

# INTRODUCTION TO THE SYSTEM OF HUMAN RIGHTS



Federal Ministry  
for Foreign Affairs  
of Austria



**“All human beings are born free and equal in dignity and rights. They (...) should act towards one another in a spirit of brotherhood.”**

**Art. 1, Universal Declaration of Human Rights, 1948.**

- ▶ Human Rights.
- ▶ Human Rights Education.
- ▶ Human Dignity.
- ▶ Human Security.

“Human rights education, learning and dialogue must evoke critical thinking and systemic analysis with a gender perspective about political, civil, economic, social and cultural concerns within a human rights framework.”

**Schulamith Koenig, PDHRE.**

“Human rights education is all learning that develops the knowledge and skills, and values of human rights, promotes fairness, tolerance and dignity, and the respect of the rights and dignity of others.”

Nancy Flowers, Human Rights Resource Centre, University of Minnesota.

- ▶ **UN Decade for Human Rights Education (1995-2004).**
- ▶ **World Action Programme on Human Rights Education:**
  - 1<sup>st</sup> phase: 2005 to 2007, extended until 2009.
  - 2<sup>nd</sup> phase: 2010 to 2014.
  - 3<sup>th</sup> phase: 2015 to 2019.
- ▶ **UN Declaration on Human Rights Education and Training (19 December 2011).**

## UN Decade for Human Rights Education (HRE)

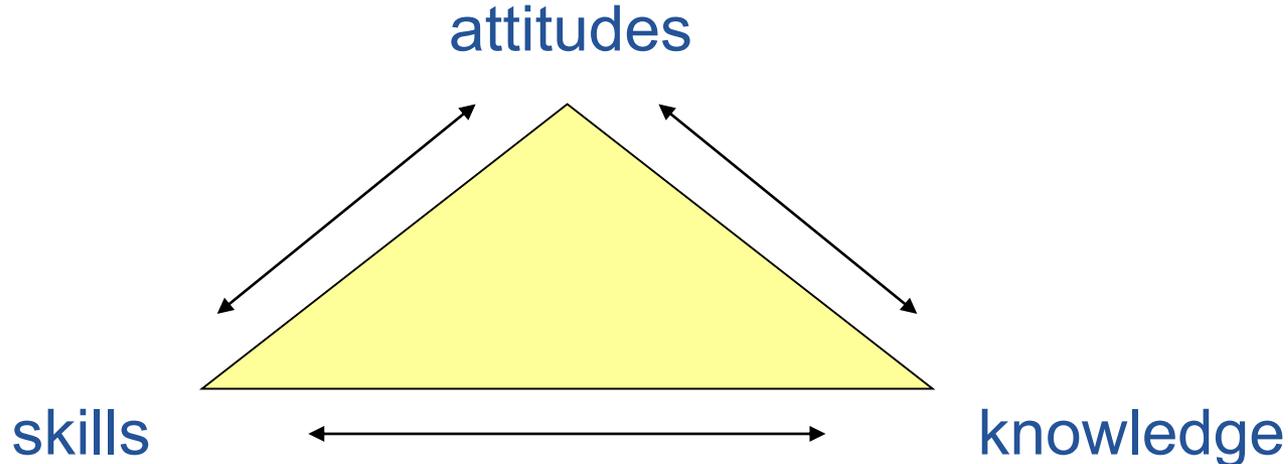
- ▶ “All Human Rights for All”: Vienna World Conference on Human Rights, 1993.
- ▶ **Right to Education**: Derived from Art. 26 UDHR and Art. 13 ICESCR.
- ▶ **Plan of Action adopted in 12 December 1996.**

## UN Decade for HRE Action Plan

### Definition of the aims of human rights education:

- ▶ “The strengthening of respect for human rights and fundamental freedoms.
- ▶ The full development of the human personality and the sense of its dignity.
- ▶ The promotion of understanding, tolerance, gender equality, friendship among all nations, indigenous **people** and racial, national, ethnic, religious and linguistic groups...”

## UN Decade for HRE Action Plan



Defines the method of human rights education as building a universal culture of human rights through imparting knowledge and skills and the molding of attitudes.

