

## 5 Human rights and human rights education



Figure 5

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 1, Universal Declaration of Human Rights

### 5.1 Introduction: what are human rights?

A right is an entitlement, something you deserve to have, something you ought to have and something it would be wrong to deny you. A human right is something you deserve to have and ought to have because you are a human being.

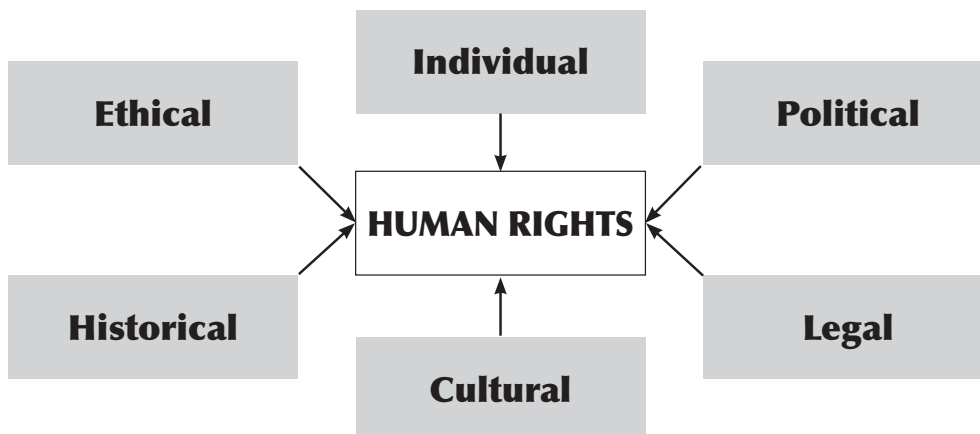
So what sort of things might human beings 'deserve', why might they deserve them and who says they do? Perhaps more importantly: is anyone going to make sure that human beings get what they deserve and are entitled to, and what can we ourselves do to secure this?

These are some of the questions addressed in this chapter, some of the questions that need to be addressed through human rights education (HRE). You will not find single answers to many of them, because human rights is not a scientific subject: it is a living, evolving field where there are different opinions and interpretations. There are even disagreements!

**Q: What do you see as the relation between human rights and Euro-Mediterranean youth work? Why might it be important for young people to be familiar with this concept?**

## 5.2 Points of view

The concept of human rights can be found at the intersection of several different areas of social study, in particular those of law, ethics or philosophy, and politics or international relations. So it is hardly surprising that what people see and what people choose to say about human rights depends, to a large extent, upon which point of view, which perspective, they adopt in looking at them.



Sometimes these points of view complement each other, giving a fuller and more comprehensive picture of what they are all looking at. Sometimes they battle for the common ground, for example in debates about abortion, embryo development, environmental rights or group rights.

Sometimes, the points of view conflict with one another at a deeper level, offering what seem to be contradictory views. We are all used to hearing politicians holding forth on human rights (sometimes in favour, sometimes against) and we are used to hearing non-governmental organisations such as Amnesty International<sup>1</sup> or Human Rights Watch<sup>2</sup> doing the same. The discourse does not always coincide. If our ears are well tuned to the human rights conversations around us, we probably pick up numerous other pronouncements from different individuals and different professions. So how do we know which ones to listen to?

As far as possible, people need to listen to all of them, because only in that way do they get a full picture of the struggles and tensions between those who are working

in the field, the different priorities and the different emphases. In this sense, another “point of view” can help to provide a more complete picture of what human rights really are and how they fit into the world.

**Q: What are the human rights pronouncements that you are aware of? Can you think of conflicting claims that you have found it hard to understand or reconcile with one another?**

### 5.3 Human rights values

The real power of human rights does not really come from the fact that they are (now) embodied in national and international laws: it comes from the fact that most people would still think we had those rights even if there were no laws telling us so. If there were no international conventions, no international laws forbidding torture, for example, people would surely still believe that torture went against some strong moral code. To put it differently: before the prohibition of torture by international law, torture was still wrong. In other words, human rights gain most of their force from the fact that they represent a system of values, of ethical norms, with which nearly everyone and nearly every society can intuitively agree.

What are these values, and what does the “ethical viewpoint” say about human rights?

- It says, first and foremost, that every human being is important. No matter how rich or how poor, how large or small, how idle or how hard-working – no matter even how badly or how well someone has behaved – he or she is still a human being. As a human being, they have value.
- Someone’s value as a human being is no less, but also no more, than that of any other human being. This is the principle of equality, or non-discrimination. It means that no individual should be treated differently from anyone else, for example, because of the colour of their skin, their religious beliefs, their gender, age or ethnicity.
- Because every human being has value, he or she is entitled to have that value respected by other people and by society. Having it respected means, at the very least, not being deprived of the bare essentials necessary for any human being’s existence and sense of humanity. Some of these bare essentials are such things as food, good health, education, liberty, someone’s personal beliefs and convictions, and their sense of dignity and worth.
- Although there may sometimes be reasons for limiting someone’s rights, for example if they pose a threat to others, there are certain rights which can never be limited, because to do so would be to deny someone’s humanity altogether. The right to be free from torture and the right to be free from slavery are examples of the rights that can never be limited.
- A related point says that the intrinsic value of one person cannot be played off against anything else, for example the needs of another person or the good of society as a whole, or the good of some group in society. There can be no trade-off between one person’s human rights and another’s. People cannot be tortured or held indefinitely in gaol without charge, simply because that may be better for society. That is particularly important to remember in the current atmosphere of fighting terrorism.

- As the institutions ultimately responsible for the way societies are structured and organised, governments (representing the state) ought to ensure that no-one's rights are neglected or violated. It is to governments, rather than to other individuals, that human rights claims can and should be made.

**Q: Do you find any of the above principles difficult to agree with? Would you want to add any further principles of your own?**

### → 5.3.1 A minimum set of standards

The principles in the previous section may be acceptable to many, but they may appear to miss out certain aspects of specific personal or cultural systems of values or morality. Does it matter, then, if our personal ethics say more about what human beings ought or ought not to do, or more about what is valuable in human beings or in society?

