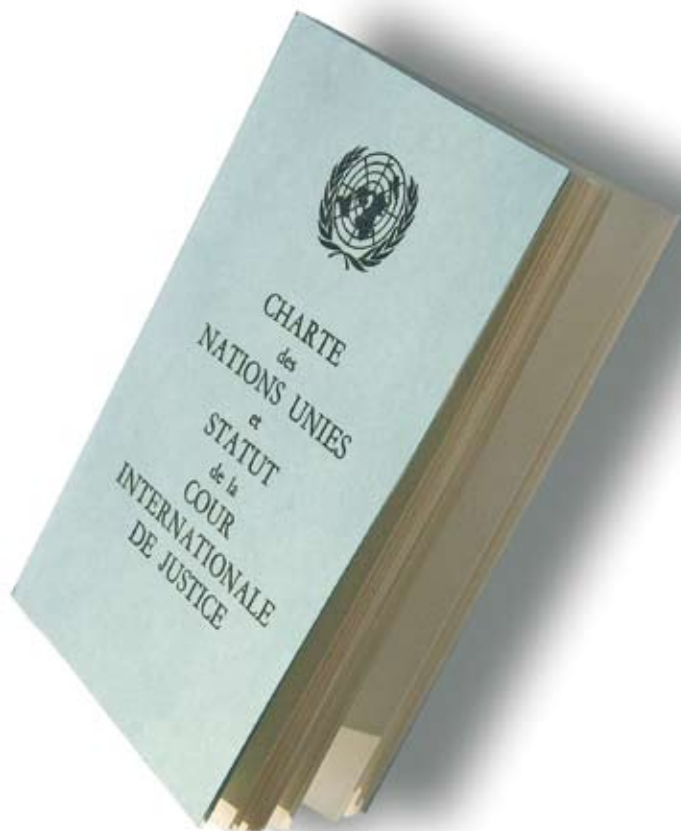




Schweizerische Eidgenossenschaft
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Federal Department of
Foreign Affairs FDFA

ABC of Human Rights



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Introduction

Seldom in the history of humankind have human rights been given as much public attention as in the present age. In political parlance the concept of “human rights” includes all the freedoms the individual can claim on the sole basis of his or her humanity, rights which are safeguarded by society on ethical grounds. Human rights are rights that people are born with and to which everyone has have equal entitlement regardless of gender, ethnic origin or beliefs. They are an essential principle in the organisation of modern society, and the very basis of peaceful cohabitation at the national and international levels, in the community and in the family.

Despite this it is often not clear what exactly is meant by these rights and what they include. In political debate, this issue has been a cause of controversy. The uncertainties include:

- The legal nature of human rights:
Are they indeed rights or simply appeals or merely programmes? What human rights actually exist and are recognised as such? Is a healthy environment a human right? Access to clean drinking water? What about the right to food? Are these simply programmed obligations of States, or are they directly binding once enshrined in international conventions? Then there is the question of new human rights (ecological human rights, animal and natural rights, the rights of future generations).
- The addressee of human rights:
Are these to be claimed in the classical way from the State (right to defence, protection, entitlement to benefits), or are they rights which people owe to one another?
- The holder of human rights:
Are human rights the rights of individuals or do they also extend to

collective entities such as minorities or even whole nations (this is important for enforcement by a court, for example for establishing the legitimacy of complaints by non-governmental organisations and for trade unions on the issue of social rights)?

- The implementation of human rights:
How are they to be implemented in individual cases in real life? Who monitors compliance and ensures implementation? What are the most typical human rights violations and what sanctions are provided?
- The relationship between human rights and duties:
As well as fundamental rights and human rights are there also fundamental duties? Can a State demand a priori the fulfilment of these fundamental duties, before guaranteeing its citizens their fundamental rights and freedoms?
- Applicability:
Are human rights of a universal nature, or are they essentially based on Western values that are not readily transferable to other societies? Can States governed in accordance with the principles of Islam or Confucius justly claim the right to interpretations based on their own cultural values, even when internationally recognised human rights claim to have universal validity, applicable in the same way to all humankind? What are the likely consequences of this relativistic approach?

Another matter is the question of demarcation: the protection of human rights at the international level – i.e. the area of international law which focuses on protection of the individual – is closely linked to international humanitarian law as well as to International Refugee Law.

These three areas, which indeed overlap, need to be systematically separated from one another. International Humanitarian Law, in particular the four Geneva Conventions of 1949 together with the Additional Protocols of 1977, in principle applies only in situations of armed conflict. It defines the norms applicable to international and internal armed

conflicts, so as to protect both combatants and civilians from abuses. International refugee law, for example the Geneva Refugee Convention of 1951 together with the 1967 Protocol, only applies to persons recognised as refugees, and to a lesser extent to asylum seekers. Human rights on the other hand, as understood today, apply to all human beings at all times.

The purpose of this brochure is to help create a better understanding of human rights. Part 1 outlines the most important principles of international law for the protection of human rights. With the help of examples from history, it identifies questions that remain open and provides information on the involvement of Switzerland. Part 2 is a glossary of essential terminology. The Annex contains the Universal Declaration of Human Rights, which was adopted on 10 December 1948 by the United Nations General Assembly.



It is always the weaker who look for justice and equality.
The stronger aren't concerned.

Aristoteles (384–322 B.C.)

Part I

1. Human rights – a “work in progress”

The concept of human rights is the result of a long and continuing process of development that has not yet reached its conclusion. It has its roots in the philosophy of the ancient Greeks and in the religious concept that “all men are equal in the eyes of God”. Together with the secular tradition of natural rights – human rights have their roots in human nature and the inherent dignity of humanity – the concept of human rights has progressively developed as an ethical standard through the ages.

From rights of the few to the rights of all

The concept eventually underwent political development in State constitutions, which originally granted only (mainly male) citizens rights and later and to some extent – in the French Declaration of the Rights of Man and of the Citizen of 1789 – to all people. Initially among the most important were the civil and political freedoms enshrined in national modern constitutions and catalogues of fundamental rights: the classical “human rights of the first generation”.

In the course of the 19th century the lamentable living and working conditions of broad sections of the population led to carefully formulated demands for economic, social and cultural rights, known as the “second generation” of human rights. In a third step the universal validity of these rights was established within the framework of the United Nations by the human rights instruments of International Law.

In 1945 the United Nations was founded as the first universal political organisation to be devoted, in the words of the Charter of 26 June 1945, to the promotion of the fundamental rights of humankind and to

the dignity and value of each human being. States were no longer free to take the view that they could treat their own citizens as they liked by invoking the principles of sovereignty and non-interference in the internal affairs of other States. It took the totalitarian and criminal nature of National Socialism and the horrors of the Second World War to change people's minds and convince them that limitations must be placed on State sovereignty, both for the protection of individuals and of the community of nations.