## World Action Programme on HRE

- ▶ Based on GA Res. 59/113A.
- ▶ 1<sup>st</sup> phase 2005 to 2007: focuses on primary and secondary education.
- ▶ 2<sup>nd</sup> phase 2010 to 2015: focuses on higher education and human rights training programs for teachers and educators, civil servants, law enforcement officials and military personnel.
- ▶ 3<sup>rd</sup> phase 2015 to 2019: The Human Rights Council, in its resolution 21/14 (11 October 2012), requested the Office of the High Commissioner to seek the views of States, national human rights institutions and other relevant stakeholders on the target sectors, focus areas or thematic human rights issues for the third phase of the World Programme, and to submit a report thereon to the Council at its twenty-fourth session.

## World Action Programme on HRE

- ▶ Four stages of implementation for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> phases:
  - Analysis of the current situation of HRE.
  - Setting of priorities and developing national implementation strategies.
  - Implementation and monitoring.
  - Evaluation.

## UN Declaration on HRE and Training of 2011

### ► Definition of HRE:

- Education about HR.
- Education through HR.
- Education for HR.

### ► Five major objectives:

- Raising awareness.
- Developing a universal culture of HR.
- Pursuing the effective realisation of HR.
- Ensuring equal opportunities for all.
- Contributing to the prevention of HR violations.

- ▶ **Personal Security** = protection from arbitrary detention.
- ▶ **Social Security** = provision of basic needs like food security.
- ▶ **International Security** = right to live in a secure international order.

“Most threats to human security reveal a direct or indirect human rights dimension.”

II<sup>nd</sup> Ministerial Meeting of the Human Security Network in Lucerne, May 2000.

## Human Security?

- ▶ F.D. Roosevelt: “freedom from want and freedom from fear” – part of the four freedoms proclaimed in 1941.
- ▶ 1994 UNDP Human Development Report.
- ▶ Human Security Network: evolved out of the efforts on the Ottawa Convention to ban anti-personnel land-mines.
- ▶ Commission on Human Security: chaired by Sadako Ogata and Amartya Sen -> Report “Human Security Now” 2003.
- ▶ Human Security Centre, University of BC: “Human Security Report 2005” and “Human Security Report 2009/2010”.

- ▶ Human Rights are always connected to Human Dignity.
- ▶ “Golden Rule” exists in every culture:  
“You should treat others as you would like to be treated yourself.”
- ▶ The horrors of WW II led to the creation of a universal human rights system, facilitated by the then-new United Nations.

## World Conferences on Human Rights

- ▶ Tehran 1968: All human rights are indivisible and interdependent.
- ▶ Vienna 1993: “(...) it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.” (Declaration and Programme of Action, 1993, para. 5.).

⇒ UNIVERSALITY OF HUMAN RIGHTS ←

- ▶ Human rights, based on the concept of the inherent dignity of all members of the human family (UN Charter, UDHR and Covenants of 1966), are:
  - Inalienable.
  - Universal.
  - Indivisible.
  - Interdependent.

Different dimensions, categories or generations:

▶ **Civil and Political Rights.**

▶ **Economic, Social and Cultural Rights.**

▶ **Solidarity Rights.**

⇒ Unconditionally accorded to every human being!

⇒ Based in positive and natural law.

Human Rights need to be distinguished from:

- ▶ Rights of citizens: conditional on citizenship.
  - ▶ Rights of minorities: conditional on membership to a minority group.
- ⇒ These human rights are limited to the members of these groups, thus not universal.

- 1948 Universal Declaration of Human Rights.
- 1948 Convention on the Prevention and Punishment of the Crime of Genocide.
- 1949 Convention against Genocide.
- 1965 International Convention on the Elimination of All forms of Racial Discrimination.
- 1966 International Covenant on Civil and Political Rights.
- 1966 International Covenant on Economic, Social and Cultural Rights.

- 1979 Convention on the Elimination of all Forms of Discrimination of Women.
- 1984 Convention against Torture and other Cruel, Inhumane and Degrading Treatment or Punishment.
- 1989 Convention on the Rights of the Child.
- 1990 Convention for the Protection of Migrants.
- 2006 Convention on the Rights of Persons with Disabilities.
- 2006 Convention on the Protection of all Persons from Enforced Disappearance.