In general, as long as the basic principles are still present, it does not matter. Human rights, as an ethical system, do not attempt to provide a complete view of morality; and they certainly do not provide a complete view of humanity.

The theory of human rights aims to offer a minimum set of values and accompanying standards, not a comprehensive picture of what counts as good, bad, right and wrong. It regulates, in particular, the very unequal relationship between the individual and the state, and it aims to provide individuals with some guarantee that the powerful state (through the multiplicity of agencies and agents such as the police, schools and the judiciary) cannot cross certain boundaries, no matter what the apparent justification may be, if those boundaries lie within the realm of your personal human rights.

But agreeing with the overall concept of human rights need not, in general, threaten our personal ethical or religious systems: there are numerous different systems of ethics that are perfectly compatible with universal human rights.

**Q: What do you value in human beings? What other principles are present in your ethical system?**

## 5.4 Which rights do we have?

This question is a good illustration of the conflicting points of view mentioned in the first section; it is a good example of a question lying at the interface of two different disciplines.

One way to approach it is to start by distinguishing between the idea of a moral right and a legal right: moral rights are those rights people think they ought to have. Legal rights are those that have in fact been embodied in national or international law. One of the tasks of those engaged in the struggle for human rights is constantly to push for more of what people recognise as moral rights to be adopted also as legal rights. Perhaps that is why human rights experts and people working in the field are still battling this question out!

**Q: Which rights do you think we ought to have? Try to make a list of the "bare essentials": those things which every human being should be entitled to.**

By the beginning of the 21st century, the international community had recognised, to different degrees, the following types of rights:

- civil rights and liberties, such as the right to life, freedom from torture and slavery, freedom of expression and religious belief, and rights to non-discrimination and privacy;
- legal rights, such as the right to be presumed innocent until proven guilty, the right to a fair trial, the right to appeal and the right to be free from arbitrary arrest or detention;
- political rights, such as the right to participate in the government of the country, the right to vote and the right to peaceful assembly;
- social rights, such as the rights to education, to found and maintain a family, to recreation and to health care;
- economic rights, such as the rights to property, work, housing, a pension and an adequate standard of living;
- cultural rights, such as the right to participate (or not participate) in the cultural life of the community; the right to non-discrimination could also be classed as a cultural right, as could the right to education;
- collective/solidarity rights, such as the rights to self-determination, peace, sustainable development, a healthy environment and natural resources.

#### → 5.4.1 Generations of rights

The categories above are not precise. Many rights, such as the right to non-discrimination, fall into more than one category or even all categories simultaneously. However, they are one way of classifying the numerous different rights that have been acknowledged by the international community, at least to some degree. Roughly speaking, the first three categories (civil, legal and political rights) are termed first-generation rights; the next three (social, economic and cultural rights) are termed second-generation rights; and the last group are known as third-generation rights.

The notion of different generations of rights is little more than a rough statement about the historical order in which the rights began to be discussed and recognised. However, because of that fact, and perhaps also for political reasons, the different generations of rights are offered different levels of protection under international law. First-generation rights are well protected; second-generation rights allow governments a great deal more flexibility and offer the individual less guarantee; third-generation rights are barely protected under international law.

**Q: Can you think of rights which fall into more than one category? Should “freedom of association” be classified as a social right, an economic right or a political one?**

#### → 5.4.2 Positive and negative rights

Some commentators have tried to draw further distinctions between the generations of rights, in particular using the notion of positive and negative rights. The suggestion

is that some rights (negative rights) require only that the government refrain from doing something or other: for example, that government officials refrain from torture, arbitrary imprisonment or interference in peoples' private lives. In contrast, it is claimed that positive rights require a government's positive intervention, for example by providing a free health service, education, employment, a fair wage and a pension.

This distinction has been widely shown to be false in the contemporary, complex world. The right to "take part in the government of [one's] country", for example (a so-called negative right) requires the government to organise elections, which is a very positive (and expensive) obligation; the right to legal protection requires that the government finances a legal system, including the courts, the judiciary and penal institutions. Even the right to be free from torture, which is probably the clearest example of a negative right, demands a complicated and expensive system of training, checks and balances for police officers and other law-enforcement officials. There is certainly no society in the modern world where an individual's right to be free from torture can be guaranteed without an extensive system of legal protection, at the very least.

As far as positive rights are concerned, these are also less clear-cut than the distinction suggests. The right to health is dependent not only on free health care, but also on living in a non-polluted environment, being able to afford a balanced diet and not being exploited physically or psychologically in the workplace. All these requirements may require the government or legislature to refrain from passing legislation favourable to corporations rather than the individual.

Part of the reason why the positive/negative distinction does not really hold is that private companies or other corporate actors in the modern world are at least as powerful, and often more so, than the state. Since it is the state's ultimate responsibility to ensure respect for human rights, the state will almost certainly have to take both positive and negative measures to redress the balance between the individual and other more powerful actors.

### → 5.4.3 Universal, indivisible, interdependent and inter-related

It should also be said that the ranking of human rights of different categories is neither in accordance with the Universal Declaration of Human Rights, which included on an equal footing both first- and second-generation rights, nor with the Vienna Declaration of 1993, adopted at the World Conference on Human Rights by the United Nations General Assembly. The conference agreed that: "All human rights are universal, indivisible and 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."

**Q: Do you think that all human rights are treated in a fair and equal manner?**

## 5.5 The history of human rights

Human rights are often presented as a Western discovery, the product of British, French and Dutch thinkers, in particular, Hobbes, Locke, Rousseau and de Groot. These thinkers were indeed important in developing the theory of human rights, but – as shown in relation to human rights values – the principles at the heart of the human rights ideal overlap with every other major system of values around the globe.



Different elements of human rights theory have come from different thinkers and different cultures at different times. Every culture can probably name important local individuals who have put forward some of the same ideas. The list in the box below mentions just a few of the best known landmarks internationally.

**Q: Who are the historical figures in your culture that have put forward similar ideas?**

### Precursors to human rights

Hammurabi, ruler of Babylonia (c. 2000 BCE), was one of the earliest rulers to issue a written legal code, known as the Laws of Hammurabi. Although the laws were often brutal in content, the code set an important precedent in legal history, in setting out standards (and punishments!) which applied to everyone in the same way.

