

Administrative Committee on Coordination (ACC)

**The United Nations System and Human Rights:
Guidelines and Information
for the Resident Coordinator System**

Approved on behalf of ACC by the
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The United Nations System and Human Rights: Guidelines and Information for the Resident Coordinator System

Table of Contents

	Para. n°
<u>Introduction</u>	1-10
<u>Part I: Guidelines</u>	11-25
A. Communications	11
B. Statements and Positions	12-15
C. Visiting Human Rights Missions	16-17
D. Human Rights Treaties and Support to Member States	18-19
E. Briefings and Staff Training	20
F. Assistance Available from the UN Human Rights Programme	21-25
<u>Part II: Information on the Human Rights Programme</u>	26-65
A. Defining Human Rights	26-27
B. Human Rights and Sustainable Human Development	28
C. Examples of Human Rights	29
D. The Right to Development	30-31
E. Distinguishing Between a Rights-Based and a Needs-Based Approach to Development	32
F. Sources of Human Rights Standards	33-36
G. Derogation	37-38
H. The Role of Member States in Standard-Setting	39
I. Human Rights Standard-Setting Fora	40-41
J. Monitoring Human Rights	42-47
K. Human Rights Institution-Building and Technical Cooperation	48-51
L. Human Rights Education	52-54
M. Human Rights Enforcement	55-57
N. UN Mechanisms for Human Rights Complaints	58-60
O. UNDAF and CCA	61-65
<u>Annexes</u>	
I - List of OHCHR Country Offices and Contact Details	
II - List of Human Rights Country and Thematic Mandates	
III - Contact Details for UN Agencies and Programmes	

Introduction

1. Encouraging respect for human rights is one of the main purposes and principles of the United Nations, as stated in Article 1 of the Charter. In '*Renewing the United Nations: A Programme for Reform*,' (A/51/950 of 14 July 1997 and addenda), the Secretary-General stressed that human rights are inherent to the promotion of peace, security, economic prosperity and social equity. Accordingly, the issue of human rights was designated as cutting across each of the four substantive fields of the Secretariat's work programme (peace and security; economic and social affairs; development cooperation; and humanitarian affairs). The Organisation has thus undertaken to mainstream human rights into its various activities and programmes of work.
2. This exercise has presented many new challenges and opportunities for the United Nations system, which is being called upon to adopt a human rights-based approach to designing, implementing and evaluating programmes at the national level. Additionally, advocacy for human rights is increasingly being seen as integral to realising the overall goals of the Organisation. This being said, human rights remains for many, new and uncharted territory.
3. Since the adoption of the **Universal Declaration of Human Rights** (UDHR) in 1948, the United Nations has developed numerous human rights standards, procedures and mechanisms. Mindful of its importance, this development has not always facilitated easy access to and understanding of the body of human rights information and its implications for the work of the Organisation in the field and elsewhere. The Office of the High Commissioner for Human Rights (OHCHR), tasked with principal responsibility for United Nations human rights activities, receives many requests from staff in the field and elsewhere, for clarification of the human rights principles and mechanisms. Some have asked how human rights can be practically integrated into their work programmes; some need advice on how to approach and assist Governments in implementing their various obligations under the human rights treaties; many have sought guidance on the "political sensitivities" relating to human rights issues.
4. In March 1998, the CCPOQ, on behalf of the ACC, formulated and adopted a 'guidance note' for the Resident Coordinator System on field-level follow-up to the global conferences, including the 1993 Vienna World Conference on Human Rights. Specifically, it was recommended that 'the Resident Coordinator System/UN Country Teams should support ratification of human rights treaties (as recommended by the World Conference on Human Rights) and reporting on and implementation of these conventions.' The OHCHR was requested to 'forward the conclusions and recommendations of treaty monitoring bodies to the Resident Coordinator System and advise on material required in respect of a country's situation.' Furthermore, 'efforts to integrate human rights issues into UN system programmes should be considered in the context of the CSN, UNDAF and other programming frameworks.' Dialogue should continually be pursued with Governments to identify areas of concern and assistance.
5. On 23 February 1999, the United Nations Development Group issued interim *Informal Guidance to Resident Coordinators on Human Right Communications*. The present document is an elaboration of those guidelines and gives more details on, inter alia, support to Member States, statements and positions, human rights treaties, communications and support for visiting human rights missions. Further, it is intended to respond to the requests for clarifications of the human rights principles and mechanisms by providing a succinct yet comprehensive overview of the United Nations human rights programme.

6. All United Nations agencies, funds and programmes are governed by the Charter which commits the Organisation to a shared purpose of ensuring peace, prosperity and the dignity and worth of the human person. Human rights are universal, indivisible and interdependent and interrelated. The work of the Organisation is therefore inextricably linked by a common goal which must be pursued through coordinated system-wide activities and genuine coherence of efforts.