States have the duty...

**...to respect human rights:** no state organ may violate them.

**...to protect human rights:** the state has to prevent human rights violations among the people on its territory.

**...to fulfil human rights:** international obligations need to be implemented and transformed into national law so that any individual can claim them.

## Implementation of Universal HR Instruments

- ▶ Individuals have obligations towards society (Art. 29.1, UDHR).
- ▶ Restrictions of human rights by the state are possible, but only by law, to guarantee the respect for the rights of others, to protect morality, public order and general welfare (Art 29.2, UDHR).
- ▶ Human Rights may never be interpreted to destroy other human rights (Art. 30, UDHR).
- ▶ In cases of public emergency, restrictions of some, but never of all human rights.

# Implementation of Universal HR Instruments Monitoring

Introduction to the  
System of  
Human Rights



- ▶ Preventive Visiting Systems: CPT.
- ▶ Reporting Systems.
- ▶ Individual Complaint Procedures: ICCPR, CEDAW.
- ▶ Inter-state Complaints.
- ▶ Judicial Procedures: ECtHR, IACHR, AfrCHR.
- ▶ Charter-based Procedures: such as 1503-Procedure.
- ▶ Special Procedures of the Human Rights Council.

States can be controlled via:

- ▶ **International mechanisms:** central role of the UN OHCHR.
- ▶ **National mechanisms:** national human rights institutions like ombudspersons or national commissions on human rights.
- ▶ **The Civil Society.**

## Non-Governmental Organisations are...

- ...key players for the protection and promotion of human rights.
- ...based on the freedom of association under Art. 22 of the ICCPR.
- ...protected by the GA Human Rights Defenders' Declaration of 1998, as are their activists.
- ...often focused on a specific topic (Association for the Prevention of Torture, APT).
- ...often organised in networks to accomplish their goals (WIDE).

## NGOs do...

- ...organise urgent action appeals (Amnesty International).
- ...draft shadow reports (Human Rights Watch).
- ...influence governments with high quality reports (Internat. Helsinki Federation).
- ...campaign for human rights *via* Internet (Avaaz).
- ...promote Human Rights Education (PDHRE).
- ...cooperate with other NGOS (HRC-SEE and the ETC).
- ...bring human rights issues to the attention of states and the public.

## Regional Systems can...

- ...address complaints more efficiently.
- ...be more sensitive to cultural and religious concerns.
- ...lead to binding decisions with compensation for the individual in national courts.
- ...lead to changes of national laws that might be in breach of human rights.

## Europe's HR system has **three players**:

- **Council of Europe**: 47 member states.
- **European Union**: 28 member states.
- **OSCE**: political nature, comprises greater Europe of 57 states.

All three have different scopes and goals, but all contribute to the protection and promotion of human rights through various mechanisms and documents.

- 1950 Convention for the Protection of Human Rights (ECHR) and Fundamental Freedoms with its 14 Protocols.
- 1961 European Social Charter as revised in 1991 and 1996 and Add. Protocols of 1988 and 1995.
- 1987 European Convention for the Prevention of Torture and other Inhuman and Degrading Treatment.
- 1975 Final Act of Helsinki and the follow-up process of CSCE/OSCE.
- 1990 Charter of Paris for a new Europe.
- 1992 European Charter for Regional or Minority Languages.
- 1994 Framework Convention for the Protection of National Minorities.
- 2000 Charter of Fundamental Rights of the European Union.

The **European Court of Human Rights** is the main instrument of protection of human rights in Europe.

---

1. All requirements for a complaint are met: human right guaranteed in the ECHR is violated, conduct took place in a member state of the ECHR and all local remedies were exhausted no longer than 6 months ago.



2. Proceedings on the content of the matter (oral and written).



3. Judgement binding on the state.



4. Supervision of execution by the Committee of Ministers.

- 1928 Inter-American Commission Women.
- 1948 American Declaration on the Rights and Duties of Man.
- 1959 Inter-American Commission on Human Rights.
- 1969 American Convention on Human Rights with the 1988 Add. Prot. on Economic, Social and Cultural Rights and the 1990 Add. Prot. on the Abolition of the Death Penalty.
- 1979 Inter-American Court of Human Rights.
- 1994 American Convention on the Prevention, Punishment and Eradication of Violence against Women.
- 1999 Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.