Cyrus the Elder, King of Persia (c. 600 BCE), was responsible for drawing up what was almost certainly the first charter of human rights, in which he promises: “While I am king of Iran, Babylon, and the nations of the four directions, I shall never let anyone oppress any other ... while I am monarch, I shall never let anyone take possession of movable and landed properties belonging to others by force or without compensation. While I am alive, I forbid unpaid, forced labour. Today, I declare that everyone is free to choose a religion. People are free to live in all regions and take up a job provided that they never violate others’ rights.”

In the teachings of Confucius (c. 500 BCE), the concept of *ren* (compassion, or loving others) is a central theme. Confucius said: “What you do not wish for yourself, do not do to others”. Dr Peng-chun Chang, the Chinese expert on Confucianism, who played an active role in drafting the UDHR (see section 5.6.1 below), believed that Confucianism laid the groundwork for human rights ideas.

Socrates, Aristotle and the Greek Stoics (c. 450 to 250 BCE) developed the idea of natural justice, that is, a justice that applied everywhere, according to the laws of nature, rather than the laws of a state. This was an essential basis for the later idea of natural rights.

Imam Ali Ibn Al Hussein wrote the Epistle on Rights in the early 8th century CE. To our knowledge, this letter is the first document to set out the main rights as perceived in that age and the first attempt that does not approach the concept of rights in its negative dimension. The epistle listed 50 of these rights methodologically. They are, in spirit, anchored to the early Islamic precepts.<sup>3</sup>

Thomas Aquinas (c. 1225-1274) was primarily responsible for building on the ideas of the Stoics and formulating a theory of natural law. Aquinas believed that “Any law that uplifts human personality is just. Any law that degrades human personality is unjust”.

Huig de Groot (1583–1645) is widely regarded as having invented international law. His book *On the laws of war and peace* proposes a system of general principles based on natural law, which he believed should bind all nations, regardless of local laws or custom.

### → 5.5.1 The European Enlightenment

The period from the early 17th century to the end of the 18th century was known in Europe as the Age of Enlightenment; this was the time when the theory of human rights first began to be developed in detail and to gain wide popularity.

The theory initially grew out of the idea of natural rights, the belief in an overarching standard of justice and moral rightness based on natural law. In this way, rights became detached from the legal system and were supposed to belong to individuals irrespective of national or local laws. This was a big step forward in terms of offering protection to the individual and in terms of setting standards by which laws themselves could be judged.

The Age of Enlightenment culminated in two revolutions, the American and the French, for both of which the idea of human rights was a central theme. Two important documents laid out these rights as fundamental elements of the new post-revolutionary societies: the American Declaration of Independence in 1776, and shortly afterwards, the French Declaration of the Rights of Man and the Citizen in 1789.

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness ...”

American Declaration of Independence

“Men are born, and always continue, free, and equal in respect of their rights ... The end of all political associations is the preservation of the natural and imprescriptible rights of man; and these are liberty, property, security and resistance of oppression.”

French Declaration of the Rights of Man

### → 5.5.2 Human rights up to the Second World War

After the years of terror following the French Revolution and right up until the end of the Second World War, the human rights movement lost popularity and moved away from centre stage. Nevertheless, several important advances in international law in this period helped to set the scene for the development of international human rights after 1948. In particular, the Geneva Conventions<sup>4</sup> of 1864 and 1949 set out basic rules of war which were meant to apply to all countries; the Slavery Convention of 1926 was an international agreement to end the slave trade and abolish slavery; and the International Labour Organization (ILO) was established in 1919 to support workers' rights.

### → 5.5.3 Human rights after the Second World War

International human rights law was conceived as an essential and comprehensive means to protect every individual throughout the world. The theory which had driven the French and American Revolutions was revived after the horrors of the Nazi holocaust became apparent, with its gratuitous and deliberate targeting of Jews, Roma, homosexuals and the disabled. These events acted as a stimulus to the international community to establish a set of minimum universal standards, intended to apply to every nation, irrespective of local laws or customs.

The end of the Second World War marked the real beginning of international human rights law and the start of a second expansionary period in the development of human rights as a political theory.



## 5.6 The legal perspective: human rights in international law

The legal perspective of human rights is perhaps the one with which most people are familiar, and the legal basis for human rights is often the first thing people learn about in human rights education. As the previous section indicates, international human rights law is actually a relative newcomer when it comes to human rights discourse: it really emerged a mere 60 years ago!

In that time, however, a mass of legislation, declarations, treaties and other documents has been produced at international, regional and national levels. The following sections set out some of the most important at the international and regional levels.

**Q: Is international law important? Do you know of positive examples where international law has helped people in your country?**

### → 5.6.1 The United Nations

#### 5.6.1.1 The International Bill of Human Rights

The original aim of the international community in 1948 was to draw up a single, legally binding document which would include a comprehensive list of human rights. This aim turned out to be unrealisable, partly because countries such as the United States were not prepared to make strong commitments on social and economic rights. So in the end, the International Bill of Human Rights consisted of five separate documents, which allowed member states to select the ones they wanted to sign up to.

- The **Universal Declaration of Human Rights**<sup>5</sup> (UDHR) is probably the single most important human rights document in terms of its impact, general vision and subsequent influence on international human rights law. It was adopted in 1948 with only eight abstentions from member states (including the Soviet Union, Saudi Arabia and South Africa), but all countries that originally abstained have since signed up. The declaration includes all the rights acknowledged at that time (civil, political, social, economic and cultural) but it is legally non-binding on states. Although the UDHR has no formal legal force, it is now acknowledged by most lawyers to form a part of customary international law. The declaration set a Guinness world record by being translated and disseminated in more than 300 languages and dialects!
- The **International Covenant on Civil and Political Rights**<sup>6</sup> (ICCPR) is a legally binding document which sets out in more detail the civil and political rights established in the UDHR. It was adopted and opened for signature in 1966, and entered into force ten years later. To date it has been signed by 160 countries. Country signatories have to provide regular reports to the Human Rights Council, in which they outline the state of human rights in relation to the treaty requirements.
- The **First Optional Protocol**<sup>7</sup> to the ICCPR is an additional and optional treaty which countries can sign if they are prepared to allow individual complaints under the ICCPR. It entered into force in 1976. 105 countries have ratified the protocol.

