropriate.
8. The Councils and the Inter-American Commission on Human Rights, discharging the functions conferred upon them in this article, shall take into account the progressive nature of the observance of the rights subject to protection by this Protocol.

### **Article 13, Inter-American Convention on Forced Disappearance of Persons**

For the purposes of this Convention, the processing of petitions or communications presented to the Inter-American Commission on Human Rights alleging the forced disappearance shall be subject to the procedures established in the American Convention on Human Rights and to the Statute and Regulations of the Inter-American Commission on Human Rights and to the Statute and Rules of Procedure of the Inter-American Court of Human Rights, including the provisions on precautionary measures.

### **Article 14, Inter-American Convention on Forced Disappearance of Persons**

Without prejudice to the preceding article, when the Inter-American Commission on Human Rights receives a petition or communication regarding an alleged forced disappearance, its Executive Secretariat shall urgently and confidentially address the respective government, and shall request that government to provide as soon as

possible information as to the whereabouts of the allegedly disappeared person together with any other information it considers pertinent, and such request shall be without prejudice as to the admissibility of the petition.

#### **Article 10, Inter-American Convention on Violence against Women**

In order to protect the right of every woman to be free from violence, the States Parties shall include in their national reports to the Inter-American Commission of Women information on measures adopted to prevent and prohibit violence against women, and to assist women affected by violence, as well as on any difficulties they observe in applying those measures, and the factors that contribute to violence against women.

#### **Article 11, Inter-American Convention on Violence against Women**

The States Parties to this Convention and the Inter-American Commission of Women may request of the Inter-American Court of Human Rights advisory opinions on the interpretation of this Convention.

#### **Article 12, Inter-American Convention on Violence against Women**

Any person or group of persons, or any non-governmental entity legally recognised in one or more member states of the Organisation, may lodge petitions with the Inter-American Commission on Human Rights containing denunciations or complaints of violations of article 7 of this Convention by a State Party, and the Commission shall consider such claims in accordance with the norms and procedures established by the American Convention on Human Rights and the Statutes and Regulations of the Inter-American Commission on Human Rights for lodging and considering petitions.

#### **Article 10, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment**

1. After each visit, the Committee shall draw up a report on the facts found during the visit, taking account of any observations which may have been submitted by the Party concerned. It shall transmit to the latter its report containing any recommendations it considers necessary. The Committee may consult with the Party with a view to suggesting, if necessary, improvements in the protection of persons deprived of their liberty.
2. If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter.

#### **Article 11, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment**

1. The information gathered by the Committee in relation to a visit, its report and its consultations with the Party concerned shall be confidential.
2. The Committee shall publish its report, together with any comments of the Party concerned, whenever requested to do so by that Party.

3. However, no personal data shall be published without the express consent of the person concerned.

### **Article 12, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment**

Subject to the rules of confidentiality in Article 11, the Committee shall every year submit to the Committee of Ministers a general report on its activities which shall be transmitted to the Consultative Assembly and made public.

### **Article 21, European Social Charter**

The Contracting Parties shall send to the Secretary-General of the Council of Europe a report at two-yearly intervals, in a form to be determined by the Committee of Ministers, concerning the application of such provisions of Part II of the Charter as they have accepted.

### **Article 22, European Social Charter**

The Contracting Parties shall send to the Secretary-General at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

### **Article C, European Social Charter (revised)**

The implementation of the legal obligations contained in this Charter shall be submitted to the same supervision as the European Social Charter.

### **Article 33, European Convention for the Protection of Human Rights and Fundamental Freedoms**

Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the protocols thereto by another High Contracting Party.

### **Article 34, European Convention for the Protection of Human Rights and Fundamental Freedoms**

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

### **Article 35, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and

within a period of six months from the date on which the final decision was taken.

2. The Court shall not deal with any application submitted under Article 34 that
  - (a) is anonymous; or
  - (b) is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
3. The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application.
4. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

#### **Article 38, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. If the Court declares the application admissible, it shall
  - (a) pursue the examination of the case, together with the representatives of the parties, and if need be, undertake an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities;
  - (b) place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights as defined in the Convention and the protocols thereto.
2. Proceedings conducted under paragraph 1.b shall be confidential.

#### **Article 56, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.
2. The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.
3. The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.
4. Any State which has made a declaration in accordance with paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.

#### **Article 57, European Convention for the Protection of Human Rights and Fundamental Freedoms**

1. Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article.
2. Any reservation made under this article shall contain a brief statement of the law concerned.

### **Article 3, Ninth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms**

Article 44 of the Convention shall read as follows:

Only the High Contracting Parties, the Commission, and persons, non-governmental organisations or groups of individuals having submitted a petition under Article 25 shall have the right to bring a case before the Court.

### **Article 5, Ninth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms**

Article 48 of the Convention shall read as follows:

1. The following may refer a case to the Court, provided that the High Contracting Party concerned, if there is only one, or the High Contracting Parties concerned, if there is more than one, are subject to the compulsory jurisdiction of the Court or, failing that, with the consent of the High Contracting Party concerned, if there is only one, or the High Contracting Parties concerned if there is more than one:
  - (a) the Commission;
  - (b) a High Contracting Party whose national is alleged to be victim;
  - (c) a High Contracting Party which referred the case to the Commission;
  - (d) a High Contracting Party against which the complaint has been lodged;
  - (e) the person, non-governmental organisation or group of individuals having lodged the complaint with the Commission.
2. If a case is referred to the court only in accordance with paragraph 1.e., it shall first be submitted to a panel composed of three members of the Court. There shall sit as an ex-officio member of the panel the judge who is elected in respect of the High Contracting Party against which the complaint has been lodged, or, if there is none, a person of its choice who shall sit in the capacity of judge. If the complaint has been lodged against more than one High Contracting Party, the size of the panel shall be increased accordingly.

If the case does not raise a serious question affecting the interpretation or application of the Convention and does not for any other reason warrant consideration by the Court, the panel may, by a unanimous vote, decide that it shall not be considered by the Court. In that event, the Committee of Ministers shall decide, in accordance with the provisions of Article 32 whether there has been a violation of the Convention.