2. Global and regional protection of human rights

Today, there are both global and regional instruments for the protection of human rights which help to establish their universal validity.

At the global level human rights are being developed in the framework of the United Nations. This intent was made clear from the beginning in the Charter of 1945 which speaks of "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (Art. 1 Par. 3).

The first step towards achievement of this goal was the Universal Declaration of Human Rights (UDHR) of 1948 (> *Annex*). As well as a catalogue of classical rights to freedom and equality together with certain procedural guarantees (Arts. 8, 10 and 11) it contains a number of fundamental social rights such as the right to social security (Art. 22) and the right to work (Art. 23). Article 29 speaks of the individual's responsibilities towards the community in which he or she lives, i.e. evoking the existence of certain "fundamental duties".

From word to deed, a difficult process

The UDHR has been successful as the formulation of a human rights programme to serve as a yardstick by which to measure future devel-

opments in international law. As a Declaration however it has no legal force. The practical implementation of this programme, i.e. the drafting of human rights instruments that are binding in international law, has proven to be an extremely difficult and time-consuming process. It was not until 1966 that the UN General Assembly adopted two binding agreements on human rights:

- The International Covenant on Civil and Political Rights (ICCPR).
- The International Covenant on Economic, Social and Cultural Rights (ICESCR).

Both came into force in 1976.

Whereas the ICCPR contains all the classical civil rights and liberties of individuals, the ICESCR focuses mainly on social human rights. Although the original idea was to include both social and civil rights in a general convention, as a comprehensive codification of human rights, the East-West conflict resulted in their being split into two separate “covenants” as a compromise, one concentrating on social rights to please the States of the former Socialist bloc, and the other focusing on civil rights in line with the freedoms cherished by the Western Atlantic States.

Indivisible and universal

Ever since the outcome document of the World Conference on Human Rights in Vienna in 1993, which strengthened the view of human rights as “indivisible and universal”, social rights in particular have become increasingly important in political discussions. Today it is acknowledged that the implementation of civil and political rights goes hand in hand with the guarantee of economic, social und cultural rights.

In the UN System the “International Bill of Rights”, consisting of three essential documents – the UDHR, the ICCPR and the ICESCR – has been complemented by additional international human rights conventions and protocols, as follows:

- The International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 (ICERD).
- The Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 (CEDAW).
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (CAT).
- The Convention on the Rights of the Child of 20 November 1989 (CRC).
- The International Convention on the Protection of the Rights of All Migrant Workers of 1 July 2003 (ICRMW).

Together they form the bedrock of international efforts to protect human rights.



I do not distinguish among men, as the narrow-minded do, both among Greeks and Barbarians. I am not interested in the descentance of the citizens or their racial origins. (...) For me every virtuous foreigner is a Greek and every evil Greek worse than a Barbarian.

Alexander the Great (356–323 B.C.)

Continual development

In addition to the above-mentioned conventions there are many other international treaties and declarations designed to ensure the protection of human rights around the world, which define individual human rights more precisely or aim to protect groups of people who are particularly at risk. Examples include the conventions of the International Labour Organization (ILO), the Geneva Refugee Convention of 1951 and the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. The Convention on the Rights of Persons with Disabilities is the most recent to have entered into force, while the Convention for the Protection of All Persons from Enforced Disappearance is the next in line.

Following the end of the Cold War, and in particular since the Vienna World Conference on Human Rights, ratifications have increased noticeably. Today 81 per cent of United Nations member states have ratified four or more of the seven most important UN human rights conventions. These and other treaties have helped to create the basis for a generalised understanding of human rights at the international level and a lasting, global awareness of fundamental human rights.

Further adding to the global protection of human rights in the framework of the UN, there are a number of human rights conventions at the regional level:

- The European Convention on Human Rights (ECHR), which is modelled on the UDHR, was adopted in 1950 by the Council of Europe. It also contains a catalogue of the most important civil rights and liberties and requires the States Parties to guarantee these rights to all persons living under their sovereignty. Ratification of the ECHR is mandatory for all members of the Council of Europe (currently 47). The ECHR also has a number of Additional Protocols.
- The European Social Charter of 1961 is intended to safeguard economic, social and cultural rights that are not covered by the ECHR and

is thus the European equivalent to the ICESCR. The Social Charter has the following two aims: it safeguards a number of important basic social and economic rights (labour law norms, trade union rights, protection of employees, provisions concerning vocational training) and it promotes the development of a genuine social policy in Europe.

- The Charter of Fundamental Rights of the European Union of the year 2000 contains many civil, political and social rights and no longer makes a distinction between these two “generations”. The application of the Charter of Fundamental Rights is principally limited however to the organs and institutions of the EU.

Pioneering role of the OSCE

A considerable boost to achieving respect for and protection of human rights in Europe was given by the Conference for Security and Co-operation in Europe (CSCE), which was created in 1975 and replaced in 1995 by the Organization for Security and Co-operation in Europe (OSCE). A permanent feature of the security concept of the OSCE in the 56 member States is the promotion of human rights and the establishment of stable democratic and constitutional structures, in addition to the military, political and diplomatic aspects of conflict prevention.

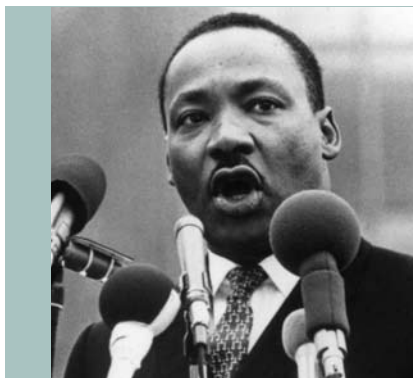
OSCE documents do not directly create norms of international law, being rather politically obliging. They therefore do not require ratification by the national parliaments of OSCE member States. In certain areas, such as the protection of minorities, the obligations go beyond the current requirements of international law, giving the OSCE a pioneering role.

Regional variations

Outside Europe the American Convention on Human Rights and the African Charter on Human and Peoples’ Rights (“Banjul Charter”) are particularly worth mentioning.

The American Convention on Human Rights focuses mainly on civil and political rights. Social rights are dealt with in an additional protocol. The Inter-American Commission on Human Rights and the Inter-American Court on Human Rights see to it that the rights are attained.

The Banjul Charter goes a step further still and as well as a comprehensive catalogue of individual rights also contains a number of collective rights. These include the rights of peoples to self-determination and their right to freely dispose of their own wealth and natural resources, the right to economic, social and cultural development and to a satisfactory environment that is favourable to development. An Additional Protocol that came into force in 2004 called for the creation of an African human rights court to work in tandem with the African Commission on Human and Peoples' Rights.