7. The UNDAF and CCA thus present UN Country Teams with a unique opportunity to mainstream human rights into their analytical and programming work. The UNDAF and CCA Guidelines, which were adopted in April 1999 by the undg Executive Committee, incorporate references to human rights, *thus enabling UN Country Teams to take account of the human rights situation in a country, as well as human rights priorities and concerns, while preparing their CCA and UNDAF*. These *Guidelines* are complemented by the *Questions & Answers* for the CCA and UNDAF. The CCA Indicator Framework, annexed to the Guidelines, include several indicators which can be expressed in human rights terms. This Framework is supplemented by *definitions of the indicators*. Information on the right to development and the role of the OHCHR and human rights in the UNDAF and CCA context is being prepared and will be disseminated in due course.

8. The Resident Coordinator assumes overall responsibility for, and coordination of, the operational activities for development of the United Nations system at the country-level. Since the UNDP Resident Representative often functions as Resident Coordinator, UNDP will ensure that priority is given to the Resident Coordinator function. **Resident Coordinators and UN Country Teams should always bear in mind that the work of the United Nations, in the field of human rights, is solidly based on international human rights and humanitarian law. Resident Coordinators are therefore expected to be familiar with the human rights standards and mechanisms, the policies and work of the OHCHR and other UN agencies involved in specific areas of human rights promotion and protection, and to faithfully respect, represent and promote the human rights norms, standards and policies of the Organization.**

9. The responsibilities assumed by the Resident Coordinator on human rights matters will differ according to the situation and programming priorities in-country. Resident Coordinators and UN Country Teams are encouraged to seek the advice and counsel of the OHCHR on matters relating to the analysis of human rights situations and the formulation of policies, plans and positions on human rights in their respective countries of responsibilities. Resident Coordinators are invited to provide the OHCHR with insight and feedback as to the type of information and guidance which is most needed at the country-level and are encouraged to share information and experiences regarding difficulties encountered or 'best practices' relating to their human rights responsibilities.

10. In addition to the present *Guidelines and Information*, a wealth of human rights information can be found on the OHCHR website (<http://www.unhchr.ch>). Additionally, UNDP policy papers, the HURIST project document and information on training initiatives can be found on the UNDP Management and Governance Division website (<http://magnet.undp.org/>). Materials such as the UNDP *Training Manual on Human Rights and SHD* and the UNICEF *Core Human Rights Course* are being finalized. UNICEF also has an *Implementation Handbook on the Convention on the Rights of the Child* which is being used as a training tool and FAO's *The Right to Food in Theory and Practice* can be found at <http://www.fao.org/legal/rtf-e.htm>. Additional references and Organisation specific website information can be found in Annex III of the present document.

Part I: Guidelines

On 23 February 1999, following a request from the Office of the Secretary-General, a note providing initial practical guidance on communication issues relating to human rights was circulated to all Resident Coordinators. This note captures the importance given to the promotion and protection of human rights as outlined in the United Nations Charter, as reiterated at the global conferences and summits and as supported by the Secretary-General in his affirmation that human rights underpin all of the core missions of the United Nations. It was recognized that human rights issues are complex and must be dealt with sensitively. Following are expanded guidelines to supplement the initial directives. These guidelines should be used along with the other reference and training materials cited throughout this document.

A. Communications

11. *Petitions, complaints and other communications* relating to alleged or imminent human rights violations received by Resident Coordinators and other United Nations staff in the field, should be promptly transmitted to the OHCHR for appropriate action and advice. Communications received by other UN agencies and programmes should be sent directly to the OHCHR with a copy to the Resident Coordinator. While the Resident Coordinator cannot assist with the drafting of complaints or provide legal advice, he or she may further explain the various procedures and ensure that complaints reach the OHCHR. Paragraph 59 of the present document provides brief guidelines for handling complaints. All UN staff are encouraged to pay due regard to the principles of accessibility, confidentiality and promptness.

B Statements and Positions

12. As the leader of the UN Country Team, the Resident Coordinator has the responsibility to faithfully respect, represent and promote the *norms, standards and policies of the Organization, including those relating to human rights*, in all relevant official communications, statements and representations to the press, to Governments and to all other counterparts and contacts.

13. In formulating public positions and statements, Resident Coordinators are asked to consider that, while the particular focus may vary from country to country, *no country is without human rights challenges*. Public representations to the contrary will be neither credible nor constructive. Further, human rights problems are not always simple matters of political will, or the lack thereof. Rather, as with all development matters, the *requisite will* on the part of the political authorities *must be accompanied by* adequate plans, laws, institutions, resources and domestic capacities. Human rights policy-making and programming should be guided by the detailed body of standards and mechanisms developed by the UN human rights programme.