### **Article 55, African Charter on Human and Peoples' Rights**

1. Before each Session, the Secretary of the Commission shall make a list of the communications other than those of States parties to the present Charter and

transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.

2. A communication shall be considered by the Commission if a simple majority of its members so decide.

#### **Article 56, African Charter on Human and Peoples' Rights**

Communications relating to human and peoples' rights referred to in Article 55 received by the Commission shall be considered if they:

1. Indicate their authors even if the latter request anonymity;
2. Are compatible with the Charter of the Organisation of African Unity or with the present Charter;
3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organisation of African Unity;
4. Are not based exclusively on news disseminated through the mass media;
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter; and
7. Do not deal with cases which have been settled by these States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organisation of African Unity or the provisions of the present Charter.

#### **Article 57, African Charter on Human and Peoples' Rights**

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

#### **Article 58, African Charter on Human and Peoples' Rights**

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.
2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its finding and recommendations.
3. A case of emergency duly notice by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

#### **Article 59, African Charter on Human and Peoples' Rights**

1. All measures taken within the provisions of the present Chapter shall remain confidential until such time as the Assembly of Heads of State and Government shall otherwise decide.
2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.

3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

#### **Article 62, African Charter on Human and Peoples' Rights**

Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter.

#### **Article 32, African Charter on the Rights and Welfare of the Child**

An African Committee of Experts on the Rights and welfare of the Child hereinafter called 'the Committee' shall be established within the Organisation of Africa Unity to promote and protect the rights and welfare of the child.

#### **Article 42, African Charter on the Rights and Welfare of the Child**

The functions of the Committee shall be:

- (a) to promote and to protect the rights enshrined in this Charter and in particular to:
  - (a) collect and document information, commission inter-disciplinary assessment of situations on African problems in the field of the rights and welfare of the child, organize meetings, encourage national and local institutions concerned with the rights and welfare of the child, and where necessary give its views and make recommendations to Governments;
  - (ii) formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa;
  - (iii) cooperate with other African, international and regional Institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.
- (b) To monitor the implementation and to ensure protection of the rights enshrined in this Charter;
- (c) To interpret the provisions of the present Charter at the request of at State Party, an Institution of the Organization of African Unity or any other person or Institution recognized by the Organization of African Unity, or any State Party;
- (d) Perform such other task as may be entrusted to it by the Assembly Heads of State and Government, Secretary-General of the OAU and any other organs of the OAU or the United Nations.

#### **Article 44, African Charter on the Rights and Welfare of the Child**

1. The Committee may receive communication, from any person, group or non-governmental organisation recognised by the Organisation of African Unity, by a Member State, or the United Nations relating to any matter covered by this Charter.
2. Every communication to the Committee shall contain the name and address of the author and shall be treated in confidence.

### **Article 45, African Charter on the Rights and Welfare of the Child**

1. The Committee may, resort to any appropriate method of investigating any matter falling within the ambit of the present Charter, request from the States Parties any information relevant to the implementation of the Charter and may also resort to any appropriate methods of investigating the measures the State party has adopted to implement the Charter.
2. The Committee shall submit to each Ordinary Session of the Assembly of Heads of State and Government every two years, a report on its activities and on any communications made under Article [44] of this Charter.
3. The Committee shall publish its report after it has been considered by the Assembly of Head of State and Government.
4. State Parties shall make the Committee's reports widely available to the public in their own countries.

### **Article 43, American Convention on Human Rights**

The States Parties undertake to provide the Commission with such information as it may request of them as to the manner in which their domestic law ensures the effective application of any provisions of this Convention.

### **Article 44, American Convention on Human Rights**

Any person or group of persons, or any non-governmental entity legally recognised in one or more member states of the Organisation, may lodge petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party.

### **Article 46, American Convention on Human Rights**

1. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements:
  - (a) that the remedies under domestic law have been pursued and exhausted in accordance with generally recognised principles of international law;
  - (b) that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgement;
  - (c) that the subject of the petition or communication is not pending in another international proceeding for settlement; and
  - (d) that, in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.
2. The provisions of paragraphs 1.1 and 1.b. of this article shall not be applicable when:
  - (a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or

- (b) there has been unwarranted delay in rendering a final judgement under the aforementioned remedies.

### **Article 47, American Convention on Human Rights**

The Commission shall consider inadmissible any petition or communication submitted under Articles 44 or 45 if:

- (a) any if the requirements indicated in Article 46 has not been met;
- (b) the petition or communication does not state facts that tend to establish a violation of the rights guaranteed by this Convention;
- (c) the statements of the petitioner or of the state indicate that the petition or communication is manifestly groundless or obviously out of order; or
- (d) the petition or communication is substantially the same as one previously studied by the Commission or by another international organisation.

### **Article 50, American Convention on Human Rights**

1. If a settlement is not reached, the Commission shall, within the time limit established by its Statute, draw up a report setting forth the facts and stating its conclusions. If the report, in whole or in part, does not represent the unanimous agreement of the members of the Commission, any member may attach to it a separate opinion. The written and oral statements made by the parties in accordance with paragraph 1.e. of Article 48 shall also be attached to the report.
2. The report shall be transmitted to the states concerned, which shall not be at liberty to publish it.
3. In transmitting the report, the Commission may make such proposals and recommendations as it sees fit.

### **Article 51, American Convention on Human Rights**

1. If, within a period of three months from the date of the transmittal of the report of the Commission to the states concerned, the matter has not either been settled or submitted by the Commission or by the state concerned to the Court and its jurisdiction accepted, the Commission may, by the vote of an absolute majority of its members, set forth its opinion and conclusions concerning the question submitted for its consideration.
2. Where appropriate, the Commission shall make pertinent recommendations and shall prescribe a period within which the state is to take the measures that are incumbent upon it to remedy the situation examined.
3. When the prescribed period has expired, the Commission shall decide by the vote of an absolute majority of its members whether the state has taken adequate measures and whether to publish its report.

### **Article 61, American Convention on Human Rights**

1. Only the States Parties and the Commission shall have the right to submit a case to the Court.
2. In order for the Court to hear a case, it is necessary that procedures set forth in Articles 48 to 50 shall have been completed.