- The **Second Optional Protocol**<sup>8</sup> to the ICCPR aims at abolition of the death penalty. It was adopted in 1989 and has been ratified by only 60 of the 160 countries which are parties to the ICCPR.
- The **International Covenant on Economic, Social and Cultural Rights**<sup>9</sup> (ICESCR) is a legally binding document that elaborates on the economic, social and cultural rights set out in the UDHR. Compared to the provisions in the ICCPR, country signatories are subject to far fewer and less strict demands. In particular, there is no possibility for individuals to issue complaints (there is no “optional protocol”); and countries are only required to “take steps ... to the maximum of [their] available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant”. In other words, signatories only need to show they are trying to make progress! The ICESCR entered into force in 1976 and has been ratified by 156 states.

**Q: Which of these documents has your government signed or ratified?<sup>10</sup>**

### 5.6.1.2 Other UN treaties

In addition to the two international covenants mentioned above, the UN has adopted five further human rights treaties which are legally binding on state signatories. Countries can decide whether or not they wish to sign up to these treaties, and whether they do so depends on a number of factors, including pressure from local or international NGOs, or local customs or laws which may make some parts of the treaty difficult to abide by. Most of the treaties have a system of reporting, under which state parties have to submit regular reports to an international committee.

- The International Convention on the Elimination of All Forms of Racial Discrimination<sup>11</sup> (ICERD), adopted in 1965, ratified by 173 countries.
- The Convention on the Elimination of All Forms of Discrimination against Women<sup>12</sup> (CEDAW), adopted in 1979, ratified by 185 countries.
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>13</sup> (CAT), adopted in 1984, ratified by 144 countries.
- The Convention on the Rights of the Child<sup>14</sup> (CRC), adopted in 1989, ratified by 193 countries. This is the most widely adopted international treaty and it sets out broad principles on the rights of young people (up to the age of 18). Only two countries have failed to ratify: the United States, partly because some states still permit the death penalty for juveniles, and Somalia.
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>15</sup> (ICRMW), adopted in 1990, ratified by 37 countries.

The Convention on the Rights of Persons with Disabilities<sup>16</sup> and its Optional Protocol aims to ensure that people with disabilities enjoy human rights on an equal basis with others.

The convention and the optional protocol were adopted on 13 December 2006 and opened to signature in March 2007. To date, there are 118 signatories to the convention.

**Q: Why do you think there is a need for separate human rights documents, for example, relating to children?**

### → 5.6.2 Regional human rights instruments

In addition to the UN system of human rights, there are also regional systems, which are often more important and influential in addressing human rights violations. Those regional systems are normally more accessible to the individual and they usually provide some actionable protection for individuals in relation to nation states, so they go further than being just declarations of principle. By far the most developed is the European system, managed by the Council of Europe, and including the European Court of Human Rights.

#### 5.6.2.1 European instruments

The Council of Europe<sup>17</sup> was established in 1949 to “protect human rights, pluralist democracy and the rule of law”. Today it has grown to include 47 states of Europe, each of which has signed up to the Council’s elaborate and influential programme of human rights protection, monitoring and advocacy.

Perhaps the best known element of this protective system is the European Court of Human Rights,<sup>18</sup> where complaints against member states can be brought and heard before a panel of independent judges. The court investigates cases relating to the European Convention on Human Rights and Fundamental Freedoms<sup>19</sup> (ECHR) and any of its additional protocols. The right of individual complaint is one of the essential features of the system. In the words of the court, “individuals now enjoy at the international level a real right of action to assert the rights and freedoms to which they are directly entitled under the Convention”.<sup>20</sup> This right applies to natural and legal persons, groups of individuals and to non-governmental organisations. Judgments of the court are binding and require the member state in question to take appropriate action to remedy and compensate any violations.

#### The European Convention on Human Rights and Fundamental Freedoms

This was opened for signature in 1950 and entered into force in 1953. The convention was strongly based on the UDHR but included only civil and political rights and omitted most of the social, economic and cultural rights mentioned in the UDHR.

Later additions (“protocols”) to the ECHR have recognised, among others, the rights to property, education, free elections, freedom of movement and freedom from discrimination. Protocol 13 made abolition of the death penalty compulsory for all member states, without any exceptions.

In order to deal with an increasing number of cases, Protocol 11 to the convention restructured the process of considering complaints, leading to a permanent Court of Human Rights. However, with the increasing number of member states and the possibility for individual complaints to be lodged with the court, the number of pending cases has continued to increase, leading to a huge backlog. By the end of 2006, there were nearly 90,000 cases pending. The 14th Protocol proposes a further restructuring in order to deal with the problem, but is still lacking one ratification at the time of writing (that of Russia).

Other important human rights documents of the Council of Europe include:

- The **European Social Charter**<sup>21</sup> (ESC), which deals with social and economic rights, was adopted in 1961 and revised in 1996. Unlike the ECHR, claims of rights violations relating to this document cannot be taken before the European Court. Country signatories are required to produce annual reports which they submit to the European Committee of Social Rights. This committee examines the reports and any complaints received, and then issues its own “conclusions” concerning conformity with the charter.
- The **European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment**<sup>22</sup> (CPT) is aimed at improving preventative mechanisms in signatory states to ensure compliance with Article 3 of the ECHR: freedom from torture. The CPT works through a system of visits by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.
- The **Framework Convention for the Protection of National Minorities**<sup>23</sup> entered into force in 1998, and is the first legally binding multilateral instrument devoted to the protection of national minorities.

**Q: What are the advantages of having a regional system of human rights protection in addition to the UN system?**

### 5.6.2.2 Human rights in Mediterranean countries

The Mediterranean countries are not similarly united under one human rights system, though some of these countries are members of the Council of Europe and work within that system. Apart from this, there are human rights documents which are specific to Arab countries, documents which are specific to African countries, and still other documents which are supposed to apply to all Muslim countries. It is not always easy to compare these documents or to assess their relative importance. Some Mediterranean countries, of course, fall under more than one of these categories.

