

The ABC of Human Rights



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Introduction

The development of human rights

The concept of human rights developed over a long period of time and is still evolving. It has its roots in the philosophy of the ancient Greeks and in religion. Human rights are defined as those rights that are inherent to all human beings by virtue of their humanity, regardless of skin colour or nationality, political or religious beliefs, social status, gender, or age.

Linked with the secular tradition of natural law – i.e., human rights have their roots in human nature and the inherent dignity of humanity – the concept of human rights has proved to be an enduring ethical standard. The philosophy of natural law holds that fundamental human rights have a validity that transcends state law and thus do not require the legal safeguard of a national constitution. Any state that establishes or alters a constitution is bound by human rights. The state may neither reject nor withdraw these rights. Nor may the individual relinquish them either voluntarily or under duress.

The concept was further developed politically in state constitutions that initially granted rights exclusively to male citizens and only later – in the French Declaration of the Rights of Man and of the Citizen of 1789 – began to extend these rights to all people. In the modern era, national constitutions and catalogues of fundamental rights initially put the focus on civil and political freedoms known as first-generation human rights.

In the course of the 19th century the lamentable living and working conditions of broad sections of the population led to a second generation of economic, social, and cultural rights with carefully formulated social demands. Only in a third step the universal validity of these rights was established at an international level within the framework of the United Nations by the human-rights instruments of international law.

The United Nations, founded in 1945, was 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 World War II to change people's minds and convince them that limitations must be placed on state sovereignty, both to protect individuals and the community of nations.

Global protection of human rights

Today there are both global and regional instruments to protect human rights around the world.

At the global level, human rights are being developed within the framework of the United Nations. In its founding charter of 1945 the UN set itself goals that included "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (Art. 1 no. 3).

The Universal Declaration of Human Rights (UDHR) of 1948 was the first step towards achieving this goal. In addition to a catalogue of classical rights to freedom and equality as well as certain procedural guarantees (Art. 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 they live, setting out certain "fundamental duties".

The Universal Declaration of Human Rights has been successful in formulating a human-rights programme to serve as a yardstick by which to measure further developments in international law. However, it has no legal force. Practical implementation of the programme, i.e., the drafting of human-rights instruments that are binding in international law, has proved extremely difficult and lengthy. It was not until 1966 that the UN General Assembly adopted two binding human-rights agreements that came into force in 1976:

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

The division into two covenants was a compromise necessitated by the fact that the countries involved in the East-West conflict could not agree on one covenant. Whereas the states of the former Socialist bloc were primarily committed to the social covenant, the civil covenant was more in line with the freedoms cherished by the West.

Since the World Conference on Human Rights in Vienna in 1993, social rights have assumed greater importance in political discussions. The countries taking part in the Vienna World Conference succeeded in reaching a minimum consensus on the universality of human rights. The Vienna Declaration and Programme of Action of 12 July 1993 (UN Doc. A/CONF. 157/23) declared that all human rights are universal and indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.

In the UN System the International Bill of Human Rights, consisting of three key documents – the Universal Declaration of Human Rights (UDHR), the ICCPR, and the ICESCR – is complemented by the following additional international human-rights conventions and protocols:

- › The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 21 December 1965)
- › The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 18 December 1979)
- › The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 10 December 1979)
- › The Convention on the Rights of the Child (CRC, 20 November 1989)
- › The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW, 1 July 2003)
- › The Convention on the Rights of Persons with Disabilities (CRPD, 13 December 2006)
- › The International Convention for the Protection of All Persons from Enforced Disappearance (ICPED, 20 December 2006)

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

In addition, there are many other international treaties and declarations, which define specific 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 1951 Refugee Convention, and the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

Following the end of the Cold War, ratifications increased noticeably. Today almost all UN member states have ratified at least four of the nine most important UN human-rights conventions. In addition, more people around the world are informed about human rights.

Regional protection of human rights

To complement the global protection of human rights by the UN, regional systems have developed that ensure additional protection.

The European system

The first regional system to protect human rights was created by the Council of Europe in 1959. This includes:

- › The European Convention on Human Rights (ECHR), which contains a catalogue of the most important civil rights and liberties;
- › The European Social Charter, which since 1961 has safeguarded all economic, social, and cultural rights not covered by the ECHR and
- › The Charter of Fundamental Rights of the European Union (EU), which contains many civil, political, and social rights.

The Council of Europe is the most important European organisation for the defence of human rights. The Council has 47 member states, including Switzerland, which joined in 1963. All members have signed the European Convention on Human Rights (ECHR). Switzerland ratified the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in 2014.

Since 1975 the Organization for Security and Co-operation in Europe (OSCE) has given a major boost to efforts to achieve respect for and protection of human rights in Europe.

The Inter-American system

The American Convention on Human Rights focuses on civil and political rights. Social rights are addressed in an additional protocol. The Inter-American Commission on Human Rights and the Inter-American Court on Human Rights ensure these rights are respected. The tasks of the Inter-American Commission on Human Rights include hearing individual petitions regarding violations of the American Convention on Human Rights, and making recommendations to member states. The Inter-American Court on Human Rights will adjudicate in cases if the signatory states to the convention recognise its jurisdiction.

The African system

The African Charter on Human and Peoples' Rights (Banjul Charter) goes a step further. It is the first legally binding text that guarantees collective rights. These include the rights of peoples to self-determination and the right to freely dispose of their own wealth and natural resources, the right to economic, social, and cultural development and to favourable environmental conditions. The Charter also addresses individual civil, political, economic, social, and cultural rights. Until now 53 out of 54 states have ratified the Banjul Charter. The African Commission on Human and Peoples' Rights is the organ designated by the Charter to promote and safeguard the rights it has codified. The African Court on Human and Peoples' Rights has its permanent seat in Arusha, Tanzania. Six states have submitted a declaration recognising the jurisdiction of the Court and enabling their citizens to petition it directly.