## **Article 62, American Convention on Human Rights**

1. A State Party may, upon depositing its instruments of ratification or adherence to this Convention, or at any subsequent time, declare that it recognises as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of this Convention.
2. Such declaration may be made unconditionally, on the condition of reciprocity, for a special period, or for specific cases. It shall be presented to the Secretary-General of the Organisation, who shall transmit copies thereof to the other member states of the Organisation and to the Secretary of the Court.
3. The jurisdiction of the Court shall comprise all cases concerning the interpretation and application of the provisions of this Convention that are submitted to it, provided that the States Parties to the case recognise or have recognised such jurisdiction, whether by special declaration pursuant to the preceding paragraphs, or by a special agreement.

## **Article 63, American Convention on Human Rights**

1. If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.
2. In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

## **Declarations**

### **American Declaration of the Rights and Duties of Man**

As established in its statute, the Inter-American Commission on Human Rights has the power to receive complaints from individuals on the violation of human rights contained in the American Declaration of the Rights and Duties of Man perpetrated by any member of the Organisation of American States, even if the concerned country is not a State-Party to the American Convention on Human Rights.

## **Others**

### **104 EX/Decision 3.3 of the Executive Board of UNESCO**

UNESCO set up a procedure for the examination of complaints received by the Organisation concerning alleged violations of human rights in its field of competence, namely education, science, culture and information. This procedure is laid down in 104 EX/Decision 3.3 of the Executive Board. It is implemented by the Committee on

Conventions and Recommendations, a subsidiary body of the Executive Board of UNESCO.

Individuals, groups of individuals and non-governmental organisations may submit communications (complaints) to UNESCO concerning violations of human rights, whether the authors of these communications are themselves victims of such violations or whether they deem to have reliable knowledge of such violations.

The rights falling under UNESCO's competence are:

- the right to education;
- the right to share in scientific advancement;
- the right to participate freely in cultural life;
- the right to information, including freedom of opinion and expression.

These rights may imply the exercise of others, the most noteworthy of which are:

- the right to freedom of thought, conscience and religion;
- the right to seek, receive and impart information and ideas through any media and regardless frontiers;
- the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production;
- the right to freedom of assembly and association for the purposes of activities connected with education, science, culture and information.

# Annex II. UN Declaration on Human Rights Defenders

## Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms<sup>1</sup>

General Assembly Resolution 53/144

THE GENERAL ASSEMBLY,

REAFFIRMING the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

TAKING NOTE of Commission on Human Rights resolution 1998/7 of 3 April 1998, See *Official Records of the Economic and Social Council, 1998, Supplement No. 3 (E/1998/23)*, chap. II, sect. A. in which the Commission approved the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

TAKING NOTE ALSO of Economic and Social Council resolution 1998/33 of 30 July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

CONSCIOUS of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. ADOPTS the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, annexed to the present resolution;
2. INVITES Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of *Human Rights: A Compilation of International Instruments*.

*85th plenary meeting 9 December 1998*

**Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms**

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<sup>1</sup> United Nations General Assembly document A/RES/53/144, 8 March 1999.

THE GENERAL ASSEMBLY,

REAFFIRMING the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

REAFFIRMING *also* the importance of the Universal Declaration of Human Rights<sup>2</sup> and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

STRESSING that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

ACKNOWLEDGING the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

RECOGNIZING the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

REITERATING that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

STRESSING that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

RECOGNIZING the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

DECLARES:

### *Article 1*

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

### *Article 2*

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.
2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

### *Article 3*

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

### *Article 4*

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

### *Article 5*

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

### *Article 6*

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views,

information and knowledge on all human rights and fundamental freedoms;

- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

#### *Article 7*

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

#### *Article 8*

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

#### *Article 9*

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.
3. To the same end, everyone has the right, individually and in association with others, *inter alia*:
  - (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
  - (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

- (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.
1. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

#### *Article 10*

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

#### *Article 11*

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

#### *Article 12*

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

#### *Article 13*

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

#### *Article 14*

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.
2. Such measures shall include, *inter alia*:
  - (a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;
  - (b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.
3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

#### *Article 15*

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

#### *Article 16*

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

#### *Article 17*

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

#### *Article 18*

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the

promotion and advancement of democratic societies, institutions and processes.

3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

*Article 19*

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

*Article 20*

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

# Annex III. UNGA Resolution 54/170: Human Rights Defenders

## Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms<sup>1</sup>

### General Assembly Resolution 54/170

THE GENERAL ASSEMBLY,

REAFFIRMING its resolution 53/144 of 9 December 1998, by which it adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, annexed to that resolution,

REITERATING the importance of the Declaration,

CONVINCED of the important role of the Commission on Human Rights in following up the Declaration,

NOTING WITH DEEP CONCERN that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

1. CALLS UPON Governments, specialized agencies and relevant intergovernmental and non-governmental organizations to submit, at the request of the Secretary-General, on the basis of Commission on Human Rights resolution 1999/66 of 28 April 1999, See *Official Records of the Economic and Social Council, 1999, Supplement No. 3 (E/1999/23)*, chap. II, sect. A. proposals and ideas that should contribute substantially to further work on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms;
2. CALLS UPON the Commission on Human Rights to consider at its fifty-sixth session the report to be prepared by the Secretary-General pursuant to Commission resolution 1999/66;
3. REQUESTS the Secretary-General to report to the General Assembly at its fifty-fifth session on measures to implement the Declaration;
4. *DECIDES* to consider this question at its fifty-fifth session, under the item entitled "Human rights questions".

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<sup>1</sup> United Nations General Assembly document, A/RES/54/170, 25 February 2000.

*83rd plenary meeting*  
*17 December 1999*

# **Annex IV. UNGA Resolution 56/163: Human Rights Defenders**

## **Declaration On The Right And Responsibility Of Individuals, Groups And Organs Of Society To Promote And Protect Universally Recognised Human Rights And Fundamental Freedoms<sup>1</sup>**

### **General Assembly Resolution 56/163**

THE GENERAL ASSEMBLY,

RECALLING its resolution 53/144 of 9 December 1998, by which it adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms,

REITERATING the importance of the Declaration and its promotion and implementation,

NOTING WITH DEEP CONCERN that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

NOTING ALSO WITH DEEP CONCERN the considerable number of communications received by the Special Representative of the Secretary-General on human rights defenders that, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders,

NOTING FURTHER WITH DEEP CONCERN that, in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this has a negative impact on the work and safety of human rights defenders,

EMPHASIZING the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms, including in combating impunity,

WELCOMING the cooperation between the Special Representative and other special procedures of the Commission on Human Rights,

RECALLING that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of non-State actors pose a major threat to the security of human rights defenders,

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<sup>1</sup> United Nations General Assembly document. A/RES/56/163, 20 February 2001.