There is also no exact parallel to the Council of Europe in this region. However, the African Charter on Human and Peoples’ Rights<sup>24</sup> and the recent establishment of the African Court on Human and Peoples’ Rights<sup>25</sup> offer African countries the potential for an effective protective mechanism on a similar model to the European Court.

### 5.6.2.3 The African Charter on Human and Peoples’ Rights

This charter was adopted in 1981 and came into force in 1986. It has been ratified by more than 40 African states. The charter is unique among human rights documents in at least two important ways: firstly, because in addition to listing human rights, it also lists duties of the citizen towards the community. Although the Universal Declaration of Human Rights does mention the “duties to the community in which alone the free and full development of ... personality is possible” (Article 29), the international

treaties do not make this a legal requirement. The second way in which the African Charter is unique is that the rights included range over all three “generations”, in contrast to other single (binding) documents on human rights.

The African Court, which will monitor state parties’ compliance with the charter, was set up in 2004 on the basis of a protocol to the charter. It had its first meeting in 2006.

**Q: Do you think that people’s duties should be specified in international human rights treaties?**

#### 5.6.2.4 Declarations and other regional documents.

There have been a number of attempts to produce human rights documents that apply exclusively to Arab countries or Muslim countries. None of the documents that have been produced has legal force, and all have certain inconsistencies with other international human rights treaties. Notable among the regional declarations are the following:

- The **Universal Islamic Declaration of Human Rights** (UIDHR) of 1981 was the first significant attempt to provide an alternative formulation of human rights according to Islamic law. In giving priority to Islamic law on certain issues, such as freedom of religion, the document comes into conflict with the UDHR and other international documents.
- The **Arab Charter on Human Rights** was adopted by the Arab League in 1994 but was never ratified by any of the member states. At the meeting of the Arab Human Rights Movement in Casablanca (see below), it was agreed that the Arab Charter should be reviewed to make it compatible with international standards. The Revised Arab Charter was adopted in January 2004 but has so far only been ratified by Tunisia and Jordan. In terms of content, there are still inconsistencies with international human rights law, in particular, the death penalty is permitted for minors, and there is no mention of cruel, inhuman and degrading punishment (although torture itself is prohibited).
- The **Casablanca Declaration** was a document produced by the first international conference of the Arab Human Rights Movement in 1999. The meeting was held in Casablanca, Morocco, and was attended by 100 representatives of human rights NGOs from across the Arab World. In addition to agreeing to revise the Arab Charter, the conference made a detailed statement on human rights in the Arab world, setting out a single position on certain key issues. The second paragraph of the document clarifies the position on international law and the universality of human rights: “After extensive discussions, the Conference declared that the only source of reference in this respect is international human rights law and the United Nations instruments and declarations. The Conference also emphasized the universality of human rights.”

**Q: Do you think that regional documents need to agree with the principles already set out in international human rights law?**

### Some real examples of violations of human rights

In terms of violation of freedom of opinion and expression, numerous newspapers have been stopped, and journalists have been arrested in many Arab countries.<sup>26</sup> The curtailment of that freedom in the form of officially imposed censorship extended also to literary and artistic creativity: some Arab states have banned the circulation of some of the most treasured works of Arab literary heritage.<sup>27</sup> Relative freedom in Internet use has been allowed in only three states and remaining states do their utmost to control circulation of Internet content and spend heavily on Internet surveillance, such as source control by means of electronic filtering programmes.<sup>28</sup>

Regarding the restriction of the right to peaceful assembly, one Mashreq country rejected 70% of all applications for permission to organise peaceful marches during 2004, and another country broke up peaceful marches calling for reform and arrested hundreds of demonstrators.<sup>29</sup> In a Council of Europe member country, a trade union formed by civil servants was dissolved.<sup>30</sup>

Personal life is also violated. In a north European country, some citizens' political activities in the 1960s continued to be stored in security police files.<sup>31</sup> In some Arab countries, political authorities sometimes breach the inviolability of the home at any hour, monitoring private correspondence and tapping telephones.<sup>32</sup> In a European country, a transsexual was denied legal recognition of her gender change and refused a retirement pension from the age applicable to other women.<sup>33</sup>

Capital punishment has been retained in all Arab countries, although in certain countries it is rarely applied. The right to life is often violated in cases when people are expelled or arrested, and in prisons, where torture is also used or health care is neglected.<sup>34</sup> Practices violating human rights still exist in some European countries, such as torture in police custody,<sup>35</sup> ill-treatment of Roma on arrest and in custody,<sup>36</sup> or inhuman or degrading treatment such as strip-searches of prisoners.<sup>37</sup>

**Q: What are the most common violations of human rights in your country?**

## 5.7 Political, cultural and religious perspectives

Human rights are often said to be outside politics, but in a very literal sense they are quite the opposite of this: human rights are, after all, about protecting the individual in society, protecting the individual against excesses of power. It is states that are supposed (and obliged) to ensure that this protection is effective, and it is governments that answer for deficiencies in practice.

But there is some truth in the claim that human rights should be outside politics: what is really meant by this is that human rights are outside party politics, and the reason for this is that every party and every government should support human rights fully. There ought not to be any difference on this issue: that, after all, is what is meant by countries signing up to international agreements on human rights.

The truth in practice is often rather different, both at national level and at international level. As a result of the power that the human rights discourse can hold over different



audiences, politicians often use it as a political tool to condemn their national or international opponents. But the sad fact is that not one country in the world, not one government, can claim to preside over a state of affairs where human rights are fully respected.

More dangerous even than this tendency is the fact that the ideal of human rights has often been used as a justification for actions which themselves violate the rights of others. Torture is approved in the name of fighting terrorism; civilians are targeted in the name of democracy and human rights; the right to a fair trial is suspended on grounds of national security. Such playing off of human rights against other concerns is wholly inconsistent with human rights principles: it is a misuse of the human rights discourse and an abuse of human rights values.