I have a dream that one day on the red hills of Georgia the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.

Martin Luther King (1929–1968)

3. Human rights put to the test

Recognising human rights is one thing, putting them into practice is another. Various control and implementation mechanisms are needed to strengthen human rights and ensure compliance. This can be accomplished with the help of legal, diplomatic, political and civil society instruments.

Legal implementation instruments

The States Parties are primarily responsible for making the human rights guaranteed in the various conventions a reality, i.e. implementation is above all the responsibility of the national courts and authorities. However, since these mechanisms do not always function – for example due to lack of the necessary legislative and judicial structures and authorities, or in the case of some States because their “obligation“ is merely verbal – all human rights conventions make provision for international implementation mechanisms:

- UN conventions require States to submit regular State reports on the situation with regard to human rights on their territory. These reports are checked by a convention-specific monitoring (treaty) body. The reporting system in any case takes the form of a diplomatic rather than a judicial procedure whose purpose is to oblige States to acknowledge their accountability with regard to questions of human rights and to engage in dialogue with the treaty body.
A number of the conventions of the Council of Europe also require regular reporting by the States, for example the Framework Convention for the Protection of National Minorities and the Convention against Trafficking in Human Beings.
- Various human rights conventions include provisions allowing victims of human rights violations to lodge an individual complaint against the State before an international body once they have exhausted all of the national channels of appeal. Whereas in the case of the ECHR this right of appeal is automatic, in other cases the State concerned must

have recognised the international body's competence for dealing with such a complaint. Such procedures end with a decision of the committee on whether or not any of the rights of the petitioner of the relevant convention have actually been violated. Such decisions, with the exception of decisions of the European Court of Human Rights (ECHR), although not binding on the States concerned, are nonetheless accepted in many cases.

- Numerous conventions provide for a so-called “State-to-State complaint”, allowing a State to lodge an official complaint against another State Party for human rights violations. This involves a procedure which serves only for mediation or conciliation, without the possibility of a binding decision in the case of failure. To date no use has been made of this procedure, since it would be likely to create foreign policy problems for the State that lodged the complaint.

International criminal tribunals have a special role to play. Their job is to prosecute, try, and punish those responsible for the most serious human rights violations such as genocide, war crimes and crimes against humanity.

The international *ad hoc* tribunals (e.g. the International Criminal Tribunals for the former Yugoslavia and for Rwanda, or the Special Court for Sierra Leone) were established for the prosecution of the most serious crimes committed in the context of clearly defined conflicts. The jurisdiction of these courts is therefore limited in space and time. This contrasts with the International Criminal Court (ICC) in The Hague, a permanent institution with universal scope created by the Rome Statute. Its jurisdiction is limited however: the State on whose territory criminal acts have been committed, or the State whose citizens have committed such crimes, must be a State Party to the Rome Statute. The jurisdiction of the ICC is subsidiary to those of national authorities. It only comes into play when national authorities are unwilling or unable to carry out criminal proceedings (principle of complementarity).

Diplomatic-political bodies

In addition to legal instruments for the implementation of human rights there are diplomatic-political instruments. These include the UN Human Rights Council (HRC) and the Office of the UN High Commissioner for Human Rights (OHCHR), and the Council of Europe, which has its own Commissioner for Human Rights.

The main activities of the Human Rights Council, which is based in Geneva, include the codification of human rights, decisions regarding responses to human rights violations, and its function as an international forum for human rights questions. It schedules three sessions per year with a total duration of no less than ten weeks. In the event of a human rights emergency, extraordinary sessions can be called at short notice. The Human Rights Council has 47 members and reports directly to the UN General Assembly.

The Office of the UN High Commissioner for Human Rights (OHCHR) was set up in 1994. Although its responsibilities for the promotion and protection of human rights are many, the OHCHR has no executive powers. The High Commissioner is designated as “the highest officer with responsibility for the human rights activities of the United Nations“, acting under the directives and authority of the UN Secretary-General.

The Council of Europe created the Office of the Commissioner for Human Rights as a non-judicial institution in 1999 for the purpose of promoting human rights and fundamental freedoms in the 47 member States. The Commissioner organises seminars and conferences and monitors the human rights situation in each member State. He or she can make recommendations but does not have the power to impose sanctions.

Civil society control factor

The advance of globalisation is leading to the development of a “global civil society”. NGOs today are an important factor for the control and implementation of international human rights conventions.

4. New problems call for new solutions

Globalisation and the increasing importance of the private sector in the world today call for new approaches and solutions to the problems created by this development. Such approaches and solutions must be based on the classical doctrine of International Law which stipulates that responsibility for the promotion and protection of human rights lies with States and the international community.

Dangers to human rights posed by the private sector

Human rights are not only endangered by autocratic and authoritarian States but can also be threatened by the actions of private entities. This is particularly true in countries that are either in a process of disintegration or in an early stage of development and whose State structures are either weakened or even entirely inoperative.

Since these “fragile States” are frequently not able to ensure their own security and stability, tasks which were once the exclusive prerogative of the State – due to the monopoly of the State on the use of force – are increasingly being carried out by private firms. The privatisation of such activities brings with it a number of problems, in particular concerning respect for human rights by these companies and their employees.

No free pass for the private sector

The private sector is also responsible for compliance with human rights norms. Globalisation is leading to a gradual weakening of the role of the State to the benefit of private-sector actors which are themselves tak-

ing on new tasks often reserved in the past for governments. Reports continue to reveal cases of companies taking advantage of situations where they exploit the low level of social standards in developing countries and in those in phases of political and economic transition. Some companies, however, in particular the bigger corporations that are more exposed to the pressure of public opinion, are aware of the negative long-term impact of short-term thinking and acting, and are also becoming increasingly willing to accept social responsibilities.



Freedom is always the freedom of dissenters.

Rosa Luxemburg (1871–1919)

5. Tradition and self-interest: Switzerland's commitments

Respect for human rights is an indispensable prerequisite for a stable and peaceful world. Switzerland's commitment to this point of view is a longstanding tradition, which at the same time serves to safeguard the nation's interests. Switzerland's human rights policy emphasises certain basic rights and the rights of particularly vulnerable persons:

- The protection and promotion of fundamental human rights:
Switzerland is committed in particular to efforts to combat torture and racial discrimination as well as to the abolition of the death penalty. It is also committed to the right to water and the right to property.
- The protection of particularly vulnerable groups:
Such groups include minorities, children, women, human rights defenders as well as persons in detention.
- Business and human rights:
Switzerland is active in raising awareness among corporations of their social responsibilities and of integrating human rights in economic activities.