Other regional systems

Asia and the Middle East do not have a system to protect human rights. However, there are signs that they are moving in this direction. The Arab Charter on Human Rights was adopted by the Council of the League of Arab States in 1994, updated in 2004, and came into force in 2008. One of the Charter's important achievements is its affirmation of the equality of men and women. In 2009 the Arab Commission for Human Rights was founded to monitor implementation of the Charter in the 10 current member states.

In Asia a regional human rights system was first mooted in 1993 with formation of a working group tasked with drawing up an Asian human-rights charter. However, little progress has been made.

Enforcing respect for human rights

Legal implementation instruments

In principle, responsibility for ensuring respect for human rights on their territory lies with the individual states. If a state cannot or will not assume its obligations, or lacks the necessary structures, laws, and courts, recourse is made to international implementation mechanisms contained in all human-rights conventions. So, for instance, victims of human-rights violations who have not had a hearing in their national courts may appeal to international bodies, such as the European Court for Human Rights (ECTHR). The rulings of this court are binding on the states concerned. Other organs, such as the Committee Against Torture, must first be recognised by the state concerned as competent to adjudicate. Such judgments are not binding but are for the most part complied with in practice.

Numerous conventions also provide for 'state-to-state complaints', allowing a state to lodge an official complaint against another for human-rights violations. To date no use has been made of this non-binding procedure.

International criminal tribunals have a particularly important role to play. Their job is to prosecute those responsible for the most serious human-rights violations, such as war crimes and crimes against humanity. There are essentially two types of criminal tribunals: international ad hoc tribunals and the International Criminal Court (ICC).

Diplomatic instruments

In addition to legal instruments the following diplomatic or political instruments are used to implement human rights:

- › State reports: The UN treaty bodies oblige member states to compile regular reports on the human-rights situation in their country and to engage in dialogue with the UN. Various conventions of the Council of Europe also require regular reporting, for instance, on implementation of the Framework Convention for the Protection of National Minorities or the Convention on Action against Trafficking in Human Beings.
- › The UN Human Rights Council, which is based in Geneva, was founded in 2006. It is an international forum for human-rights questions that systematically gathers human rights norms and responds to human-rights violations, for example, by issuing resolutions or dispatching observers. It holds three sessions per year and may call extraordinary sessions at short notice in an emergency. The Human Rights Council reports directly to the UN General Assembly and has 47 members.

- › The Office of the UN High Commissioner for Human Rights (OHCHR) was set up in 1994. Although it has a broad mandate for the promotion and protection of human rights, the OHCHR has no executive powers.
- › The Council of Europe created the Office of the Commissioner for Human Rights in 1999 to promote human rights and fundamental freedoms in the 47 member states. The Commissioner makes recommendations but lacks the power to impose sanctions.

Civil society

The advance of economic globalisation has also led to development of a global civil society. The many globally interconnected non-governmental organisations (NGOs) active in areas of reinforcing and ensuring respect for human rights have become important partners for international organisations.

New challenges

Human rights protection has developed at an extremely fast pace in recent decades. Attempts have been made to deal with the new problems and challenges caused by the collapse of the predictable bipolar world order that was a legacy of the Cold War and by globalisation. Many new mechanisms to promote and protect human rights have arisen at a universal, regional, and national level. However, they are not always consistent with one another, which can lead to difficulties in implementation.

The connections between human rights on one hand and (foreign) trade, development, and conflict situations on the other are especially topical. The advance of globalisation carries risks as well as opportunities. Global economic and technological development, people and cultures connecting through social networks, migration and tourism has been accompanied by heightened nationalism, violent and religious extremism, growing discrimination and intolerance. Despite a global reduction in poverty the gap between rich and poor is at least as wide as before. There is a danger that some population groups will be excluded from the growth, progress, and rights that are due to all.

The principles and behavioural norms that have developed and are emerging under the generic term 'business and human rights' relate to the field of international economic activity. This includes access to commodities, their extraction, and equitable sharing. Switzerland, as an important international trade and economic centre, bears a particular responsibility here.

Despite their claim to universal validity, human rights are still denigrated as a Western concept in many parts of the world and relativized by pointing to regional characteristics and traditions. A not insignificant role is played here by the emergence of new powers, which have yet to decide where they stand in terms of dominance and responsibility. Security policy concerns, extremism, and shifts in power and values also lead to questioning the legitimacy and universality of certain aspects of fundamental rights, as is happening currently with women's rights. Moreover, promotion and protection of human rights suffers at times when these are used as a tool to exert political or economic influence on other countries.

The various human-rights actors are particularly challenged in situations where states have at best a limited capacity or willingness to assume their responsibility to their citizens. In such cases stable rule of law collapses along with the functioning institutions it requires. This leads to despotism and violence – either by the state apparatus itself or by para-state groups – massive corruption, organised crime, human trafficking, impunity, and so on. Tasks that are the state's prerogative, given its monopoly on use of force, are then often assumed by private actors. This in turn raises numerous problems concerning respect for human rights by these groups or companies and their staff.

The multiplicity of non-state actors has made the human-rights system more complex. On one hand, civil society plays an important role in strengthening this system; on the other, transnational corporations and other non-state actors such as foreign militants and non-state armed groups are increasingly influencing the exercise of human rights. At the multilateral level, numerous issues are under discussion relating to responsibility of these actors for violating human rights and international humanitarian law.

Switzerland too is conscious of the challenges it faces in carrying out its human-rights responsibilities, even if it is generally credited with a high standard of human rights. It gives a regular account of its activities to international regulatory entities (such as the UN treaty bodies) and to political-diplomatic bodies including the UN Human Rights Council. Switzerland has to undergo a Universal Periodic Review (UPR) roughly every four years, in which the other states parties examine the human-rights situation in Switzerland and make (legally non-binding) recommendations.

Switzerland's commitments

Switzerland's commitment to human rights is firmly rooted in the Swiss Federal Constitution (Art. 54 para. 2) and in the country's tradition. Protection of human rights in Switzerland is essential for practical implementation of direct democracy, as these rights form the basis of individual freedom and security. Protection of human rights internationally contributes to global security, conflict prevention, and sustainable development, particularly in fragile countries.