EMPHASIZING the need for strong and effective measures for the protection of human rights defenders,

1. CALLS UPON all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms; Resolution 53/144, annex.
2. TAKES NOTE WITH APPRECIATION of the reports of the Special Representative of the Secretary-General on human rights defenders; A/56/341 and E/CN.4/2001/94.
3. EMPHASIZES the importance of combating impunity, and in this regard urges States to take appropriate measures to address the question of impunity for threats, attacks and acts of intimidation against human rights defenders;
4. URGES all Governments to cooperate with and assist the Special Representative in the performance of her tasks and to furnish upon request all information in the fulfilment of her mandate;
5. REQUESTS all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;
6. CALLS UPON all States to take all necessary measures to ensure the protection of human rights defenders;
7. DECIDES to consider this question at its fifty-seventh session under the item entitled "Human rights questions".

*88th plenary meeting  
19 December 2001*

# Annex V. UNCHR Resolution 2000/61: Human Rights Defenders

## Human Rights Defenders

### Commission on Human Rights Resolution 2000/61<sup>1</sup>

THE COMMISSION ON HUMAN RIGHTS,

RECALLING General Assembly resolution 53/144 of 9 December 1998 by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms,

REITERATING the importance of this Declaration and its promotion and implementation,

EMPHASIZING the important role that individuals, non-governmental organizations and groups play in the promotion and protection of all human rights and fundamental freedoms,

NOTING WITH DEEP CONCERN that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are often subjected to threats, harassment, insecurity, arbitrary detention and extrajudicial executions,

1. WELCOMES the report of the Secretary-General (E/CN.4/2000/95) on ways for effective promotion and implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, submitted pursuant to Commission resolution 1999/66 of 28 April 1999;
2. CALLS UPON all States to promote and give effect to the Declaration;
3. REQUESTS the Secretary-General to appoint, for a period of three years, a special representative who shall report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration; the main activities of the special representative shall be:
  - (a) To seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms;

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<sup>1</sup> United Nations Commission on Human Rights document, E/CN.4/RES/2000/61.

- (b) To establish cooperation and conduct dialogue with Governments and other interested actors on the promotion and effective implementation of the Declaration;
  - (c) To recommend effective strategies better to protect human rights defenders and follow up on these recommendations;
4. URGES all Governments to cooperate with and assist the Special Representative of the Secretary-General in the performance of his or her tasks and to furnish all information in the fulfilment of his or her mandate upon request;
  5. REQUESTS the Secretary-General to provide the Special Representative with all necessary assistance, in particular the staff and resources deemed necessary to fulfil his or her mandate;
  6. REQUESTS the Special Representative to submit annual reports on his/her activities to the Commission and to the General Assembly and to make any suggestions and recommendations enabling him or her better to carry out his or her tasks and activities;
  7. DECIDES to consider this question at its fifty-seventh session under the agenda item entitled "Promotion and protection of human rights";
  8. RECOMMENDS the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 35.]

*65th meeting*

*26 April 2000*

(Adopted by a roll-call vote of 50 votes to none,  
with 3 abstentions)

# Annex VI. UNCHR Resolution 2001/64: Human Rights Defenders

## Human Rights Defenders

### Commission on Human Rights Resolution 2001/64<sup>1</sup>

THE COMMISSION ON HUMAN RIGHTS,

RECALLING General Assembly resolution 53/144 of 9 December 1998 by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, annexed to that resolution,

REITERATING the importance of this Declaration and its promotion and implementation,

EMPHASIZING the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms,

RECALLING its resolution 2000/61 of 26 April 2000,

NOTING WITH DEEP CONCERN that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

WELCOMING the appointment by the Secretary-General of a special representative to report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration,

NOTING WITH DEEP CONCERN the considerable number of communications received by the Special Representative that, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders,

WELCOMING the cooperation between the Special Representative and other special procedures of the Commission,

RECALLING that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of non-State actors pose a major threat to the security of human rights defenders,

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<sup>1</sup> United Nations Commission on Human Rights document, E/CN.4/RES/2001/64.

EMPHASIZING the need for strong and effective measures for the protection of human rights defenders,

1. CALLS UPON all States to promote and give full effect to the Declaration;
  2. WELCOMES the report of the Special Representative (E/CN.4/2001/94);
  3. URGES all Governments to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information requested;
  4. REQUESTS all concerned United Nations agencies and organizations within their mandates to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;
  5. CALLS UPON all States to take all necessary measures to ensure the protection of human rights defenders;
1. DECIDES to consider this question at its fifty-eighth session, under the same agenda item.

*77th meeting*

*25 April 2001*

(Adopted without a vote)

# Annex VII. UNCHR Resolution 2002/70: Human Rights Defenders

## Human Rights Defenders

### Commission on Human Rights Resolution 2002/70<sup>1</sup>

THE COMMISSION ON HUMAN RIGHTS,

RECALLING its resolution 53/144 of 9 December 1998 by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, annexed to that resolution,

REITERATING the importance of the Declaration and stressing the importance of its wide dissemination,

RECALLING its resolution 2001/64 of 25 April 2001,

NOTING WITH DEEP CONCERN that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

GRAVELY CONCERNED at the human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world,

RECALLING that human rights defenders are entitled to equal protection of the law, and deeply concerned about any abuse of civil or criminal proceedings against them because of their activities for the promotion and protection of human rights and fundamental freedoms,

CONCERNED at the considerable number of communications received by the Special Representative of the Secretary-General on human rights defenders that, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders and the particular consequences for women human rights defenders,

NOTING WITH DEEP CONCERN that, in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this impacts negatively on the work and safety of human rights defenders,

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<sup>1</sup> United Nations Commission on Human Rights document, E/CN.4/RES/2002/70.