Switzerland's initiatives are based on the provisions of international conventions. It acts on behalf of victims of violence, and does so regardless of their nationality and the political, economic and social situation in their country of origin. Through dialogue and the dissemination of a general culture of human rights, it is trying to establish the universal nature of these rights. Switzerland is committed to their concrete implementation in the framework of a human rights based foreign policy, as well as through civilian peace promotion, humanitarian policy, migration policy and development cooperation.

Switzerland's human rights policy makes use of a number of instruments: for example human rights dialogue with individual countries, and co-ordinated action within the United Nations, the Council of Europe and the OSCE. This policy is carried out in partnership with civil society, academia, business and the armed forces.



To deny an individual his human rights is to show contempt for his humanity.

*Nelson Mandela (*1918)*

Part II: Glossary

B

Ban on discrimination

No one is to be subjected to discrimination on the grounds of race, gender, skin colour, language, religion, political or other views, national or social origin, assets or any similar criteria.

Ban on torture

Torture and other cruel, inhuman or degrading treatment or punishment are at all times and in all circumstances prohibited by customary international law as well as by various international treaties such as the > *Convention against Torture*. The Additional Protocol to the Convention against Torture of 2002 strengthens efforts to prevent torture through visits and controls by international and national bodies to prisons and other detention facilities.

Torture carried out in the course of armed conflicts is treated as a war crime, and in the context of prolonged or systematic offences against civilian populations as a crime against humanity.

C

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

Adopted in 1984 and entered into force in 1987, 145 States Parties (status 2008). The competent treaty body is the UN Committee against Torture. The States Parties undertake to adopt measures to prevent the use of torture on their own territory, to prosecute or extradite persons who have committed torture, and not to extradite any person to a country in which they may be subject to torture (> *Non-refoulement*).

Convention for the Protection of All Persons from Enforced Disappearance

Adopted in 2006, opened for signature on 6 February 2007. The Convention will come into force once it has been ratified by a minimum of 20 States. Competent treaty body once the Convention takes effect: UN Committee on Enforced Disappearance. The States Parties undertake to investigate the enforced disappearance of persons and to bring those responsible to justice.

Convention on the Elimination of All Forms of Discrimination against Women

Adopted in 1979, came into force in 1981, 185 States Parties (status 2008). Competent treaty body: UN Committee on the Elimination of Discrimination against Women. The States Parties undertake inter alia to adopt the measures necessary to achieve legal and actual equality between men and women and to ensure the full development and advancement of women. An Optional Protocol enables member states to recognise an individual complaints procedure.

Convention on the Elimination of All Forms of Racial Discrimination

Adopted in 1965, came into force 1969, 173 States Parties (Stand 2008). Competent treaty body: UN Committee on the Elimination of Racial Discrimination. The States Parties undertake to ensure that all citizens have the right to equality before the law, to ensure effective protection against racist treatment and to combat prejudice through teaching, upbringing, culture and information.

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Adopted in 1990, came into force in 2003, 37 States Parties (status 2008). Competent treaty body: UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Convention expressly formulates the rights of migrant workers and their families. It is valid for the entire duration of the period of migration: preparation, departure, in transit, entire period of stay and of remunerated activity in the State of employment, return to the State of origin or to the State of usual residence. While most of the rights concern the State of employment, some of the obligations concern the State of origin.

Convention on the Rights of the Child

Adopted in 1989 and entered into force in 1990, 193 States Parties (status 2008). Competent treaty body: UN Committee on the Rights of the Child. The Convention on the Rights of the Child is the most widely accepted of all UN treaties. Only the USA and Somalia have not ratified this Convention.

The Convention enjoins all member states to give precedence to all measures that concern the well-being of children. The Convention is complemented by two Optional Protocols: one provides protection against the sale of children, child prostitution and child pornography, and the other against the involvement of children in armed conflicts.

Convention on the Rights of Persons with Disabilities

Adopted in 2006, and after ratification by 20 States entered into force in May 2008. Competent treaty body: UN Committee on the Rights of Persons with Disabilities. The Convention requires the States Parties to prevent discrimination on the basis of disability and to ensure that those with disabilities have legal recourse against discrimination.

Council of Europe

The Council of Europe is an International organisation whose main purpose is to protect > *Human rights*, the rule of law and democracy; to foster Europe's cultural identity; to seek solutions to social problems such as xenophobia, drug abuse, AIDS, or bioethics; and to assist in the institutional reform of the States of Central and Eastern Europe. The Council of Europe has 47 member States (2008). It produces treaties and agreements, which provide the basis for amendment of laws in member States. One of the greatest achievements of the Council of Europe is the > *European Convention on Human Rights* (ECHR), which makes it possible for ordinary individuals to submit applications to the > *European Court of Human Rights* in Strasbourg. Switzerland is a member of the Council of Europe, and has ratified the ECHR. The Council of Europe is not to be confused with the European Union (EU). The two are entirely separate and distinct bodies. All 27 EU member States are however also members of the Council of Europe.

Declaration

Synonyms: statement, decision.

Declarations spell out the agreed standards. Such standards, for example the > *Right to development*, although not binding can often have a significant influence.

Derogation

In a major emergency, notably in war, States are often no longer able to fulfil their human rights obligations. The question of deviating from legal norms (derogation) is taken into account in the so-called derogation or emergency clauses of international human rights conventions. Derogation measures are permissible only in accordance with strict prerequisites. These notably include the following:

- The existence of an actual or an imminent threat of an emergency situation that concerns the nation as a whole and which threatens the continuation of organised life;
- Respect for the principle of proportionality: derogation measures are only allowed when the permissible restrictions on human rights (> *Limitations on human rights*) are not sufficient to keep the prevailing situation under control;
- Respect for the > *Ban on discrimination*: derogation measures must not be allowed to affect only members of certain ethnic groups, religions or a particular gender;
- There must be no violation of rights that are guaranteed even in states of emergency, i.e. so-called absolute rights: derogation clauses always make it clear that certain human rights remain guaranteed even in emergencies.

Absolute rights are variously described in individual human rights conventions. For example the > *European Human Rights Convention* mentions among others the > *Right to life*, the > *Ban on torture* and freedom from slavery and servitude (> *Trafficking in human beings/ban on slavery*) as absolute rights. The International Covenant on Civil and Political Rights (> *International Covenant*) adds to this a ban on retroactive criminal laws and > *Freedom of thought, conscience and religion*.

Development cooperation

Development is inseparable from > *Human rights*. There can be no sustainable development without respect for human rights, and vice versa. Economic and social development can only be sustainable given suitable legal and political conditions. Good governance (> *Governance*) and respect for human rights are essential ingredients. The > *United Nations* together with various donor countries has formulated principles for a “human rights based approach to development”:



The idea of human rights is the unstoppable force of the modern world. It is part of the future. The extent to which human rights are respected is the only yardstick by which progress in world can be measured.