In an international context characterised by contrasting developments, Switzerland demonstrates a firm and credible commitment to human rights to the outside world.

The indivisibility, interdependence, and universality (claim to universal validity) of human rights is very important to Switzerland; promoting and defending these values is its overriding goal.

In practice, it is the Federal Council that decides in which areas and countries Switzerland should become involved in order to make the best possible use of the means available and to achieve specific political and operative results.

In the following six areas, Switzerland's commitment is particularly sustainable, visible, and firm:

- › Switzerland supports civil society and protects human-rights defenders. It provides political support and every year submits to the Human Rights Council a resolution on improving protection of human rights during peaceful protest, which is normally adopted by consensus.
- › It shows its commitment to the rights of women through projects and by advocating these rights in bilateral and multilateral talks.
- › It systematically integrates human rights in development cooperation, humanitarian aid, and peace promotion at the bilateral and multilateral levels.
- › It has set itself the goal of working towards abolishing the death penalty worldwide. In 2014 it brought a resolution to this effect before the UN Human Rights Council. Furthermore, on every World Day Against the Death Penalty (10 October) it launches a public appeal together with other countries.

- › Switzerland is committed to ensuring that businesses take responsibility for observing human rights and adhere to international corporate management standards. It has direct contact with corporations and non-governmental organisations and campaigns, including within the UN and the OECD, to create principles of conduct and instruments to enable businesses to operate in a way that is consistent with human rights.
- › Lastly, it works towards closer monitoring of human-rights compliance. Specifically, it aims to ensure greater effectiveness of the treaty bodies, improve the regular review process, and ratify the Rome Statute of the International Criminal Court. In addition, it is committed to dealing with past initiatives and prevention of cruelty.
- › In its practical commitment to human-rights issues, the Federal Council is supported by various instruments:
- › These diverse bilateral instruments include human-rights dialogues and consultations. These talks occur periodically between two countries aimed at improving the human-rights situation in the partner country.
- › The key multilateral instruments include Switzerland's engagement in the UN and other international organisations (e.g., Council of Europe, OSCE).
- › Also important is cooperation with NGOs that promote human rights observance, often on the ground.
- › Lastly, Switzerland has in Geneva – the world capital of human rights – a unique centre that increases the impact and visibility of its human-rights engagement.



An edition of the UN Universal Declaration of Human Rights. Photo: UN Photo

Glossary

A

Agenda 2030 for Sustainable Development

The largest-ever gathering of heads of state and government took place in New York on 15 September 2015. In adopting 17 sustainable development goals, known as the 2030 Agenda for Sustainable Development, the participants established a joint approach to fight poverty, inequality, and environmental destruction. These goals apply to all countries and should be achieved by 2030. In addition to social and economic development, the 2030 Agenda includes environmental sustainability. It also covers aspects such as peace, security, rule of law, and good governance, which are fundamentally important for sustainable development. The 2030 Agenda makes it clear that a life of dignity for all is only possible if all countries work together; moreover, it declares that social and economic development is not at the expense of the environment. The 2030 Agenda is a continuation of the Millennium Development Goals whose aims included halving global poverty by 2015.

- » Development cooperation
- » United Nations

B

Ban on discrimination

No one is to be subjected to discrimination on 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 a system of visits and inspections 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.

- » Convention against Torture

Business and human rights

Given their function in society, businesses play a decisive role in human-rights observance. Many concerns have a turnover as high as a national budget, and in countries with weak state structures may exercise considerable influence. The sharp increase in transnational corporations in recent years has given rise to a number of international human-rights standards that are explicitly aimed at business. These rules are not binding but may be used by states and civil society to encourage businesses to take their responsibility seriously.



Charter of Fundamental Rights of the European Union (EU)

Proclaimed in 2000, the Charter contains numerous civil-political and social rights and makes no distinction between the two generations of human rights. The Charter is addressed primarily to EU institutions and bodies.

Civil and political rights

Civil and political rights are enshrined in the 1966 covenant of the same name that came into force in Switzerland on 18 September 1992. These rights are generally directly applicable, i.e., they have validity without the state having to take measures to implement them. Historically, civil and political rights were the first to be recognised in the constitutions of Western countries and so are also referred to as first-generation rights. They include the right to life and security, the right not to be subjected to torture, the right to freedom of thought, conscience, and religion, and the right to freedom of expression and association.

» International Covenant

Did you know...

that in 2013, natural disasters forced 22 million people from their homes?

Photograph: DFID/Russell Watkins



Committee against Torture

The UN Committee against Torture, composed of 10 experts, monitors implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (established under Art. 17). The Committee against Torture holds two three-week sessions per year in Geneva. It examines the country reports of states party to the Convention. It also considers individual complaints against those states that have made the necessary declaration under Article 22.

- » Ban on torture
- » Convention against Torture
- » Individual complaint

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

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984, requires states parties to adopt measures to prevent use of torture in 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). The Convention entered into force in 1987 and at present has 158 states parties (status December 2015). The UN Committee against Torture may consider complaints from states and individuals if the accused state accepts its jurisdiction. The Optional Protocol of 18 December 2002 provides for a preventive mechanism of prison inspections. Switzerland has been a member since 1986 and ratified the optional protocol in 2009.

- » Ban on torture
- » Non-refoulement

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 issues such as xenophobia, drug abuse, AIDS, and bioethics; and to assist institutional reform in the states of Central and Eastern Europe. The Council of Europe has 47 member states (status 2015).

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 enables individuals to submit applications to the European Court of Human Rights (ECtHR) 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. However, all 28 EU member states are also members of the Council of Europe.

- » ECHR
- » ECtHR

Council of Europe Commissioner for Human Rights

The office of the Commissioner for Human Rights was instituted in 1999. The task of the Commissioner is to promote human and fundamental rights in the 47 member states. The Commissioner organises seminars and conferences while monitoring the human-rights situation in the individual member states. He/she makes recommendations but has no power to apply sanctions.