EMPHASIZING the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms, including in combating impunity,

WELCOMING the cooperation between the Special Representative of the Secretary-General on human rights defenders and other special procedures of the Commission on Human Rights,

WELCOMING ALSO regional initiatives for the promotion and protection of human rights and the cooperation between international and regional mechanisms for the protection of human rights defenders, and encouraging further development in this regard,

RECALLING that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of some non-State actors pose a major threat to the security of human rights defenders,

EMPHASIZING the need for strong and effective measures for the protection of human rights defenders,

1. CALLS UPON all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms;
2. WELCOMES the reports of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2001/94, A/56/341 and E/CN.4/2002/106 and Add.1 and 2);
3. CONDEMNS all human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world, and urges States to take all appropriate action, consistent with the Declaration and all other relevant human rights instruments, to eliminate such human rights violations;
4. CALLS UPON all States to take all necessary measures to ensure the protection of human rights defenders;
5. EMPHASIZES the importance of combating impunity and in this regard urges States to take appropriate measures to address the question of impunity for threats, attacks and acts of intimidation against human rights defenders;
6. URGES all Governments to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information for the fulfilment of her mandate upon request;
7. URGES those Governments that have not yet responded to the communications transmitted to them by the Special Representative to answer without further delay;

8. INVITES Governments to consider translating the Declaration into national languages and encourages them to disseminate it widely;
9. REQUESTS all concerned United Nations agencies and organizations within their mandates to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;
10. REQUESTS the Secretary-General to provide all necessary human and financial resources for the effective fulfilment of the mandate of the Special Representative;
11. DECIDES to consider this question at its fifty-ninth session, under the same agenda item.

*56th meeting*

*25 April 2002*

(Adopted without a vote)

# **Annex VIII. UNGA Document 55/292: Human Rights Defenders – Report of the Secretary-General**

## **Human Rights Defenders Report of the Secretary-General<sup>1</sup>**

**General Assembly document 55/292**

### **I. Introduction**

1. The present report is submitted pursuant to General Assembly resolution 54/170 of 17 December 1999, in which the Assembly called upon Governments, specialized agencies and relevant intergovernmental and non-governmental organizations to submit, at the request of the Secretary-General, on the basis of Commission on Human Rights resolution 1999/66 of 28 April 1999,<sup>1</sup> proposals and ideas that should contribute substantially to further work on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.<sup>2</sup> The Assembly also called upon the Commission on Human Rights to consider at its fifty-sixth session the report to be prepared by the Secretary-General pursuant to Commission resolution 1999/66, and requested the Secretary-General to report to the Assembly at its fifty-fifth session on measures to implement the Declaration.
2. In his report to the Commission on Human Rights at its fifty-sixth session (E/CN.4/2000/95), the Secretary-General summarized the views of the Governments, specialized agencies and intergovernmental organizations on the implementation of the Declaration and presented possible ways for its implementation. These included (a) the widespread dissemination of the Declaration in order to popularize it; (b) the incorporation of monitoring its implementation into existing United Nations mandates; (c) the establishment of a new United Nations mandate to monitor its implementation; (d) the active promotion of the Declaration by the Secretary-General, the United Nations High Commissioner for Human Rights and the United Nations human rights mechanisms; and (e) the effective promotion and implementation of the Declaration by all Member States.
3. By resolution 2000/61 of 26 April 2000,<sup>3</sup> the Commission, *inter alia*, requested the Secretary-General to appoint, for a period of three years, a special representative who shall report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full

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<sup>1</sup> United Nations General Assembly document A/55/292, 11 August 2000.

compliance with the Declaration. That request was endorsed by the Economic and Social Council in its decision 2000/220 of 16 June 2000.

## **II. Role and risks of human rights defenders**

4. Article 1 of the Declaration proclaims that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels". The legislative, administrative and other steps necessary to ensure that the rights and freedoms referred to in the Declaration are effectively guaranteed should be adopted by each State. In accordance with the fourth preambular paragraph of the Declaration, human rights defenders are persons acting alone or in association with others in contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources. They may belong to different professions, be members of governmental and non-governmental institutions, including civil servants, for example, law enforcement officers or prison officials. The activities of human rights defenders concern all categories of human rights: civil, cultural, economic, political, and social. Inspired and guided by human rights standards, human rights defenders act against the serious problems that affect the life of people throughout the world, such as hunger and poverty, intolerance and discrimination, abuse of power and corruption, insecurity, conflicts and repression, injustice and deprivation of liberty. They assist victims of human rights violations. In the work of human rights defenders, the concept of prevention takes a prominent place since, though just and necessary, compensation of victims always comes too late.
5. Human rights defenders are at the core of the human rights movement the world over. They work at democratic transformation in order to increase the participation of people in the decision-making that shapes their lives. Human rights defenders contribute to the improvement of social, political and economical conditions, the reduction of social and political tensions, the building-up of a peaceful environment, domestically and internationally, and the nurturing of national and international awareness of human rights. They form the base that regional and international human rights organizations and mechanisms, including those within the United Nations, build upon in the promotion and protection of human rights.
6. For their involvement in the struggle for human rights, the defenders are often the first victims of human rights violations perpetrated by State officials or non-State entities. Violence against them ranges from the most outright attacks against life, physical integrity and personal security and dignity, to more subtle and often diffuse forms of violence such as social disqualification through the

association of human rights work with criminal activities, for example, terrorism or national treason. Legal restrictions imposed on freedom of association, assembly, information and movement are used to make human rights activities illegal. Judicial repression and physical violence are also used to hinder human rights advocacy. Human rights defenders can be the victims of harassment, threats, intimidation and restrictions on living conditions, such as loss of employment, denial of the right to work, of medical care or education for their children, loss of housing, land or citizenship. Violence also affects the relatives of human rights defenders and other persons associated with them.