14. In formulating statements and positions, Resident Coordinators should be aware of the work of the OHCHR, the various other *UN human rights bodies and mechanisms*, and other UN agencies involved in specific areas of human rights, which may be engaged in efforts to advance the promotion and protection of human rights in the country concerned.

15. In general, *statements, policies, plans and positions on human rights* matters should not be formulated or issued without first contacting the OHCHR and any other relevant UN agency as set forth in paragraph 21 of this document. This contact will enable Resident Coordinators to ascertain and consider the following:

(a) the content of relevant reports and recommendations of the UN human rights *treaty bodies*, i.e. : the Committee on Economic, Social and Cultural Rights (CESCR); the Human Rights Committee (HRC); the Committee on the Rights of the Child (CRC); the Committee on the Elimination of all forms of Discrimination against Women (CEDAW); the Committee on the Elimination of all forms of Racial Discrimination (CERD); the Committee against Torture (CAT);

(b) the content of relevant reports and recommendations of the UN *Commission on Human Rights* and its special thematic and country mechanisms, including the various *special rapporteurs and working groups*;

(c) any available *OHCHR country profiles, needs assessments, project documents, situation reports, public statements, mission reports* and the like, or those of other relevant UN agencies and programmes.

C. Visiting Human Rights Missions

16. Resident Coordinators should encourage Governments to avail themselves of the advice and expertise of human rights specialists from the OHCHR and other competent UN agencies and programmes as cited in paragraph 21, and should offer their support in communicating a government's invitation for that purpose. Resident Coordinators, in consultation with the OHCHR, should encourage Governments to extend, through OHCHR, an invitation to rapporteurs, working groups and other independent experts of the Commission on Human Rights to visit the country and assist in the promotion and implementation of human rights;

17. OHCHR *visiting missions*, as well as missions of UN human rights rapporteurs, working groups, treaty bodies and other UN human rights mechanisms, are official United Nations missions, traveling with the agreement of the concerned Government; they should be fully supported in the fulfilment of their respective mandates and terms of reference, and should be both briefed and consulted on human rights matters while in the country. In particular, briefings with Country Teams should be organized upon the mission's arrival, and prior to its departure;

D. Human Rights Treaties and Support to Member States

18. Guided by international goals and commitments, Resident Coordinators and other relevant UN agencies in the field should consider actively encouraging host governments to *ratify/accede to international human rights treaties* to which they are not a party, to *review and withdraw any reservations* to treaties to which they are a party, and to implement their legal obligations under those treaties. In cases where technical advice, training or assistance is required, Resident Coordinators may wish to request support from the OHCHR and other relevant agencies and programmes to these ends. The OHCHR has sent to all UNDP country offices a 'ratification package' containing information to assist in initiating or continuing dialogue with Governments in this

regard. This package includes an explanatory note on the importance of ratification, a guide to extracting relevant information from the OHCHR website, copies of correspondence with heads of State and prime ministers for use as 'entry points' in discussions with Governments, and suggested replies to possible questions on the subject of ratification. UNICEF has developed a Resource Guide to provide information to its field offices on the implementation and reporting process under the Convention on the Rights of the Child as well as on UNICEF's role in that regard.

19. To support Member States, Resident Coordinators and UN Country Teams should be prepared to engage all partners frankly and constructively, and to support the implementation of human rights treaties ratified or acceded to by them as well as in the realization of the full range of civil, cultural, economic, political and social rights, including the right to development, through coordinated and integrated UN action to those ends.

E. Briefings and Staff Training

20. Resident Coordinators should actively seek to ensure that United Nations field staff are adequately trained in human rights and should avail of all opportunities for this purpose. Resident Coordinators wishing to benefit from a *technical briefing* on human rights, to organize *training for UN staff* on the subject, or to obtain related information materials, can draw on the resources of UNDP for these purposes and are encouraged to contact OHCHR and other relevant UN agencies and programmes as listed in paragraph 21. Further, several human rights training initiatives are ongoing in the UN system. The UN Development Group is currently developing various training modules and courses which include a human rights component. In this regard, particular reference can be made to the Training Module on Human Rights for UNDAF Teams. Additionally, the UN Staff College also offers some training courses on specific human rights subjects including a course on strengthening national capacity for human rights reporting.

F. Assistance available from the United Nations Human Rights Programme

21. The Office of the High Commissioner for Human Rights is the system-wide focal point for human rights, democracy and the rule of law. It houses and services the various human rights standard-setting and monitoring bodies, serves as the UN system's repository for research, information, advice, and expertise on human rights, and implements a global programme of technical cooperation in the field of human rights. Other agencies and programmes provide complementary advice and assistance according to their particular mandates and expertise (e.g. UNICEF with regard to the human rights of children; UNFPA on reproductive rights; the ILO on labour rights; UNIFEM on the human rights of women; UNHCR for matters relating to refugee rights; FAO in its provision of assistance relating to the right to food; WHO in its technical cooperation with countries; UNDP on governance and the integration of human rights with SHD; UNESCO, inter-alia, on education, cultural heritage and freedom of expression). The Regional Commissions (ESCWA, ECA, ESCAP, ECE and ECLAC) also contribute to the promotion of human rights through support and provision of technical assistance for social and economic development.