*Hans-Dietrich Genscher (*1927)*

- All activities that take place in the framework of development cooperation must guarantee respect for human rights.
- The planning and implementation of programmes must be based on human rights standards.
- Development cooperation should help to strengthen not just the States responsible for the implementation of human rights but also the individuals and groups whom it is intended to benefit.

Economic and social rights

Economic, social and cultural rights are defined in the > *International Covenant on Economic, Social and Cultural Rights* of 1966, which came into force in Switzerland on 18 September 1992. In many cases economic, social and cultural rights are less binding than civil and political rights (> *International Covenant on Civil and Political Rights*) because they are not concrete enough to be dealt with in a court procedure (lack of justiciability). States must nonetheless guarantee these rights to all and pursue an active policy of implementation (programmatic dimension).

Economic and social rights are at present the human rights most in need of further development.

Enforced disappearances

The concept of “enforced disappearance” refers to cases in which people are apprehended or abducted by agents of the State, their detention is not acknowledged and the fate and/or the place of detention of persons who have been abducted is kept secret. The persons concerned thus lose all legal protection.

No conflict and no national security considerations can justify enforced disappearances. Although the > *Convention for the Protection of All Persons from Enforced Disappearance* was adopted in 2006 it has not yet come into force (status 2008). > *International humanitarian law* nonetheless contains provisions on the enforced disappearance of persons following an armed conflict. In particular, their next of kin have the right to know what has happened to them.

European Convention on Human Rights

On 4 November 1950 in Rome the > *Council of Europe* adopted the European Convention on Human Rights (ECHR), which came into force on 3 September 1953 after ratification by 10 States. Modelled on the > *Universal Declaration of Human Rights*, the ECHR contains a catalogue of the most important civil rights and liberties such as the right to life, the right to liberty and personal security, and the right to freedom of expression.

It requires the 47 States Parties (status 2008) to guarantee these rights to all persons under their jurisdiction. The ECHR has 14 Additional Protocols, some involving substantive law, others procedural rules.

The purpose of the individual, as well as the State-to-State complaint procedure is to ensure that obligations are adhered to. The European Convention was the first to grant individuals who feel that their rights

have been violated by the authorities the right to take their case before an international court – the > *European Court of Human Rights* in Strasbourg – whose decisions are binding on the States concerned.

European Court of Human Rights

The > *European Convention on Human Rights* (ECHR) recognises the right of each individual to make a complaint to the European Court of Human Rights (ECtHR) in Strasbourg against a violation of the Convention and/or its Additional Protocols by one of the States Parties. The Court is made up of full-time judges and is divided into four sections. Depending on its importance, a case may go before the Grand Chamber (17 judges), one of the ordinary Chambers (7 judges) or a Committee (3 judges). At present the Court has a total of 47 judges, corresponding to the number of Contracting Parties.

As well as complaints from individuals, the ECHR system also admits complaints from States. Such complaints, which are indeed rare, can take on considerable political importance. The rulings of the Court are binding.

Freedom of expression, assembly and association

Freedom of expression (including the right to information), assembly and association are essential conditions for implementation of the other human rights, and the cornerstone of a pluralistic and democratic society. In certain conditions however, and in accordance with specified procedures, these three freedoms can be legally restricted (> *Limitations on human rights*). This possibility is often abused however, notably when States restrict freedoms in ways that are out of all proportion to the circumstances.

Freedom of thought, conscience and religion

Everyone is free to think and believe as he or she wishes and has the right to his or her own political convictions, ideology and religion. This may be freely expressed in doctrine, religious ceremonies and other forms of spiritual worship, which the individual is also free to change, just as he or she is free to have no conviction or belief at all. Freedom of thought is one of the foundations of a democratic society and also part of its constituent pluralism. These rights may in no way be restricted in the private sphere. Only public or collective expressions of thought or belief may in certain circumstances be restricted by the State (> *Derogation*, > *Limitations on human rights*). Religious freedom is enshrined in the > *International Covenant on Civil and Political Rights*.

Geneva Conventions

At the end of the Second World War the rules for the protection of non-combatants and individuals who are not, or no longer, participating in armed conflicts were strengthened. These rules apply mainly to civilians, the wounded, the sick, the shipwrecked, and to prisoners of war. The four Geneva Conventions of 1949 and the two Additional Protocols of 1977 form the core of > *International humanitarian law*. As both a State Party to and Depositary of the Geneva Conventions and its Additional Protocols, Switzerland exercises special duties.

> “International Humanitarian Law” brochure (published by the Swiss Federal Department of Foreign Affairs/FDFA).

Governance

Human rights are closely linked to the legal and political conditions in a State (“Governance”). In this context the following are particularly important:

- Political decision-making should be a transparent and participative process, with a view to the efficient use of public resources;
- There should be a clear assignment of responsibilities (“accountability”) and the performance of the duties of the State based on integrity;
- Public services should be effective and take into consideration the needs of marginalised segments of the population;
- The legal system must be independent, professional and accessible, and provide recognised due process of law, conditions for development consistent with a market economy, and ensure the accountability of private and public sector actors;
- There must be political control by an informed public opinion.

All of the above are relevant to > *Human rights*. Civil and political rights for example are the basis of all constitutional states and are indispensable for transparent and participative decision-making and control of the executive by means of pluralistic opinion forming.

Today, human rights are both a goal and an instrument for efficient > *Development cooperation*. Human rights conventions acquire their legitimacy due to the fact that they form the binding but freely adopted legal basis for the involvement of donor and recipient countries in improving the political and legal framework conditions and for combating poverty (> *Poverty*).

Human, civil and fundamental rights

Human rights are those that belong to everyone as a member of the human race, regardless of skin colour, nationality, political convictions or religious persuasion, social standing, gender or age. According to the concept of natural law fundamental human rights are inherent rather than conferred by the State, which is to say their existence is not dependent on any guarantees that might exist in a national constitution. It follows therefore that every State that adopts a constitution or amends

an existing constitution is bound by human rights. The concept of human rights thus implies rights that belong to everyone in accordance with natural law with which people are born and which as natural rights are absolute and inalienable. They cannot be denied or withdrawn by the State, nor can the individual renounce them either freely or under duress. They denote the inherent worth and dignity of the human being. Holders of human rights can therefore only be individuals, at all times.

This definition of human rights contrasts with the concept of civil rights: As early as 1789 in the French Declaration of the Rights of Man and of the Citizen, a distinction was made between “droits de l’homme” (human rights) and “droits du citoyen” (civil rights). Civil rights – and above all political rights – only apply in most cases to the citizens of the State in question.