D

Declaration

Synonyms: statement, decision

Declarations set out the agreed standards. Such standards (for example, the right to development), although not binding, are often influential.

- » Right to development

Derogation

A major emergency, notably war, often leaves states unable to fulfil their human rights obligations. The issue of deviating from legal norms (derogation) is addressed in the so-called derogation or emergency clauses of international human-rights conventions. Derogation measures are only permissible when strict conditions are met. These include in particular:

- › An actual or imminent threat of an emergency situation that concerns the nation as a whole and threatens continuation of organised life;
- › Respect for the principle of proportionality: derogation measures are only allowed when permissible restrictions on human rights are not sufficient to keep the prevailing situation under control;
- › Respect for the ban on discrimination: derogation measures must not 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: derogation clauses consistently make it clear that certain human rights remain guaranteed even in emergencies.

- » Ban on discrimination
- » Ban on torture
- » European Convention
- » Freedom of thought, conscience, and religion
- » International Covenant
- » Limitations on human rights
- » Right to life
- » Trafficking in human beings/prohibition of slavery

Absolute rights are variously described in individual human-rights conventions. For example, the European Convention on Human Rights includes the right to life, the ban on torture, and freedom from slavery and servitude as absolute rights. The International Covenant on Civil and Political Rights adds to these 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 where the necessary legal and political conditions exist. Good governance and respect for human rights are essential ingredients. The UN (together with various donor countries) has formulated principles for a 'human rights-based approach to development':

- › 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 implementing human rights but also the individuals and groups whom it is intended to benefit.

» Governance
» United Nations

Discrimination against women

The Convention on the Elimination of All Forms of Discrimination against Women was adopted in 1979, came into force in 1981, and has 189 states parties (status December 2015). The competent treaty body is the UN Committee on the Elimination of Discrimination against Women. The states parties undertake inter alia to adopt measures necessary to achieve legal and actual equality between men and women and to ensure full development and advancement of women. An Optional Protocol enables member states to recognise an individual complaint procedure. Switzerland ratified the Convention in 1997 and the Optional Protocol in 2008.

» Individual complaint

E

Economic, social, and cultural rights

Economic, social, and cultural rights are enshrined 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 considered less binding than civil and political rights because they are not specific enough to be dealt with in a court procedure (lack of justiciability). Nonetheless, states must guarantee these rights to all and pursue an active policy of implementation (programmatic dimension). Economic, social, and cultural rights are human rights with the most development potential at the present time.

» International Covenant

Enforced disappearance

'Enforced disappearance' refers to cases in which people are detained or abducted by agents of the state, their detention is not acknowledged, and their fate and whereabouts is kept secret. Thus those affected lose all legal protection.

No circumstances, conflict, or national security considerations can justify enforced disappearances. The Convention for the Protection of All Persons from Enforced Disappearance that came into force in 2010 obliges all states parties to investigate the enforced disappearance of persons and to bring the guilty to justice. The Convention provides for the right of victims, notably the next of kin, to know the truth about the circumstances of the enforced disappearance. To date, 51 states have ratified the Convention (status December 2015). The responsible treaty body is the Committee on Enforced Disappearances (CED). The expert group may consider individual complaints against violations of the Convention provided the state in question has accepted its authority. International humanitarian law also contains provisions on the disappearance of persons as a result of armed conflict.

» Individual complaint
» International humanitarian law

European Convention on Human Rights (ECHR)

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 security of person, and the right to freedom of expression.

The 47 states parties (status 2015) are required to guarantee these rights to all persons under their jurisdiction. The ECHR has 14 additional protocols, some relating to substantive law, others to procedural rules. Individual as well as state-to-state complaint procedures ensure that obligations are complied with. 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. Switzerland ratified the Convention in 1974.

- » ECHR
- » Right to life
- » Universal Declaration of Human Rights

European Court of Human Rights (ECtHR)

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 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 states parties.

The ECHR system admits complaints from states as well as from individuals. Such complaints are rare but may have great political importance. Court rulings are binding.

- » ECHR
- » Individual complaint

European Social Charter

The Charter has safeguarded the economic, social, and cultural rights not covered by the European Convention on Human Rights (ECHR) since 1961 and is thus the European equivalent of the International Covenant on Economic, Social and Cultural Rights. It covers a large number of issues and recognises the rights of the individual in areas of housing, health, education, employment, social security, and non-discrimination.

The European Social Charter was revised in 1996 to take account of changes in society and developments in international law.

It included new rights such as the right to protection against dismissal, the right to protection against poverty and social exclusion, and the right to housing.

The European Social Charter differs from the ECHR in that it may be ratified in a selective way. To accede to the Charter, a state is not required to accept all its provisions but must accept in full a minimum of six of the nine articles that form its core. It must also accept a certain number of additional non-hard-core provisions.

The Charter has established a monitoring mechanism based on periodic reports by the states parties. The collective complaints system enables employers' and employees' organisations to lodge a complaint with the European Committee of Social Rights if they believe the Charter has been violated.

- » ECHR

F

Fair trial

Procedural rights should guarantee defendants a fair legal procedure and ensure that they are not unlawfully or arbitrarily denied their freedoms and human rights. The International Covenant on Civil and Political Rights safeguards the right to equality before the courts and a fair trial. The ECHR states that every detained person must be informed promptly, in a language they understand, of the nature of the accusations against them. In Switzerland the presumption of innocence is a fundamental principle of all criminal proceedings as enshrined in the Federal Constitution. Other fundamental principles include the right to be judged by an independent and impartial tribunal and the right to a public trial and pronouncement of judgment.

- » ECHR
- » International Covenant

Freedom of expression, assembly, and association

Freedom of expression (including the right to information), assembly, and association are key conditions for implementing the other human rights and the cornerstone of a pluralistic and democratic society. Under certain circumstances and in accordance with established procedure, it may be legally admissible to restrict freedom of expression, assembly, and association (limitations on human rights). However, this option is frequently abused, notably when states restrict freedoms to an extent that is out of proportion to the circumstances.