**Q: Can you think of examples where human rights have been suspended or violated “in the name of human rights”?**

## → 5.7.1 The cultural perspective

### 5.7.1.1 Are human rights really universal?

This question is normally asked because people have concerns about a system of “foreign” values being imposed on their own region or culture. It is often followed up by the so-called “cultural relativist” argument that values are relative to a particular society or culture and do not make sense outside that framework. There are several responses to this argument.

Firstly, human rights have historical roots in cultures that differ substantially from each other: from Cyrus the Great of Persia through Confucius in China, Aristotle in Greece and Aquinas in Rome to Locke in the UK and Rousseau in France, just to mention a few of the better known ones.

Secondly, whatever the actual origins of human rights, international human rights law in the modern world is based on the principles established after the Second World War, accepted with an astonishing degree of consensus by (eventually) every country in the world. The UDHR itself was drafted collectively, involving and incorporating at different stages comments and concerns from every region of the world. The actual drafting was mostly the work of a small sub-committee consisting of a Chinese, a Lebanese, a Frenchman, an American and a Canadian. Also present on the committee were representatives from Australia, Chile, the Philippines, the Soviet Union, the Ukrainian Soviet Socialist Republic, the United Kingdom, Uruguay and Yugoslavia.

Thirdly, supporting human rights values does not, in most cases, mean that a regional culture needs to give up any of its own values. Human rights are a set of minimal values or standards that are perfectly compatible with nearly every regional, cultural or religious system around the world.

Fourthly, you can try this out for yourself: can you find a system of values that is shared by a large number of people, but where, for example, human life is not important? Or where it is perfectly permissible to torture someone? The values embodied in human rights would mostly be completely inoffensive and intuitively obvious to almost anyone. Talk to some people about the principles of human rights and see if anyone would be prepared to reject them for him or herself.

Finally, if all of this was not the case, it is hardly likely that every government of every state (all 192 of them!) would have signed up (in word, if not in deed) to the Universal Declaration of Human Rights. No state has rescinded its agreement to abide by these general standards. No state is prepared openly to say that these principles are bad ones. “The General Assembly ... proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations” as the Preamble to the UDHR says.

That there are still very real debates about the extent and interpretation of human rights is not to be denied. But the important thing is that these debates are taking place in every culture of the world: there can be universalists and cultural relativists anywhere. In Russia, the Orthodox Church has drawn up an alternative declaration of human rights; in the United Kingdom, there are politicians at national level talking of repealing the Human Rights Act because it does not correspond to the national culture; in the United States, successive governments still do not acknowledge social and economic rights as real human rights, even 60 years after the UDHR was adopted; in Saudi Arabia and in some other states there are those who still believe that religious freedom should be prohibited by law.

**Q: What are the debates in your country about the ‘universality’ of human rights? How would you respond to them?**

### → 5.7.2 Human rights and religion

The last example raises a related issue: whether human rights are consistent with particular systems of religious values, whether Christianity, Islam, Judaism or any other religion. It should be said, first of all, that every major religion, including Bahaism, Buddhism, Christianity, Hinduism, Islam and Judaism, teaches values that are almost indistinguishable from those of human rights. Also, it should also be acknowledged that, despite attempts on all sides to represent particular religions as a single body of opinion, this is clearly not the case. So while there may well be (and are in fact) adherents of any of these religions who dispute some of the accepted human rights on religious grounds, there are probably at least as many of the same religious faith who do not see an inconsistency.

Nevertheless, it would be wrong to deny that there are very real clashes between some cultures or some religions and human rights. Normally these are most apparent over specific issues: for example, some religions punish apostates; some have different laws for non-believers or believers of a different faith; many religions regard women as inferior to men; and many regard homosexuality as a sin. The important thing is that these conflicts are not unique to any one culture or region, though much more has been said about conflicts between human rights and Islam than about those with other religions. There have, indeed, been fierce debates, which continue to this day, between representatives of the Protestant and Catholic churches over the issues of women priests, homosexuality, abortion and euthanasia, for example.

**Q: Do you see inherent inconsistencies between human rights and your religion? Would all adherents of your religion also see an inconsistency?**

## 5.8 Making human rights a reality

Human rights can seem a distant ideal. The words that are written down on paper and the reality that most people around the globe face are often worlds apart. So what can individuals do to help to bring the two worlds closer together, and what can young people or youth groups do?

### → 5.8.1 Small steps forward

There is no big mystery behind human rights activism. Above all, defending one's rights or those of others is about finding the best way to use the mechanisms that exist, whether political, legal or social, to ensure that those who should be looking after human rights do, in fact, do so! The exact methods that are chosen will depend on the circumstances of the case.

The following general list describes some of the small steps that individuals or groups can take towards ensuring better protection for human rights in the community.<sup>38</sup> We should also be aware that some of these methods will be easier in some parts of the Euro-Mediterranean region than in others: the methods should obviously not be used if they are likely to put young people in any danger.

#### **Knowing your rights**

Being aware of the rights that young people have (or anyone else has) under international law can be empowering and gives them the assurance that they are making rights claims on good moral and legal authority. Human rights are based on universal moral values: if young people have a strong sense of what these values mean, they can make strong moral claims to have rights better respected.

#### **Being aware of what governments have promised to do**

At the beginning of the 21st century, human rights are not only moral claims; they are also legal claims, sometimes at national level, sometimes at regional level, and nearly always at international level. If young people are aware of the treaties that governments have signed up to, as well as the national mechanisms that exist, then they can appeal to legal obligations to respect these rights.

#### **Claiming rights**

Human rights, either as moral or as legal rights, will become reality when individuals and groups are confident and competent enough to claim them, and when the systems and mechanisms exist to enable them to do so effectively. The process can seem long and arduous, but one thing is for sure: if individuals and groups stop claiming human rights, then the rights might as well not exist at all.

#### **Working with state officials to improve human rights mechanisms or legislation**

Not all human rights work has to be in opposition to state organs: a great deal of the most important and most effective work needs to be done in co-operation with those in positions of power. This might involve organising meetings, round table discussions or conferences together with state officials, to discuss ways of improving legislation

or the way existing mechanisms work. It might involve working with or through the courts, with national ombudsmen and so on. Encourage young people to find out about the national mechanisms that exist in their countries.