Fundamental rights are the basic provisions concerning the legal status of the individual, which on the basis of the constitutional order, have direct and peremptory authority on the activities of the State. It follows therefore that fundamental rights include both human and civil rights. Fundamental rights also include civil liberties, i.e. the rights of the individual to a given sphere in which the State cannot interfere. Civil liberties are intended to protect the individual from the encroachment of the State. While it is true that most civil liberties can be considered human rights, the real distinction is that they are the rights of individual with regard to the State, guaranteed by the constitution.

Human rights dialogue

Human rights dialogue refers to official discussions on human rights questions with specific countries. They are long-term projects designed to support the States concerned in a process of reform. Specifically these government-level discussions focus on such core human rights issues as the death penalty, torture, religious freedom. Dialogue is



No man is good enough to govern another man
without that other's consent.

Abraham Lincoln (1809–1865)

based on the recognition by both States that the implementation of human rights is an essential prerequisite for the proper functioning of the State and of society.

The purpose of a human rights dialogue is to:

- improve the human rights situation in the medium to long term;
- obtain the release of non-violent political prisoners;
- promote cooperation with the > *United Nations*;
- strengthen civil society.

It is important that both partners in the dialogue accept human rights as a matter of common concern, requiring implementation in the everyday world. The dialogue is subject to periodic evaluation. In the absence of positive results a dialogue can be broken off or suspended.

Switzerland is currently (2008) engaged in human rights dialogues with China, Iran and Vietnam.

Human Rights Council

The task of the UN Human Rights Council, which has its headquarters in Geneva, is to promote and protect human rights. It serves as a forum in which a culture of respect, mutual understanding and dialogue is practised. It differs from its predecessor, the UN Commission on Human Rights (1946-2006), as a result of the following changes:

- The UN Human Rights Council reports directly to the UN General Assembly;
- It meets at least three times a year for a minimum of 10 weeks. At the request of one third or more of the members additional special sessions can be called;
- It has been provided with a mechanism to ensure monitoring of the performance of all States with regard to their human rights obligations on a regular basis (“Universal Periodic Review”);
- Its 47 members are elected by the UN General Assembly on the basis of an absolute majority for a period of three years. A member that has completed two consecutive mandates is ineligible for election in the next period;
- States that candidate for the UN Human Rights Council must undertake voluntary obligations in the area of human rights;
- In the event of serious, systematic violations of human rights, a member of the UN Human Rights Council can be suspended by a two-thirds majority of the General Assembly.

Human rights defenders

Human rights defenders play an important role in protecting human rights, resolving conflicts peacefully and strengthening the rule of law. In many places around the world their activities are endangered by restrictions on the three freedoms – of expression, assembly and association – and at times even of the *> Right to life* and physical integrity.

Switzerland is committed to the defence of human rights defenders. For example, it makes direct contact at the political level with States whose

authorities harass them, makes specific inquiries about their situation in the context of meetings during bilateral visits, prepares guidelines for their protection, and proposes human rights defender “adoption” schemes, in which prominent Swiss personalities develop direct contacts with individual human rights defenders experiencing difficulties with the authorities.

Human rights treaty

Synonyms: human rights convention, covenant.

At present (2008) in the framework of the > *United Nations* there are nine fundamental international human rights treaties (> *Conventions*). Such agreements are legally binding on the States Parties concerned. It is this fact which differentiates them from most > *Declarations*.

International law

International law governs relations between States and their dealings with each other. It provides a basis for peace and stability throughout the world and for the protection and well-being of peoples everywhere. With the advance of globalisation, relations between nations have become more intensive and complex. International law covers many fields, including the prohibition of the use of force; > *Human rights* and the protection of individuals in times of war and armed conflict (> *International humanitarian law*); and international efforts to combat terrorism and serious crimes. It also covers such areas as the environment, international trade, development, telecommunications and international transport. In compliance with the principle of sovereignty of States, a State is only obliged to comply with those rules of international law it has agreed to adhere to. Peremptory norms of international law are an exception to this principle because they apply to all States without exception, for example the prohibition of genocide (> *ius cogens*). In Switzerland, matters of international law are usually decided by the Federal Assembly and by

the people through referendums, which may be obligatory or optional. In principle international law takes precedence over national law.

> “International Humanitarian Law” brochure (published by the Swiss Federal Department of Foreign Affairs/FDFA).

International humanitarian law

International humanitarian law is also known as the Law of Armed Conflict, the International Law of War or “ius in bello”. It applies to all armed conflicts, whether lawful or not. International humanitarian law is an effort to balance humanitarian and military interests. If total war and complete annihilation of the opponent is to be prevented, the parties to a conflict must not be left free to wage war by all the means and methods at their disposal. International humanitarian law is not only addressed to States, it also contains numerous provisions that must be complied with by individuals (including civilians).



A civilisation should be judged on how it treats its minorities.

Mahatma Gandhi (1869–1948)

In addition to Customary international law, the main sources of international humanitarian law are the universally ratified > *Geneva Conventions* of 1949, their two Additional Protocols of 1977, the Hague Regulations of 1907 Hague Conventions, together with various other conventions prohibiting or restricting the use of specific weapons. Most of the provisions of the Geneva Conventions, their Additional Protocols, or other provisions on the conduct of hostilities have become part of customary international law.

Individual complaints

Individual complaints are an integral part of a control procedure created by the > *United Nations* for the protection of > *Human rights*. After exhausting all legal remedies available in the home country, individuals who believe themselves to be victims of a human rights violation can make a formal complaint to a treaty body. There are at present five human rights conventions that provide for individual complaints procedures. The right to individual complaint also forms the core of the European human rights system: every individual has the right to file a complaint to the > *European Court of Human Rights* alleging a violation of > *the European Convention on Human Rights* by one of the States Parties.

Initials, signature and ratification

In the negotiation of an international treaty, the negotiators initial the bottom of every page of the agreement as authentication. The signature of the plenipotentiaries (country representatives with full negotiating powers) is affixed at the end of a treaty.

The signing ceremony marks the end of the treaty negotiations and obliges the signatory States to act in good faith in accordance with a treaty. Unless the treaty provides otherwise, the signature does not yet make the State a party to the treaty.

Ratification is the act which commits the State to respect the treaty at the international level. In Switzerland, the Federal Assembly (both chambers of Parliament) approves the ratification of treaties, with the exception of those which the Federal Council is allowed, by virtue of a law or a treaty, to sign and ratify alone.

International Covenant on Civil and Political Rights

Adopted in 1966, the Covenant came into force in 1976 and now has 161 States Parties (status 2008). Competent treaty body: UN Human Rights Committee. The Covenant guarantees civil and political rights including for example the > *Right to life*, the right to > *Freedom of thought, conscience and religion* as well as the right to personal freedom and security. There are two complementary Optional Protocols. By ratifying the first Protocol States recognise the > *Individual complaints procedure*, and in the second Protocol the prohibition of the death penalty.