7. Some human rights defenders are at greater risk because of the nature of the rights that they are seeking to protect. This is particularly true with regard to women who are human rights defenders. In many situations, women are at the front line of the struggle, not only for their own rights but also for those of their families and communities. In the midst of these struggles, many of these women are also personally at risk, for example, when they challenge the structures of societies that perpetuate discrimination against women, in particular where they relate to issues of sexuality and reproductive rights. Many women face additional discrimination because of their race, ethnicity, language, culture, religion or sexual orientation. In these circumstances, the call in the Beijing Platform for Action<sup>4</sup> for Governments to ensure the protection of women engaged in the defence of human rights is of particular importance.
8. In resolution 54/170 of 17 December, the General Assembly, noting with deep concern that, in many countries, persons and organizations engaging in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities and reiterating the importance of the Declaration, called for proposals and ideas that should contribute substantially to further work on the implementation of the Declaration. The importance of the Declaration and its promotion and implementation was also reiterated by the Commission in resolution 2000/61.
9. By resolutions 1998/3 of 20 August 1998 and 1999/3 of 20 August 1999,<sup>5</sup> the Subcommission on the Promotion and Protection of Human Rights noted with deep concern that, in many countries, in contradiction to the commitments and obligations of Governments, persons and organizations engaged in promoting and defending human rights were facing threat, harassment and insecurity. It expressed concern at the increasing number of cases brought to its attention, concerning human rights defenders who, because of their activities in favour of the recognition, promotion and defence of human rights, had been persecuted, either by being arrested, convicted or imprisoned, or by being the victims of unresolved killings, or by being suspended or prohibited from exercising their professional activities, or by threat of suppression or actual suppression of the legal personality of the organization to which they belonged.
10. In view of this situation, the Subcommission urged each State to take measures to ensure the effective respect of its obligation in the field of human rights in accordance with the provisions of international instruments, including the

Declaration, and to guarantee to individuals, groups, associations, organizations and organs of society the necessary conditions to exercise fully their activities in favour of the recognition, promotion and defence of human rights, and to ensure the security of all persons covered by the Declaration who were being persecuted because of their human rights activities.

11. In the same resolutions, the Subcommission also condemned the murders of 17 named human rights defenders. It called upon the Governments concerned to carry out thorough investigations to identify perpetrators and bring them to justice, and to ensure that crimes committed against human rights defenders do not go unpunished. It also requested the High Commissioner for Human Rights to undertake inquiries about the security of 18 other named individual human rights defenders whose life or security was deemed to be at risk and to inform the Subcommission of the results of her inquiries. The High Commissioner is providing the requested information to the Subcommission.
12. United Nations organs also express concern about continuing reports on repressive measures taken against private individuals and groups that cooperate with the United Nations in human rights matters. This is a problem closely related to human rights defenders. In resolution 2000/22 of 18 April 2000,<sup>6</sup> the Commission on Human Rights urged Governments to refrain from all acts of intimidation or reprisal against those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies; those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for that purpose; those who submit or have submitted communications under procedures established by human rights instruments; and those who are relatives of victims of human rights violations. Further, the Commission requested all representatives of United Nations human rights bodies, as well as treaty bodies to help prevent the hampering of access to United Nations human rights procedures in any way and to report on such cases to the relevant United Nations organs.
13. The technical cooperation programmes of the Office of the United Nations High Commissioner for Human Rights and other agencies in the areas relevant to human rights offer support to Governments and civil society in creating conditions for the work of human rights defenders. The adoption of national plans of action in the field of human rights, as a participatory process involving both governmental bodies and non-governmental organizations, provides a good framework for strengthening human rights advocacy. In many countries, the establishment and functioning of independent national human rights institutions significantly contributes to the same end. Projects in the area of human rights education provide another example of the assistance offered by the United Nations in line with the Declaration.
14. The Assisting Communities Together (ACT) project, implemented by the Office of the High Commissioner in cooperation with the United Nations Development Programme in more than 20 countries, launched in 1998 on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, is intended to

support practical human rights activities at the grass-roots level. This project is based on a bottom-up approach which emphasizes the role of civil society in the promotion and protection of human rights. It aims, through the provision of small grants to bona fide human rights defenders working individually or in association with others, at empowering people locally to raise human rights awareness and resolve local human rights problems. Thus, the ACT project also contributes to strengthening partnerships between United Nations and local human rights constituencies. Initially financed from voluntary contributions provided by Governments, the ACT project is now supported by the United Nations Fund for International Partnerships.

15. The Secretary-General has consistently underlined the importance of the Declaration and the need to promote its effective implementation.<sup>7</sup> He has also drawn attention to the importance of cooperation between non-governmental organizations and United Nations human rights bodies in order to advance its implementation. In particular, the Secretary-General has highlighted the important role in the campaign for the implementation of the Declaration of organizations, such as the Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organization against Torture and the International Federation of Human Rights Leagues. The High Commissioner has also consistently urged the effective implementation of the Declaration. In her speech at the opening of the fifty-sixth session of the Commission on Human Rights, the High Commissioner emphasized the compelling need to take further measures to protect human rights defenders, and stated that the human rights community was looking to the Commission to implement the Declaration with practical measures. Human rights treaty bodies, as well as such United Nations entities as the United Nations Children's Fund, have also focused on the Declaration.

### **III. Special representative for human rights defenders**

16. The Commission on Human Rights, by resolution 2000/61, requested the Secretary-General to appoint, for a period of three years, a special representative who shall report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration. In accordance with the decision of the Commission, which was endorsed by the Economic and Social Council in its decision 2000/220, the main activities of the special representative shall be:
  - (a) To seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms;
  - (b) To establish cooperation and conduct dialogue with Governments and other interested actors on the promotion and effective implementation of the Declaration;
  - (c) To recommend effective strategies better to protect human rights defenders and follow up on these recommendations.

17. The Special Representative is expected to submit annual reports on his or her activities to the Commission on Human Rights and to the General Assembly, and to make suggestions and recommendations enabling him or her better to carry out his or her tasks and activities.
18. In its resolution 2000/61, the Commission urged all Governments to cooperate with and assist the Special Representative and to furnish all information in the fulfilment of his or her mandate upon request. Further, it requested the Secretary-General to provide the Special Representative with all necessary assistance, in particular in terms of staff and resources, and requested the Special Representative to report annually on his or her activities to the Commission and the General Assembly and to make any suggestions and recommendations enabling him or her better to carry out his or her tasks and activities.
19. The establishment of the implementation mechanism for the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms is a further milestone in the international efforts made since 1948 to recognize the vital role of human rights defenders in the improvement of the situation of human rights throughout the world, and to look for ways to provide more effective international protection to them and to their activities. This will be a central international mechanism for making the rights and responsibilities of human rights defenders, as laid down in the Declaration, a reality.