- » Limitations on human rights

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 opinion, ideology, and religion.

This may be freely expressed in teaching, practice, worship, and observance. The individual is free to change religion or belief and to have no religion or belief. 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. Religious freedom is enshrined in the International Covenant on Civil and Political Rights and in regional human-rights conventions.

- » Derogation
- » International Covenant
- » Limitations on human rights



Did you know...

that Switzerland is committed to abolishing the death penalty? The right to life and respect for human dignity are central planks of Switzerland's human-rights-based foreign policy.

© EPA/Stephen Morrison

G

Geneva Conventions

Following World War II, stricter rules were laid down to protect non-combatants or individuals no longer participating in armed conflict. These rules apply mainly to civilians, the wounded, the sick, the shipwrecked, and 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

Governance

Human rights are closely linked to the legal and political conditions in a state (governance). Good governance requires the following:

- › Political decision-making should be a transparent, participative process that makes efficient use of public resources;
- › There should be a clear assignment of responsibilities (accountability) and state duties should be performed with integrity;
- › Public services should be effective and take into consideration the needs of marginalised segments of the population;
- › The legal system must be accessible, professional, independent, and provide recognised due process of law. It must create conditions for development consistent with a market economy and define the accountability of private and public sector actors;
- › There must be political scrutiny by a critical public.

All these areas of governance have a bearing on human rights. Civil and political rights, for example, form the basis of the constitutional state. The diversity of opinion they foster is essential for transparent and participative decision-making and public control of government. Today, human rights are both a goal and an instrument for efficient development cooperation. Human-rights conventions acquire legitimacy due to the fact that they form the freely adopted yet binding legal basis for involvement of donor and recipient countries in improving political and legal framework conditions and combating poverty.

- » Civil and political rights
- » Development cooperation
- » Poverty

H

Human rights and climate change

The issue of human rights and climate change has grown in importance for multilateral bodies. The impact of global warming is increasingly at the forefront as it inevitably affects the exercise of human rights. Droughts and flooding pose a direct threat to fundamental rights such as the right to life, food, shelter, and work. In addition, climate change creates environmental refugees, forcing people to leave their homes. The greater the effects of climate change, the more these migration flows increase, prompting the following questions: What is the legal status of these people? Are they protected by international law? What institutional framework will protect their basic rights?

- » Migration
- » Right to life

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. Additional special sessions may be called at the request of one third or more of the members;
- › It has been provided with a mechanism to ensure regular monitoring of the performance of all states regarding their human rights obligations (Universal Periodic Review, UPR). Switzerland voluntarily underwent review on 8 May 2008 as one of the first countries to do so;
- › The Council's 47 members are elected by the UN General Assembly on the basis of an absolute majority for a three year period. A member that has completed two consecutive mandates is ineligible for election in the next period;

Did you know...

that Switzerland is committed to ensuring that multinational companies domiciled in Switzerland respect human rights?

Photograph: Rainforest Action Network



- › Member states have the right to vote on proposed resolutions;
- › Legally non-binding, these resolutions may be either thematic or country-specific;
- › Observer states have no voting rights but may submit draft resolutions like member states;
- › States that are candidates for the UN Human Rights Council must undertake voluntary obligations in the area of human rights;
- › In the event of serious and systematic violations of human rights, a member of the UN Human Rights Council may be suspended by a two-thirds majority of the General Assembly.

Switzerland played a leading role in creating the UN Human Rights Council and will continue its commitment to ensure that the Human Rights Council remains an efficient and credible instrument.

» Universal Periodic Review (UPR)

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 their work is endangered by restrictions on freedom of expression, assembly and association, and even on the right to life and physical integrity.

Switzerland actively supports human-rights defenders. For example, where they are subject to harassment by the authorities, it intervenes with states at the political level and raises their situation during bilateral visits. It has developed guidelines for their protection and offers Swiss personalities the opportunity to support human-rights defenders through a sponsorship scheme.

» Freedom of expression, assembly, and association
» Right to life

Human-rights dialogues

Human-rights dialogue refers to official discussions on human-rights questions with specific countries. These long-term initiatives are 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, and religious freedom. Dialogue is based on recognition by both states that implementation of human rights is an essential prerequisite for the proper functioning of state and society. The purpose of a human-rights dialogue is to:

- › improve the human-rights situation in the medium to long term;
- › obtain release of non-violent political prisoners;
- › promote cooperation with the UN; and
- › strengthen civil society.

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

» United Nations

Human-rights treaty

Synonyms: human-rights agreement, convention, covenant

As of 2015 there were nine core international human-rights treaties in the framework of the United Nations:

1. International Covenant on Civil and Political Rights (ICCPR)
2. International Covenant on Economic, Social and Cultural Rights (ICESCR)
3. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
4. Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)
5. Convention on the Rights of the Child (CRC)

6. Convention on the Rights of Persons with Disabilities (ICRPD)
7. International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
8. International Convention for the Protection of all Persons from Enforced Disappearance (CED)
9. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

These conventions are legally binding internationally on the states party to them. This fact differentiates them from most declarations.

» Declaration
» United Nations

Individual complaint

Individual complaints are a control procedure created by the United Nations to protect human rights. After exhausting all legal remedies available in the home country, individuals who believe they are victims of a human-rights violation can make a formal complaint to a treaty body. Recognition of the right to lodge an individual complaint is often optional, that is, the states parties must have expressly recognised the procedure, for instance, by ratifying an additional protocol. The right of individual complaint is also central to 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.

» ECHR
» ECtHR
» United Nations
» UN treaty bodies

Initials, signatures, and ratification

In negotiating an international treaty, the negotiators initial the bottom of every page of the agreement as authentication.

The plenipotentiaries affix their signatures to the end of the treaty. The act of signing marks the conclusion of negotiations and obliges the signatory states to act in good faith in accordance with the agreement. Unless the treaty provides otherwise, the act of signing does not make the state a party to the treaty.