### **Monitoring observance of human rights**

Young people need to be aware of the human rights situation in their own country and ideally beyond it as well. Rights violations need to be monitored and acknowledged in order to be claimed; lawmakers and state officials need to feel that people are aware of what is being done in their name, aware of the consequences of decisions made by those in power. Encourage young people to look at reports on their country put out by national or international human rights organisations, and encourage them to look out for violations against groups that may be less able to defend their own rights.

### **Supporting others whose rights have been violated**

There will always be groups or individuals that are more disadvantaged, less able to claim their rights and less competent at using the available mechanisms to defend their rights. Effective human rights defence is nearly always a community effort, depending on the combined actions of groups of individuals and supporters. There are particular people in a society more likely to be victims of human rights violations, for example, refugees, victims of trafficking, or certain ethnic or religious minorities. Look for organisations already working with such groups to make contact with them and look for ways they may be able to offer additional support.

### **Spreading the human rights word**

By speaking about human rights, by writing about them or by using the creative arts to inform others, young people can help to start conversations on human rights in their local or national communities. These conversations are essential if the first items in this list are to become commonly accepted practices.

### **Educating others about their rights**

Educating others to engage in the activities in this list is one of the most important things that can be done! By working with groups or individuals to improve awareness of human rights issues, to develop the type of skills needed to engage in effective human rights work and to spread the values at the heart of human rights, one can help to build a future community where human rights have more of a chance of being respected. Euro-Mediterranean youth projects represent many valuable opportunities to engage young people in human rights education and to take up action within their context.

### **Joining forces with others who share the same aims and values**

Human rights work is more effective, more interesting and more enjoyable if it is undertaken in collaboration with other groups or individuals working towards the same goals. There are numerous human rights organisations already in existence: encourage young people to join one or start a new one of their own! Human rights are, as much as anything else, about giving every individual the best opportunity to play the role best suited to their abilities. Help them to meet up with others, talk through ideas and build their own human rights community.

## → 5.8.2 Human rights education (HRE)

The information in this chapter has covered such basic issues as what human rights are, what people say about them and where some of the unanswered questions are. This should be more than enough to start discussions on these questions with those who have a desire to understand more about human rights themselves.

That is as good a place as any to begin engaging in human rights education, which is often most simply defined as: education about human rights, for human rights and through human rights. This means that there are three important elements in human rights education, and human rights educators need to bear each of them in mind in any work they do.

### **Education about human rights**

This part of the equation describes the content side of HRE, which aims to provide participants with information about human rights. The sections in this chapter have looked at various possible elements which could form a part of this informational aspect. For example, education about human rights might include:

- information about the international mechanisms for protecting human rights,
- discussions about the ethical values at the heart of human rights,
- an excursion into the historical development of human rights,
- exploring the actual rights that are protected under international, national or regional law,
- investigating the human rights situation in the local or national community.

### **Education for human rights**

This part of the equation reminds people that HRE is education with a purpose: it is not just telling people their rights, as we might tell them the chemical composition of water. It is educating people in human rights so that a human rights world or a human rights culture becomes more of a reality. It aims to improve the human rights situation in the world!

Education for human rights also speaks about another important aspect of human rights education: that in order to bring about a human rights reality, people (participants, learners, potential activists) need certain skills, abilities or competences. In other words, information alone is unlikely to be sufficient: people need to be able to use the information and mechanisms, and they need to possess the social, political or legal skills that will be necessary in trying to bring about changes in the human rights situation. It is very important, then, that HRE facilitates and encourages the development of such skills as:

- communication – the ability to listen, to debate, discuss, argue, persuade, and so on;
- creative and critical thinking – the ability to analyse, to prioritise, design, imagine, summarise, think laterally, and so on;
- social interaction – the ability to understand others, empathise, engage in dialogue, compromise, build bridges, mediate, and so on;
- practical or creative skills – the ability to get things done, to make things, to design creative solutions, artistic ability, and so on.

### **Education through human rights**

This element in the definition speaks about the general atmosphere, the values and attitudes which contribute to the culture of the group and the type of environment in which HRE needs to take place. It is fairly clear that one cannot teach people to respect human rights, to respect others, to listen or to empathise if the only examples given to them are those of disrespect, ignoring what they say or failing to perceive what they are feeling!

In other words, HRE needs to be carried out in an atmosphere of openness, trust and mutual respect if there is to be any chance of these qualities being valued. Paolo Freire, the great Brazilian educator, had this to say: “To say one thing and do another – to take one’s own word lightly – cannot inspire trust. To glorify democracy and to silence the people is a farce; to discourse on humanism and to negate people is a lie” (from *Pedagogy of the oppressed*).

## **5.9 Human rights and HRE in Euro-Mediterranean youth work**

The involvement of young people in exchange and co-operation projects across Europe and the Mediterranean takes place in a framework of values and aims that, to a large extent, correspond to a human rights framework. Similarly, human rights are part of the framework for intercultural learning and intercultural dialogue programmes, such as the Euro-Med Youth Programme.

It is therefore important that the leaders and organisers of youth projects are aware of human rights issues, and feel capable of addressing them and introducing human rights education in their activities. There are many activities to be used in youth work that have been designed to integrate basic human rights education approaches (learning through and learning in human rights) – for example, using participatory approaches, stimulating group work, developing a critical spirit or connecting global issues to local realities.

The use of these methodologies can be seen as a soft or indirect way of doing human rights education (HRE). But HRE, as we have seen, is much more than this. It also requires that young people have the chance to explore issues of concern to them through a human rights perspective (in this sense, it will be possible to speak of effective mainstreaming of human rights education in youth work).

For this purpose, the Council of Europe has produced *Compass*, the manual on human rights education with young people.<sup>39</sup> *Compass* provides examples of activities and methods to address current social issues (from environment to sports) from a human rights perspective. Experience of using *Compass* in youth activities can be very useful in Euro-Mediterranean youth projects. In this regard, project leaders, organisers, facilitators and trainers might take into account the following issues:

- Everyone is potentially concerned by human rights and everyone has something meaningful to contribute to the learning of others in this respect.
- Different participants are at different stages and levels of readiness and knowledge to discuss human rights issues. It is important to respect this, while opening up their minds to new perspectives and issues.