# **Annex IX. Guidelines for Submission of Allegations to the Special Representative on Human Rights Defenders**

## **Submission of Allegations to the Special Representative of the Secretary-General on Human Rights Defenders**

### **Overview**

At its fifty-sixth session, the Commission on Human Rights requested the Secretary-General to appoint a Special Representative on human rights defenders (resolution 2000/61 of 26 April 2000). Ms. Hina Jilani (Pakistan) was appointed in August 2000. Her work on the mandate, which began in September 2000, is based largely on the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” (General Assembly resolution 53/144 of 9 December 1998).

The Declaration recognizes that the definition of a human rights defender must be broadly understood as encompassing also those striving for the promotion, protection and realization of social, economic and cultural rights, as well as civil and political rights. As the Special Representative, Ms. Hina Jilani, stated in her first annual report (E/CN.4/2001/94), she believes that the ambit of her mandate is broad enough to include, for example, those defending the right to a healthy environment, promoting the rights of indigenous peoples, or engaging in trade union activities. The mandate of the Special Representative of the Secretary-General on human rights defenders, as set out in Commission on Human Rights resolution 2000/61, is:

- (a) To seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms
  - (b) To establish cooperation and conduct dialogue with governments and other interested actors on the promotion and effective implementation of the Declaration; and
  - (c) To recommend strategies better to protect human rights defenders.
- Any individual, group, non-governmental organization, intergovernmental agency or government organization with reliable knowledge of human rights violations against human rights defenders is encouraged to bring the relevant information to the attention of the Special Representative in writing. The Special Representative will transmit information she considers credible and reliable to the Government concerned and request that it respond with its comments and observations.

Because of the wide range of groups and individuals that send allegations to the Special Representative, those submitting complaints are encouraged to provide information regarding their own human rights work.

While there is no formal procedure for the submission of allegations, certain details must be provided to enable the Special Representative to bring the appropriate cases

to the attention of the Governments concerned as soon as possible. The information required includes the identity of the alleged victim, the alleged violation, the perpetrator(s), and the steps, if any, taken by the authorities. Complaints must be made in writing and sent to:

**The Special Representative of the Secretary-General on Human Rights Defenders  
Office of the High Commissioner for Human Rights  
United Nations  
1211 Geneva 10, Switzerland  
FAX: (41 22) 917 90 06**

### **Guideline for submissions**

The following outline should be followed, to the extent possible, by those wishing to submit allegations of violations against human rights defenders.

#### **1. Information regarding the alleged victim**

- Full name
- Age
- Sex
- Profession or occupation
- Place of residence (or origin, if relevant to the violation suffered)
- The victim's affiliation, if any, with an organization, association or group engaged in human rights work
- Name of the organization, association or group
- Name of the person heading the organization, association or group
- Nature of human rights work the individual performs
- If the alleged violation is against an organization:
  - Name of the organization
  - Nature of the human rights work/activities it is engaged in
  - Territorial scope of its work (national, regional, international)
  - Affiliations with other human rights organizations, if any
  - Name of person(s) heading the organization

***Additional information on the history of the work the individual or organization has performed, if submitted, may be helpful in assessing the complaint/allegation.***

#### **2. Nature of the alleged violation**

All relevant information regarding the violation allegedly committed against the human rights defender, or organization, association or group, including:

- Date
- Place
- Description of the events/incident
- Nature of violation suffered or threatened

***The information must indicate the connection of the alleged violation to human rights activities performed.***

If the violation involves or includes the arrest and/or imprisonment of an individual or group of human rights defenders, information is required on :

- Identity of the authority involved (individual and/or ministry and/or department)
- Date and place of arrest
- Any circumstances under which the arrest was made that are relevant to the violation
- Nature of charges, if any, and the legal statute invoked
- Potential penalties the individual or group faces
- Place of detention, if known
- Term of detention
- Information on the provision of access to legal counsel and family members
- Steps taken to seek administrative or judicial remedy, nature of the remedy sought, legal entity before which proceedings have been taken, and stage or result of such proceedings
- If the defender is being prosecuted in the courts for any activity in defence of human rights or related activity, or as a consequence of such activity:
  - The date and location of the trial
  - The court hearing the case
  - The relevant appeal procedures
  - The penalties the group or individual faces

### **3. Perpetrator(s) of the alleged violation**

- Name(s), if known
- If they are members of the security forces, their rank, functions, the unit or service, etc. to which they belong
- If they are members of a civil defence group, paramilitary or other forces or an armed group, details on whether or how these groups relate to the State (e.g. cooperation with the State security forces, including information on chains of command, if available, State collusion with or acquiescence in their operations)

### **4. Steps taken by or on behalf of victim or organization to seek a remedy at the national level**

- All relevant information regarding:
  - Whether a complaint was filed
  - If so, when, where, by whom and before which authority

### **5. Steps taken by the concerned authorities**

- Whether or not an investigation or inquiry into the alleged violation has been initiated and/or concluded
- If so, by which authority, ministry or department of the Government
- Progress and status of the inquiry or investigation at the time of submission of the allegation
- Whether or not the investigation or inquiry has resulted in charges or other legal action
- If so, the reason why the result is unsatisfactory

- Measures, if any, taken to protect person(s) under threat

**6. The violation alleged may not be the result of one incident or event, but may be a continuing violation owing to conditions, policies, practices or laws that obstruct the promotion, protection and/or realization of human rights.**

In such cases submissions must include:

- All relevant information regarding such conditions, policies, practices or laws
- The nature of the prejudice suffered by an individual or group(s) working for the defence of human rights because of the above
- Methods used for impeding the work of human rights defenders by adopting the above
- Agencies (State, non-State) employed for harassment, intimidation and/or injury to human rights defenders because of these conditions and laws or in the course of such practices and policies
- Possible measures that can be taken to remedy the situation
- Any action taken by individuals or groups at the national level to reverse the conditions, policies and practices or for reform of the laws that are contrary to the rights recognized by the Declaration

This guideline is not final. Comments and suggestions are welcome.