It is only after ratification that the state is committed under international law to respect the treaty. In Switzerland the United Federal Assembly approves ratification of treaties, except for those which, by virtue of a law or treaty, are within the power of the Federal Council to sign and ratify.

Internally displaced persons

Internally displaced persons (IDPs), unlike refugees, remain within the national borders of their country of residence. Thus the government directly concerned and the local authorities have primary responsibility for their protection. Yet these authorities are often 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.

» Refugees

International ad hoc tribunals

International ad hoc tribunals include the international criminal tribunals for the former Yugoslavia and Rwanda and the Special Court for Sierra Leone. All these tribunals were set up to prosecute atrocities committed within the context of a clearly defined conflict. Therefore, their jurisdiction is limited to a specific time and place.

International Covenant on Civil and Political Rights

Adopted in 1966, the Covenant came into force in 1976 and has 168 states parties (status December 2015). The competent treaty body is the UN Human Rights Committee. The Covenant guarantees civil and political rights including 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 of these, states recognise the individual complaints procedure, while the second prohibits the death penalty. Switzerland ratified the Covenant in 1992 and the Second Optional Protocol on abolishing the death penalty in 1994. However, it has not yet adopted the individual complaints procedure provided for in the first optional protocol.

- » Civil and political rights
- » Freedom of thought, conscience, and religion
- » Individual complaint
- » Right to life

International Covenant on Economic, Social and Cultural Rights

Adopted in 1966, the Covenant came into force 10 years later and has 164 states parties (status December 2015). The competent treaty body is the 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 health, as well as the right to form trade unions. The optional protocol establishing the individual complaints procedure to enforce the rights contained in the Covenant came into force in 2013. Switzerland has been a member of the Covenant since 1992 but has not yet ratified the optional protocol.

- » Individual complaint

International Criminal Court (ICC)

The International Criminal Court was established by the Rome Statute. Unlike the international ad hoc tribunals, the ICC is a permanent institution based in The Hague, which in principle has a global remit. However, its jurisdiction is limited: the state on whose territory the criminal acts were committed (or whose nationals committed the crimes) must be a state party of the Rome Statute. The ICC operates globally but can only exercise its jurisdiction when national judicial authorities are unwilling or unable to conduct a prosecution.

» International ad hoc tribunals

International humanitarian law

International humanitarian law is also known as the law of armed conflict, the international law of war, and *ius in bello*. It applies to all armed conflicts, whether lawful or not, and seeks to balance humanitarian and military interests. To prevent total war and complete annihilation of the opponent, the parties to a conflict must not be free to wage war by all 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).

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 the 1907 Hague Conventions, and various other conventions prohibiting or restricting the use of specific weapons. Most provisions of the Geneva Conventions and their Additional Protocols as well as many provisions on conduct of hostilities have entered customary international law.

» Geneva Conventions

International law

International law has arisen out of cooperation between states and governs their dealings with each other. It provides a basis for peace and stability and for protection and well-being of people.

International relations have become more important but also more complex with the advance of globalisation. International law regulates such diverse areas as prohibiting use of force; human rights; protecting individuals in times of war and armed conflict (international humanitarian law); it also covers efforts to combat terrorism and other serious crimes as well as the environment, international trade, development, telecommunications, and international transport.

In accordance 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 prohibition of genocide (*ius cogens*). In Switzerland, matters of international law are usually decided by the Federal Assembly and by the people through mandatory or optional referendums. International law takes precedence over national law.

» International humanitarian law
» *Ius cogens*
» Terrorism

Ius cogens

Latin for 'compelling law', *ius cogens* refers to peremptory legal norms from which no derogation is permitted under any circumstances. A norm that is *ius cogens* overrides norms that are not *ius cogens*. Which human-rights norms are to be considered *ius cogens* remains controversial. But there is general consensus that it includes prohibition of genocide, slavery and the slave trade, torture, and mistreatment.

» Ban on torture
» Trafficking in human beings/
prohibition of slavery

L

Lesbian, gay, bisexual and transgender (LGBT) rights

Discrimination and violence on the grounds of sexual orientation or sexual identity are among the most prevalent forms of social exclusion today. Grave human-rights abuses towards lesbian, gay, bisexual, and transgender people are increasing and affect all age groups worldwide. LGBT persons are often victims of physical attacks or face discrimination on the labour market, in public, and within the family. In some countries they even risk imprisonment or the death sentence. International organisations, civil society, and some states are currently addressing the issue with the aim of raising public awareness and increasing legal protection for LGBT persons. They point out that LGBT persons are protected by international human-rights norms, in particular the right to life, the right to non-discrimination, and the right not to be subjected to any inhuman treatment or torture.

- » Ban on discrimination
- » Convention against Torture
- » Right to life

Limitations on human rights

With few exceptions (e.g., ban on torture) human rights are not guaranteed but may 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 provided the principle of proportionality is respected. Deviating from human rights (derogation) goes further than merely restricting them.

- » Ban on torture
- » Derogation

M

Migrant workers and members of their families

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted in 1990, entered into force in 2003, and has 48 states parties (status December 2015). The responsible treaty body is the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Convention sets out the rights that migrant workers and their families enjoy. It applies during the entire migration process: preparation, departure, transit, the entire period of stay and remunerated activity in the country of employment, as well as return to the country of origin or state of habitual residence. Most rights concern the country of employment, but some also relate to the country of origin.

- » Migration

Migration

There is often a connection between global migratory movements and human rights. Indeed, human-rights violations are one of the main reasons for forced migration. Furthermore, migrants, refugees, internally displaced persons, and victims of human trafficking are particularly vulnerable to racist attacks and other forms of discrimination and sexual abuse. Together they form a group of people who are at higher risk of experiencing human-rights violations.

In 2014 there were 52 million people worldwide – mainly women and children – fleeing war and human-rights violations. Of these people requiring help and international protection, around 38 million were migrants within their own country, compared with 33.3 million in 2013.