- Many human rights issues are naturally controversial. Critical dialogue and exploring conflicting issues are part of human rights education. Human rights cannot be imposed; one of the best ways to introduce HRE is to relate human rights issues to young people's lives and reality.
- In some countries, speaking of human rights can be dangerous. While it is important for everyone to discuss and learn about human rights, young people should not feel pressure to engage in human rights activism in ways that make them feel unsafe.
- Everyone can do something for human rights and human rights education – writing petitions and participating in demonstrations are not the only ways to act! The values and principles of human rights as codes of conduct among human beings apply in any youth activity.
- Human rights are violated and challenged everywhere, in all the countries involved in Euro-Mediterranean co-operation, even if it is also true that the scale of the violations of some rights is much more serious, widespread or accepted in some countries than in others. Human rights education activities in this context should avoid stigmatising one society or state, but should rather emphasise the need for everyone to act in their own context for the benefit of the human rights of all. Whenever human rights are violated somewhere, human rights are threatened everywhere!

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### Notes

1. See [www.amnesty.org](http://www.amnesty.org).
2. See [www.hrw.org](http://www.hrw.org).
3. Haytham Manna'a, based on Abu Muhammad al Hassan Ibn Ali al Hussein Shuba al-Harrani (al-Halabi), in Arabic, 4th century ah, 184, quoted in Arab Human Development Report 2004.
4. The first Geneva Convention was entitled "for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field" and was first adopted in 1864. The Geneva Convention "relative to the Treatment of Prisoners of War" was first adopted in 1929, and was followed and revised by the third Geneva Convention, signed in 1949.
5. The declaration text can be found in various languages at [www.unhchr.ch/udhr/index.htm](http://www.unhchr.ch/udhr/index.htm).
6. The covenant can be found at [www.ohchr.org/english/law/ccpr.htm](http://www.ohchr.org/english/law/ccpr.htm).
7. The First Optional Protocol can be found at [www.unhchr.ch/html/menu3/b/a\\_opt.htm](http://www.unhchr.ch/html/menu3/b/a_opt.htm).
8. The Second Optional Protocol can be found at [www.unhchr.ch/html/menu3/b/a\\_opt2.htm](http://www.unhchr.ch/html/menu3/b/a_opt2.htm).
9. See [www.unhchr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhchr.ch/html/menu3/b/a_cescr.htm).
10. Information on state signatories can be found at [www.ohchr.org/english/law/index.htm](http://www.ohchr.org/english/law/index.htm).
11. See [www.ohchr.org/english/law/cedr.htm](http://www.ohchr.org/english/law/cedr.htm).
12. See [www.un.org/womenwatch/daw/cedaw](http://www.un.org/womenwatch/daw/cedaw).
13. See [www.ohchr.org/english/law/cat.htm](http://www.ohchr.org/english/law/cat.htm).
14. See [www.unhchr.ch/html/menu3/b/k2crc.htm](http://www.unhchr.ch/html/menu3/b/k2crc.htm).
15. See [www.ohchr.org/english/law/cmw.htm](http://www.ohchr.org/english/law/cmw.htm).
16. See [www.ohchr.org/english/law/disabilities-convention.htm](http://www.ohchr.org/english/law/disabilities-convention.htm).
17. See [www.coe.int](http://www.coe.int). More information on the Council of Europe can be found in Chapter 1 of this T-Kit.

18. See [www.echr.coe.int/echr](http://www.echr.coe.int/echr).
19. See <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>.
20. Survey of activities 2006, Registry of the European Court of Human Rights, Strasbourg, 2007.
21. See [www.coe.int/T/E/Human\\_Rights/Esc](http://www.coe.int/T/E/Human_Rights/Esc).
22. See [www.cpt.coe.int/EN/about.htm](http://www.cpt.coe.int/EN/about.htm).
23. The convention is available at [www.coe.int/T/E/Human\\_Rights/Minorities](http://www.coe.int/T/E/Human_Rights/Minorities).
24. See [www.achpr.org/english/\\_info/charter\\_en.html](http://www.achpr.org/english/_info/charter_en.html).
25. See [www.achpr.org/english/\\_info/court\\_en.html](http://www.achpr.org/english/_info/court_en.html).
26. United Nations Development Programme (2006) *The Arab Human Development Report 2005: towards the rise of women in the Arab world*, Regional Bureau for Arab States, National Press, Jordan.
27. United Nations Development Programme (2005) *The Arab Human Development Report 2004: towards freedom in the Arab world*, Human Development Report Office.
28. "The Internet in the Arab world: a new arena for oppression" prepared by the Arab Network for Human Rights and issued in June 2005, quoted in the Arab Human Development Report 2005.
29. *The Arab Human Development Report 2005*.
30. Survey of activities 2006, Registry of the European Court of Human Rights, Strasbourg, 2007. *Tüm Haber Sen and Çınar v. Turkey*, 28602/95, No. 83.
31. Survey of activities 2006, Registry of the European Court of Human Rights, Strasbourg, 2007. *Segerstedt-Wiberg and Others v. Sweden*, 62332/00.
32. *The Arab Human Development Report 2004*.
33. Survey of activities 2006, Registry of the European Court of Human Rights, Strasbourg, 2007. *Grant v. United Kingdom*, 32570/03, No. 86.
34. *The Arab Human Development Report 2004*.
35. Survey of activities 2006, Registry of the European Court of Human Rights, Strasbourg, 2007. *Sheydayev v. Russia*, 65859/01, No. 92.
36. Survey of activities 2005, Registry of the European Court of Human Rights. *Bekos and Koutropoulos v. Greece*, No. 15250/02.
37. Survey of activities 2006, Registry of the European Court of Human Rights, Strasbourg, 2007. *Salah v. Netherlands*, 8196/02, No. 88 and *Baybaşın v. Netherlands*, 13600/02, No. 88.
38. You can also look at Chapter 3 of Compass, "Taking action", for more concrete suggestions on how you can organise activities with your group.
39. See [www.coe.int/compass](http://www.coe.int/compass).