- 1981 African Charter on Human and Peoples' Rights.
- 1987 African Commission on Human and Peoples' Rights.
- 1990 African Charter on the Rights and Welfare of the Child.
- 1997 Protocol on the Establishment of an African Court on Human and Peoples' Rights.
- 2003 Protocol on the Rights of Women.
- 2008 African Court on Justice and Human Rights.

Other regional systems, though not as elaborate and functioning, are:

- ▶ The Cairo Declaration on Human Rights in Islam of 1990: never adopted officially.
- ▶ Arab Charter on Human Rights of 1994: never entered into force due to lack of ratifications.
- ▶ No official Human Rights Instrument or Commission in Asia, but a vivid NGO-Community organised under the auspices of the Asian Legal Resource Centre in Hong Kong. There are efforts within regional integration areas: Charter of ASEAN in 2007.
- ▶ Cotonou Partnership Agreement between the EU and 79 African, Caribbean and Pacific States: recalls the respect for human rights, democratic principles and the Rule of Law.

# Universal Jurisdiction and the problem of impunity

- ▶ **Impunity is not Amnesty:** amnesty laws in Argentina were lifted in 1998 as they violated the rights to judicial protection and to fair trial.
- ▶ **Principle of Accountability:** increasingly recognised at the universal and the national level.
- ▶ **Obligation of Universal Prosecution:** provided, for example, in the UN Convention against Torture builds the basis for cases such as the one against former dictator Augusto Pinochet in UK in 1998.
- ▶ **A “right to truth”:** apart from judicial means, Truth and Reconciliation Commissions help ending impunity and resolving the conflict (*e.g.* South Africa).

- ▶ **International Criminal Court:** Permanent tribunal. Its Statute came into force in 2002; complementary to national jurisdictions, in principle restricted to member states.
- ▶ **Ad-hoc International Criminal Tribunals for the former Yugoslavia and Rwanda:** created by UN Security Council Resolutions and restricted in scope and time.
- ▶ Other forms are possible (**Cambodian War Crimes Tribunal and Special Court of Sierra Leone**), but the danger of different standards remains.
- ▶ International Criminal Courts form a safety net to end impunity, but do not lift the responsibility from states to respect, protect and fulfil human rights.

Started by the People's Movement for Human Rights Education

- ▶ Participating Human Rights Cities and Communities in Argentina, Austria, Bangladesh, Brazil, Canada, Ghana, Kenya, Mali, the Philippines and South Korea.
- ▶ The city of Graz became the first European Human Rights City in 2001: all decisions taken by the City should be considered with regards to their compliance with human rights. Inhabitants are informed about their human rights, and called upon to react if they have been violated.

- ▶ **Gwangju Declaration on Human Rights of 2011**, adopted by the World Human Rights Cities Forum.
- ▶ **European Charter for the Safeguarding of Human Rights in the City of 1998**, under the auspices of the Cities of Barcelona and St. Denis: more than 300 signatory cities.
- ▶ **International Coalition of Cities against Racism**, initiated by UNESCO in 2004, which also built Regional Coalitions such as in Europe or Asia.

# Global Challenges and Opportunities for Human Rights

- ▶ Implementation of commitments undertaken into practice.
- ▶ Strength capacity-building of local institutions.
- ▶ Standard setting in new fields (*e.g.* cultural diversity; human rights issues related to biotech, communication technologies or the internet; irregular migrants rights or human rights implications of environmental degradation).
- ▶ Highlight links between different fields such as human rights and humanitarian law or refugee law.
- ▶ Human rights and prevention of conflicts and post-conflict rehabilitation.

# Global Challenges and Opportunities for Human Rights

- ▶ New challenges such as globalisation and HR and information society and HR.
- ▶ Accountability for HR violations not only of individuals but also of non-state actors like inter-governmental organisations, transnational corporations and other business enterprises.
- ▶ Promotion of the “Global Compact”.
- ▶ Maintenance of HR standards while fighting the threats of terrorism.
- ▶ A long way to achieve a **universal culture of human rights.**