- » Internally displaced persons
- » Racial discrimination
- » Refugees
- » Trafficking in human beings

N

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 Paris Principles (adopted by the UN General Assembly in 1993). National human-rights institutions may take a variety of forms (e.g., commissions, committees, ombudspersons). They are not to be confused with 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 where they face 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 enshrined not only in refugee law but also in various human-rights treaties (e.g., Art. 3 of the ECHR; Art. 3 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment).

- » Convention against Torture
- » ECHR
- » Refugees

Non-state actors

In today's armed conflicts, non-state actors such as armed groups or private military and security firms have an important part to play in ensuring respect for human rights and international law. International humanitarian law is not only legally binding on states but on these non-state actors too.

O

Office of the UN High Commissioner for Human Rights

The Office of the High Commissioner was set up in 1994. It is engaged in a variety of tasks to promote and protect human rights but has no executive powers. The High Commissioner is referred to as "the principal human-rights official of the United Nations" but is subject to the directives and authority of the UN Secretary-General.

Organization for Security and Co-operation in Europe (OSCE)

The OSCE is committed to security, peace, human rights, and establishment of democratic structures based on the rule of law in its 57 participating states. OSCE documents do not establish international legal norms and therefore do not require ratification by national parliaments. However, they are politically binding. The OSCE at times leads the way by exceeding standards set out in current international law, as in the case of protecting minorities.



Did you know...

that Switzerland is particularly active in protecting and upholding the rights of human-rights defenders? These are people who campaign for human rights under the most difficult of circumstances.

P

Persons with disabilities

The Convention on the Rights of Persons with Disabilities was adopted in 2006 to address the concerns and needs of disabled people. It has been in force since 2008 and has 157 states parties (status July 2015). The competent treaty body is the UN Committee on the Rights of Persons with Disabilities. The Convention requires states parties to prevent discrimination based on disability and to ensure that those with disabilities have legal recourse against discrimination. The optional protocol to the Convention also took force in 2008 and provides for an individual complaints procedure. Switzerland adopted the Convention in 2014 but has not yet ratified the protocol.

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, as well as 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. Close to 800 million people (or 15% of the world's population) suffer from chronic hunger.

Poverty is not merely due to lack of income; it also results from discrimination against persons who are largely excluded from economic, social, and political life.

Instruments designed to protect 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. All states are obliged to protect their citizens against abuses and to allow disadvantaged population groups access to the market, services, public resources, and political power.

- » Ban on discrimination
- » International Covenant
- » United Nations

Private sphere

At a time in which monitoring, capturing of digital data, and collecting personal data by states and private bodies is increasingly common, protection of the private sphere is vitally important. Many human-rights treaties and accords protect areas in which individuals can develop and unfold themselves without external limitations. Both the International Covenant on Civil and Political Rights (Art. 17) and the ECHR (Art. 8) guarantee the private sphere. Accordingly, the state cannot interfere in private and family life without reason.

- » ECHR
- » International Covenant

R

Racial discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination was adopted in 1965 and took force in 1969. To date it has been ratified by 177 states parties (status December 2015). The Convention requires the states to guarantee their citizens the right to equality before the law and to protect them effectively against racist acts. The competent treaty body is the UN Committee on the Elimination of Racial Discrimination.

Refugees

A refugee is a person who has left his or her home country out of a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. The 1951 Refugee Convention, supplemented by the Protocol of 1967, regulates the status of refugees. A particularly important provision is the principle of non-refoulement. This prohibits repatriation of individuals to states where their lives or physical integrity are in danger. The Office of the United Nations High Commissioner for Refugees (UNHCR) 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 country of temporary asylum or a new host country.

- » Non-refoulement

Right to development

The Declaration on the Right to Development was passed by the UN General Assembly in 1986. Article 1 para. 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". At the UN World Conference on Human Rights in Vienna (1993) the right to development was adopted unanimously, albeit in the form of a declaration, which is not legally binding.

- » Declaration
- » Development cooperation

Right to life

The right to life is the highest and most fundamental of human rights, and the prerequisite for enjoyment of all other human rights. The right to life is protected in international law by a variety of guarantees. For example, the International Covenant on Civil and Political Rights states that all human beings have the inherent right to life. It obliges 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 prohibit killing. Thus 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.

- » Derogation
- » International Covenant
- » Limitations on human rights

Right to a minimum level of subsistence

The goal of this right is to meet fundamental human needs such as the right to food, clothing, housing and basic healthcare. It is a fundamental precondition for other rights, such as the right to life, to be exercised in the first place. Article 25 of the Universal Declaration of Human Rights and Article 11 of the International Covenant on Economic, Social and Cultural Rights recognise the right of every human being to an adequate standard of living.

- » International Covenant
- » Right to life
- » Universal Declaration of Human Rights

Right to water

Water is a vital resource, and access to drinking water and basic sanitation is an essential requirement for human life, health, and dignity. Although the right to water is not recognised explicitly as a human right, access to drinking water and basic sanitation is a precondition for exercising other rights. International accords place obligations on states to that effect. For instance, the Convention on the Elimination of All Forms of Discrimination against Women requires that women be guaranteed "the right to adequate living conditions, particularly with regard to housing, sanitation, electricity, and water supply".

- » Discrimination against women

Rights of the child

The Convention on the Rights of the Child was created to ensure that all children of the world enjoy the same rights. The Convention was adopted in 1989 and entered into force in 1990. It currently has 195 states parties (status July 2015). The competent treaty body is the 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 the Convention.

The Convention enjoins all member states to make the best interests of the child a primary consideration in all actions concerning children. The Convention is complemented by three optional protocols: one provides protection against the sale of children, child prostitution, and child pornography; another protects against involving children in armed conflicts; the third (in force since 2014) provides inter alia an individual communications procedure.

Rights of women

Since the mid-1990s the rights of women have been part of the general discussion on human rights within the UN. The important women's rights issues include gender equality, violence against women, and participation of women in political processes. Today 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.