International Covenant on Economic, Social and Cultural Rights

This Covenant, which was adopted in 1966 and came into force 10 years later, has 158 States Parties (status 2008). Competent treaty body: UN Committee on Economic, Social and Cultural Rights. Among other things the Covenant guarantees the right to an adequate standard of living, the right to an education and to good health as well as the right to form a trade union.

Internally displaced persons

Internally displaced persons (IDPs), unlike > *Refugees*, remain within the national borders of their country of residence. It is thus the government directly concerned and the local authorities that have primary responsibility for their wellbeing. In many cases however these authorities are

unable or unwilling to accept this responsibility. The situation of IDPs is different from that of persons with refugee status, since the former are not protected by any international convention.

Humanitarian organisations, in particular the International Committee of the Red Cross (ICRC) and the Office of the UN High Commissioner for Refugees (UNHCR) provide emergency relief, often in difficult security conditions.

Ius cogens

Latin for “compelling law”, *ius cogens* refers to peremptory legal norms from which no derogation is permitted in any circumstances. A norm that is *ius cogens* trumps norms that are not *ius cogens*. Which human rights norms are to be considered *ius cogens* remains controversial. Those that have the greatest consensus are the prohibition of genocide, of slavery and the slave trade, of torture and mistreatment.



Everyone, no matter who he is or how lowly he is, instinctively expects respect for his human dignity from others.

Fjodor Michailowitsch Dostojewski (1821–1881)

Limitations on human rights

With few exceptions (e.g. > *Ban on torture*) human rights are not absolute but can be restricted on the basis of clearly defined grounds. Most classical > *Human rights* can be restricted if there are sufficiently clear legal grounds based on an overriding public interest, e.g. national security; public law and order; prevention of acts punishable by law; protection of public health and morals, and with respect for the principle of proportionality. It is more drastic to deviate from human rights (> *Derogation*) than to limit them.

Migration

In many parts of the world there is a connection between migratory movements and human rights. Indeed human rights violations are among the main reasons for migrations. Furthermore migrants > *Refugees* > *Internally Displaced Persons* and the victims of > *Trafficking in human beings* are particularly vulnerable to racist attacks and other forms of discrimination and sexual abuse. Together they form a group that is especially exposed to the danger of human rights violations.

Altogether there are some 35 million people, most of them women and children, who have been driven out of their homes by war and human rights violations. About 10 million of these have crossed an international border in their flight. More than twice that number however remain inside their own country but are dependent on international assistance and protection.

Millennium Development Goals

The Millennium Declaration sets out the global challenges in the areas of development and environmental policies. It was adopted by 189 State and government representatives as well as officials of the > *United Nations* Millennium Summit in September 2000 in New York. Eight so-called Millennium Development Goals were derived from the

Declaration, each defining concrete goals, targets and indicators to be achieved by 2015, including the reduction by half of extreme > *Poverty*, the reduction of child mortality, combating transmissible diseases (e.g. HIV/AIDS, malaria) and progress in protection of the environment.

National human rights institutions

The main purpose of national human rights institutions is to promote and protect human rights at the national level. The legal basis is provided by the so-called Paris Principles (adopted by the UN General Assembly in 1993). National human rights institutions can take a variety of forms (e.g. commissions, committees, ombudspersons). They are not to be confused with non-governmental organisations (NGOs).

Non-refoulement

The principle of non-refoulement is the bedrock of refugee law. It is the right of refugees, guaranteed by international law, to remain beyond the reach of a State in which they would be in danger of persecution and not to be sent back against their will for as long as the risk of persecution remains. The principle of non-refoulement is not only enshrined in refugee law but also in various human rights treaties (e.g. Art. 3 of the > *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*).

Poverty

Two thirds of the world's population live in poverty, denied such fundamental human rights as the > *Right to food*, water, healthcare and education, not to mention participation in political life and equal rights. More than a billion people have less than a dollar a day on which to live. According to the > *United Nations Development Programme* (UNDP) one in five of the world's children does not finish primary school. As

many as 800 million people or 15% of the world's population suffer from chronic hunger.

Poverty is not merely due to lack of income, it is also the result of discrimination against persons who are to a great extent excluded from economic, social and political life.

The instruments designed for the protection of human rights can also serve to combat poverty: the > *Ban on discrimination* together with civil, political, economic, social and cultural rights (> *International Covenant*) provide a broad-based international frame of reference. It is the obligation of all States to protect their citizens from the abuse of power and to allow the least favoured population groups access to the market, services, public resources and political power.

Refugees

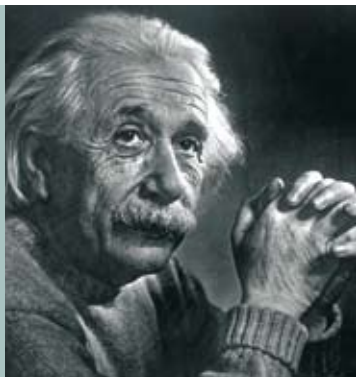
Anyone forced to leave their home country out of a justified fear of persecution meets the official definition of a “refugee”, whether the cause is his or her race, religion, or nationality, membership of a particular social group, or political convictions. The 1951 Convention relating to the Status of Refugees, completed by the Protocol of 1967, regulates the status of refugees. In this context, the principle of > *Non-refoulement* is particularly important. This prohibits the repatriation of individuals to States where they are in danger of life and physical integrity. The Office of the United Nations High Commissioner for Refugees (UNHCR) monitors the world refugee situation, protects and supports refugees with the help of humanitarian partner organisations, and assists them at the time of return and/or when starting life in a temporary country of asylum or in a new host country.

Rights of women

The rights of women and girls are an integral part of universal and inalienable human rights. They are protected by various legal instruments, notably by the > *Convention on the Elimination of All Forms of Discrimination against Women*.

Right to development

The Declaration on the Right to development was adopted by the UN General Assembly in 1986. Article 1, Par. 1 states: “The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, (...)”. The UN World Conference on Human Rights in Vienna (1993) unanimously adopted the right to development, albeit in the form of a > *Declaration* which is not legally binding.



The world is a dangerous place to live; not because of the people who are evil, but because of the people who don't do anything about it.

Albert Einstein (1879–1955)

Right to life

The right to life is the highest and most fundamental of all human rights, and is the prerequisite for the enjoyment of all other human rights. The right to life is protected in international law by a variety of guarantees. Thus for example the > *International Covenant on Civil and Political Rights* states that all human beings have the inherent right to life. It obliges the States to protect this right by law. Although the right to life is absolute (> *Derogation*, > *Limitations on human rights*), international law nonetheless recognises exceptions to the prohibition of killing. Thus, the carrying out of the death penalty following a fair trial is not considered a violation of the right to life.