*Please note in the submission if the name of the alleged victim SHOULD NOT be transmitted to the Government. Names of alleged victims will remain confidential IF REQUESTED.*

# **Annex X. OASGA Resolution 1842: Human Rights Defenders**

## **Human Rights Defenders in the Americas, Support for the Individuals, Groups and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas <sup>1</sup>**

### **General Assembly Resolution 1842 (XXXII-O/02)**

THE GENERAL ASSEMBLY,

HAVING SEEN the report presented by the Permanent Council on the topic "Human Rights Defenders in the Americas: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas," in keeping with resolution AG/RES. 1818 (XXXI-O/01);

CONSIDERING that, at its thirty-first regular session, through the aforementioned resolution AG/RES. 1818 (XXXI-O/01), it instructed the Permanent Council, to continue to examine this matter in the context of the dialogue on strengthening and enhancing the inter-American human rights system and to present a report on implementation of the resolution;

CONSIDERING FURTHER:

That, in the context of the dialogue on the functioning of the system and pursuant to the mandates contained in resolution AG/RES. 1818 (XXXI-O/01), on November 15, 2001, the Committee on Juridical and Political Affairs of the Permanent Council held a meeting at which it considered the topic;

That the participants at that meeting included not only a representative of the Inter-American Commission on Human Rights, but also the Special Representative of the UN Secretary General on the Situation of Human Rights Defenders, who gave a presentation on the treatment of this issue in her area of competence; and

That the Inter-American Commission on Human Rights (IACHR) has expressed its concern over the situation of human rights defenders in the region, and has recommended to the member states that they should take the necessary steps to protect the lives, personal safety, and freedom of expression of those who work to ensure respect for fundamental rights, in accordance with the collective commitment expressed in resolutions AG/RES. 1671 (XXIX-O/99), AG/RES. 1711 (XXX-O/00), and AG/RES. 1818 (XXXI-O/01);

BEARING IN MIND the practice of the IACHR in this area and the measures it has taken to protect the fundamental rights of defenders; and, in particular, the decision taken on December 7, 2001, by the Executive Secretary of the Commission to

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<sup>1</sup> Organization of American States General Assembly document, AG/RES. 1842 (XXXII-O/02), June 4, 2002.

establish an operational unit on human rights defenders, taking into account the mandate issued in resolution AG/RES. 1818 (XXXI-O/01);

RECALLING:

That, at the Third Summit of the Americas, held in Quebec City, Canada, the heads of state and government reiterated in the Declaration that their "commitment to full respect for human rights and fundamental freedoms is based on shared principles and convictions" and reaffirmed in that Plan of Action that they will "seek to promote and give effect to the United Nations Declaration on Human Rights Defenders"; and

That the OAS General Assembly has previously made similar statements on this subject reiterating its recommendation that the member states "grant the necessary guarantees and facilities to enable nongovernmental human rights organizations to continue contributing to the promotion and protection of human rights, and that they respect the freedom and safety of the members of such organizations";

RECOGNIZING the important work, at both the national and regional levels, of human rights defenders in the Americas, as well as their valuable contribution to the protection and promotion of fundamental rights and freedoms;

CONCERNED over the persistence in the Americas of actions that directly or indirectly prevent or hamper the work of individuals, groups, or organizations working to promote and protect fundamental rights; and

AWARE of the need to promote respect for the essential aims, principles, and standards set forth in inter-American and international instruments on this matter,

RESOLVES:

1. To reiterate its support for the work carried out, at both the national and regional levels, by human rights defenders; and to recognize their valuable contribution to the protection, promotion, and observance of human rights and fundamental freedoms in the Hemisphere.
2. To condemn actions that directly or indirectly prevent or hamper the work of human rights defenders in the Americas.
3. To urge member states to step up their efforts to adopt the necessary measures, in keeping with their domestic law and with internationally accepted principles and standards, to safeguard the lives, personal safety, and freedom of expression of human rights defenders.
4. To invite member states to publicize and enforce the instruments of the inter-American system and the decisions of its bodies on this matter, as well as the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.

5. To invite the Inter-American Commission on Human Rights to continue to pay due attention to the situation of human rights defenders in the Americas and to consider, *inter alia*, preparing a comprehensive study on the matter and to give due consideration to this situation at the level it may judge appropriate.
6. To continue the dialogue and cooperation with the United Nations, in particular with the office of the Special Representative of the UN Secretary-General to Report on the Situation of Human Rights Defenders, through the Inter-American Commission on Human Rights and the Permanent Council.
7. To instruct the Permanent Council to follow up on this resolution and to report on its implementation to the General Assembly at its thirty-third regular session.
8. To direct that the mandates in this resolution be executed in accordance with the resources allocated in the program-budget and other resources.

# **ANNEX XI. OAS Press Release No. 32/01: The Executive Secretariat creates a Unit for Human Rights Defenders**

**OAS Press Release  
No. 32/01**

## **The Executive Secretariat creates Unit for Human Rights Defenders<sup>1</sup>**

The Executive Secretary of the Inter-American Commission on Human Rights (IACHR), Dr. Santiago A. Canton, decided to create a Human Rights Defenders Functional Unit within the Office of the Executive Secretary to coordinate the activities of the Executive Secretariat in this field.

The Unit's main function will be to receive information regarding the situation of human rights defenders in the Hemisphere, keep in touch with nongovernmental and governmental organizations, and coordinate the work of the Executive Secretariat with regard to human rights defenders in the Americas.

This initiative takes into account resolution AG/RES. 1818 (XXXI-O/01), adopted by the General Assembly of the OAS at its thirty-first regular session, which requests the Inter-American Commission on Human Rights to continue to pay due attention to the situation of human rights defenders in the Americas and to consider preparing a comprehensive study in this area, which, *inter alia*, describes their work, for study by the pertinent political authorities.

The Executive Secretary said this was an important step to protect the rights of those whose fundamental mission it is to defend the human rights of all human beings disinterestedly, risking their own lives and safety in the process.

Any communication may be sent to IACHR headquarters or by e-mail to [CIDHDefensores@oas.org](mailto:CIDHDefensores@oas.org)

Washington, D.C., December 7, 2001

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<sup>1</sup> Organization of American States document, 32/01, 7 December 2001.