» Discrimination against women

S

Special rapporteur

Special rapporteurs are independent experts mandated by the Human Rights Council to investigate specific human-rights issues or the human-rights situation in particular countries. Their findings are published in annual reports accessible to the public. There are, for example, special rapporteurs on torture and migrants, as well as on two countries, Myanmar and Belarus (status 2015).

» Human Rights Council

Did you know...

that freedom of expression is increasingly at risk today? Media professionals are regularly victims of violent oppression, and many are imprisoned or even tortured. Hence UNESCO, the Council of Europe, and the Council of the European Union have adopted measures to protect media representatives and ensure respect for freedom of information.

Photograph: Mstyslav Chernov



State report

State reports on progress made in implementing 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.

» Treaty bodies

T

Terrorism

Terrorism as a term has not yet been defined in international law. Many terrorism-related acts and activities are nonetheless prohibited by international law, human-rights treaties, and international humanitarian law. Terrorist acts are attacks on the most fundamental human rights. It is not just a right but indeed the duty of states to protect the population against such acts. However, anti-terrorism strategies must comply with provisions of international humanitarian law, the International Refugee Convention, and human-rights conventions including the European Convention on Human Rights (ECHR) 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). However, in so doing, it is obliged to follow prescribed procedures and to ensure that any measures taken respect the principle of proportionality and are of brief duration. Moreover, the state must respect all fundamental rights, which may not be suspended under any circumstances.

» Derogation
» ECHR
» International Covenant
» International humanitarian law
» International law
» Limitations on human rights

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 recruitment, transfer or supply of persons for the purpose of exploitation. In most cases the exploitation is of a sexual nature, either for prostitution or production of pornography. Other common forms of exploitation include employment in abject conditions and even removal of organs. It is estimated that about 800,000 persons every year are victims of human trafficking. Most of these are women and children.

A number of instruments of international law are designed to combat these abuses, such as the European Convention against Trafficking in Human Beings of 16 May 2005. This obliges the states parties among others to provide support for victims of such crimes. The Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child concerns the sale of children, child prostitution, and child pornography.

- » *ius cogens*
- » Rights of the child

U

UN Economic and Social Council (ECOSOC)

Founded in 1945 and comprising 54 members, the Economic and Social Council (ECOSOC) is one of the principal UN organs. It coordinates the activities of a number of subsidiary bodies and specialised agencies and is active in economic, social, and development issues. It is committed to a general improvement in living standards and promotion of human rights.

- » United Nations

UN treaty bodies

Synonym: expert committees

Each of the nine UN human-rights conventions has its own responsible treaty body. Treaty bodies consist of experts who monitor compliance with the human rights contained in a particular convention. Their functions include generally examining periodic state reports, adopting 'general comments' on treaty provisions and considering individual communications.

- » Individual complaint



Did you know...

that the UN General Assembly has elected Switzerland to the UN Human Rights Council in Geneva for the third time, for the period 2016–18? The Human Rights Council is the main UN forum to promote and protect human rights.

© UN Photo

United Nations (UN)

The UN is an international organisation with global reach. It has 193 member states (status 2015) and provides a forum to discuss virtually all matters of international concern. The UN promotes international peace and security, defence of human rights, reduction of social inequalities, and protection of the environment. It also provides humanitarian aid. The key UN bodies are:

- › the General Assembly (consisting of representatives of states), which deliberate on issues of international concern;
- › the Security Council (composed of 15 member states), which bears the main responsibility for maintaining world peace and international security;
- › the Secretariat, which administers the UN and implements decisions of UN bodies;
- › the International Court of Justice, which is the UN's principal judicial organ.
- › The Economic and Social Council (composed of 54 member states) which addresses economic, social and environmental matters.
- › The Trusteeship Council which suspended its operations on 1 November 1994.

The UN system includes numerous specialised agencies: legally independent international organisations that are linked to the UN through agreements (e.g., the World Health Organization, WHO). Switzerland joined the UN as a full member in 2002. It previously had observer status (from 1948) and was a member of the UN specialised agencies.

» United Nations General Assembly

United Nations Charter

50 states signed the United Nations Charter on 26 June 1945, and it came into force on 24 October 1945. The Charter is the UN constitution and is binding under international law. Its 111 articles define among other things the UN aims and principles as well as the number of UN organs and their roles.

» United Nations

United Nations General Assembly

The General Assembly of the United Nations is one of the principal UN organs. Each of the 193 member states has one vote (status 2015). The General Assembly is responsible amongst other things for further development of human-rights norms and standards. It may condemn in political terms states that violate human rights. In the case of decisions that concern peace and security, a two-thirds majority is required. For other decisions a simple majority suffices.

» United Nations

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly on 10 December 1948. It was the first international human-rights declaration to cover the entire spectrum of human rights – citizens' rights, political rights (International Covenant on Civil and Political Rights) and economic, social, and cultural rights (International Covenant on Economic, Social and Cultural Rights).

» International Covenant

» United Nations General Assembly

Universal Periodic Review (UPR)

The Universal Periodic Review (UPR) is a key instrument of the Human Rights Council in Geneva. As part of the evaluation procedure introduced in 2006, the human-rights situation in each UN member state is evaluated by the other states (peer review) every four and a half years. This process provides an opportunity for states to give an overview of the measures they have taken to respect and promote human rights on their territory.

Universality

The international community adopted the Vienna Declaration and Programme of Action of 12 July 1993 at the 2nd UN World Conference on Human Rights in Vienna and affirmed that “all human rights are universal, indivisible, and interdependent”. In so doing, it recalled the universal validity of human rights as set out in the 1948 Universal Declaration of Human Rights. However, tensions between human rights and claims to national sovereignty are growing as a result of globalisation and the accompanying fragmentation of international law. For instance, states may point to religious or cultural traditions that conflict with the international understanding of certain human rights. Or they may stress particular political or economic needs that are incompatible with human rights.

» Limitations on human rights



Eleanor Roosevelt, widow of US president Franklin D. Roosevelt, presented the Universal Declaration of Human Rights to a press conference in Paris on 7 December 1948. She chaired the drafting committee and was a driving force behind the text. Photo: UN Photo

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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