Switzerland is committed to the universal abolition of the death penalty.

Right to food

The right to food is one of the most fundamental of all human rights: people weak from hunger are unlikely to be much concerned about their other rights.

The right to food and related aspects are covered by various instruments of international law such as the > *Universal Declaration of Human Rights* (Art. 25) and the > *International Covenant on Economic, Social and Cultural Rights*. Art. 11 of the Covenant speaks of the right to food in the context of the right to an adequate standard of living, which also includes the right to adequate clothing and housing. The *Convention on the Rights of the Child* of 1989 likewise includes the right to food as part of the general right to an adequate living standard. The right to food is also contained indirectly in other > *Human rights treaties*: it can be deduced in particular from the provisions contained in many human rights conventions concerning the > *Right to life*.

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Special Rapporteurs

Special Rapporteurs are independent experts mandated by the > *Human Rights Council* to investigate specific human rights or the human rights situations in specific countries. Their findings are published in annual reports accessible to the public. There are for example Special Rapporteurs on Torture, on the > *Right to Food*, as well as on two countries, Myanmar and Sudan (status 2008).

State report

State reports (also known as country reports) on progress made in the implementation of human rights conventions are submitted by the States Parties every four to five years. The reports are discussed and commented on by the relevant treaty body, which makes final recommendations.

Terrorism

The concept of “terrorism” has not yet been defined in > *International law*. International law, > *Human rights* and > *International humanitarian law* nonetheless do prohibit many terrorism-related acts and activities. Terrorist acts attack the most fundamental human rights. States not only have the right but indeed the duty to protect the population from such acts.

Anti-terrorism strategies must however comply with the provisions of international humanitarian law, the International Refugee Convention and human rights conventions including the > *European Human Rights Convention* and the > *International Covenant on Civil and Political Rights*. Confronted with an exceptional, life-threatening situation such as a direct terrorist threat, a State may suspend certain rights (> *Derogation* > *Limitations on human rights*). It is obliged however to follow the prescribed procedures in so doing and to ensure that any measures taken respect the principle of proportionality and are of brief duration. Moreo-

ver, the State must respect all fundamental rights, which may not be suspended under any circumstances.

Trafficking in human beings/prohibition of slavery

Trafficking in human beings is a modern form of slavery, which is today prohibited by customary international law and has the status of *> ius cogens*. Trafficking in human beings refers to the practice of recruiting, acting as intermediary or otherwise offering persons for the purpose of exploitation. In most cases the exploitation is of a sexual nature, either for prostitution or the production of pornography. Other current examples of exploitation are employment in abject conditions, and the removal of body parts. It is estimated that the total number of human beings who are victims in one way or another of trafficking in human beings worldwide is around 800,000. Most of these are women and children.

There are a number of instruments of international law designed to combat these evils, such as the European Convention against Trafficking in Human Beings of 16 May 2005, which obliges the States Parties to provide support for the victims of such crimes, and the Optional Protocol of 25 May 2000 to the *> Convention on the Rights of the Child*, which concerns the sale of children, child prostitution and child pornography.

United Nations (UN)

The UN is an international organisation of truly global reach. It has 192 member States (summer 2008) and provides a forum for the discussion of all topics of international significance. The UN promotes international peace and security, the defence of human rights, the reduction of social inequalities, the protection of the environment, and it provides humanitarian aid in international emergencies.

The main organs of the United Nations are the following:

- The General Assembly (representatives of the member States), which deliberates on matters of international order;
- The Security Council (15 member States), which is responsible for the maintenance of international peace and security;
- The Secretariat, which is responsible for administrative matters and for implementing the decisions of the other organs;
- The International Court of Justice, which is the principal judicial organ of the UN.

The United Nations System also includes many specialized agencies which are legally independent international organisations linked to the United Nations System through special agreements (for example, the World Health Organisation/WHO).

Switzerland became a full member of the United Nations in 2002. Before that date (since 1948) the Confederation only had observer status though it was a member of many specialized agencies.



Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety.

Benjamin Franklin (1706–1790)

United Nations Charter

On 26 June 1945, 50 States signed the United Nations Charter (> *United Nations*), which came into force on 24 October 1945. The Charter is the constitution of the United Nations and is binding under international law. Its 111 articles define among other things the aims and principles of the United Nations as well as the number of UN organs and their duties.

United Nations General Assembly

The General Assembly of the United Nations is one of the principal organs of the > *United Nations*. Each of the 192 member States has one vote (status 2008). The General Assembly is among other things responsible for the further development of human rights norms and standards. It can condemn at the political level States that are responsible for human rights violations. In the case of decisions that concern peace and security, a two-thirds majority is required, while for other decisions a simple majority suffices.

UN Economic and Social Council (ECOSOC)

Founded in 1945, the Economic and Social Council (ECOSOC) is one of the principal organs of the > *United Nations* and today has 54 Member States. It coordinates the efforts of a number of subsidiary organs and specialised agencies, while involving itself in economic, social and development matters. It is thus concerned in a general way with the overall improvement of living standards and the promotion of human rights.

UN treaty bodies

Synonyms: technical committees, expert committees.

Each of the nine UN human rights conventions has its own “treaty body”.

Treaty bodies consist of experts whose duty is to monitor compliance with the human rights contained in a particular convention. Their duties include examination of the State reports on human rights, making so-called “final comments” and taking decisions in > *Individual complaints* procedures.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) was adopted by the > *General Assembly of the United Nations* on 10 December 1948. As the first international human rights declaration it contains a “complete human rights programme” – citizens’ rights, political rights, economic, social and cultural rights.



Human freedom is not the freedom of the individual to do what he wants but the freedom from being forced to do what he does not want to do.

Jean-Jacques Rousseau (1712–1778)

Universality

Human rights apply to all human beings without distinction. This principle is rarely challenged today. There are however tendencies to relativise the universal nature of human rights by stressing certain cultural or other differences. For example, certain individual guarantees, such as equality between men and women or democratic participation, may be called into question. The possibility of restrictions (> *Limitations on human rights*), the question of the duties of the individual towards the State and society, and the hierarchy of specific human rights, such as civil liberties versus social rights, are matters for debate.

Annex

The Universal Declaration of Human Rights

Resolution 217 A (III) adopted by the United Nation's General Assembly on 10 December 1948.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

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

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

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

Article 6

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

Article 7

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 any incitement to such discrimination.

Article 8

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 9

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

Article 10

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

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 his 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 12

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

Article 13

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.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

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 19

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 20

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

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

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

Article 29

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 purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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