22. Resident Coordinators should therefore establish and maintain *close contact with the OHCHR*, and should seek the advice and counsel of that Office in matters relating to the analysis of human rights situations and the formulation of policies, plans and positions on human rights in their respective countries of responsibility. In addition, other relevant UN agencies should be consulted as required by the situation at hand. Where *OHCHR country offices* (Annex I) have been established or proposed, these should be both supported by all appropriate means, and consulted on all human rights matters as they arise;

23. UN system support for *national development planning and programming* should take into account the human rights technical cooperation capacities of the OHCHR and other relevant UN agencies and programmes, including assistance available for the development of national plans of action in the field of human rights, and a range of institution-building capacities relating to human rights, democracy and the rule of law;

24. The OHCHR may be contacted, and its databases accessed, through any of its country offices and representatives in the field, through its New York Office, or directly through its headquarters in Geneva, as follows:

UN Office of the High Commissioner for Human Rights
Palais des Nations, 8-14 avenue de la Paix 1211 Geneva 10, Switzerland
TEL: (41-22)917-9000 (info); FAX: (41-22)917-9010
E-Mail: <webadmin.hchr@unog.ch>
Website: (<http://www.unhchr.ch>)

25. Contact details of other relevant UN agencies and programmes can be found in Annex III of this document.

Part II: Information on the Human Rights Programme

A. Defining "Human Rights"

26. Human rights are universal legal guarantees protecting individuals and groups against actions which interfere with fundamental freedoms and human dignity. Human rights law obliges Governments to do some things and prevents them from doing others. Some of the most important characteristics of human rights are that they are:

- ! Guaranteed by international standards;
- ! Legally protected;
- ! Focus on the dignity of the human being;
- ! Protect individuals and groups;
- ! Oblige states and state actors;
- ! Cannot be waived or taken away;
- ! Interdependent and interrelated; and
- ! Universal.

We are all custodians of human rights, the birthright of all human beings. Human rights bring to the development discussion a unifying set of standards - a common reference for setting objectives and assessing the value of action

--Mary Robinson, High Commissioner for Human Rights

27. The United Nations human rights mandate is rooted in the Charter of the Organization, the preamble of which states, 'We the peoples of the United Nations determined... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women....' Article 1, paragraph 3, of the Charter holds that one of the main purposes of the United Nations is 'to achieve international cooperation in... promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.' The Economic and Social Council (ECOSOC), one of the six principal organs of the United Nations, has 'promoting respect for and observance of human rights' among its main functions.

B. Human Rights and Sustainable Human Development

28. For the United Nations, *sustainable human development* (SHD) means looking at development in an integrated, multi-disciplinary way. Human rights are central to this concept of development. SHD is people-centered, participatory, and environmentally sound. It stresses not just economic growth, but equitable distribution, enhancement of people's capabilities and enlargement of their choices. It gives highest priority to poverty elimination, integration of women in the development process, self-reliance and self-determination of peoples and Governments, including the rights of indigenous peoples. By function of simple logic, SHD is a good development concept. By function of international law, it is a human right.

UNDP advocates the realization of human rights as part of sustainable human development, an approach that places people at the centre of all development activities. The central purpose is to create an enabling environment in which all human beings lead secure and creative lives. Sustainable human development is thus directed towards the promotion of human dignity-and the realization of all human rights, economic, social, cultural, civil and political.--James Gustave Speth, former UNDP Administrator

C. Examples of Human Rights

29. Human rights and fundamental freedoms are recognized in the Universal Declaration of Human Rights and in the various treaties (also called "covenants, conventions and protocols"), declarations, guidelines and bodies of principles elaborated by the United Nations and by regional organizations. They include a broad range of guarantees, addressing virtually every aspect of human life and human interaction. Among the rights guaranteed to all human beings are:

A century that began with children having virtually no right is ending with children having the most powerful legal instrument that not only recognizes but protects their human rights. In its work, UNICEF is guided by the Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behavior towards children.--Carol Bellamy, Executive Director, UNICEF.

- ! Freedom from discrimination;
- ! Right to education;
- ! Freedom of association, opinion, expression, assembly and movement;
- ! Freedom of thought, conscience and religion;
- ! Freedom from torture and cruel, inhuman or degrading treatment or punishment;
- ! Freedom from unlawful or arbitrary arrest or detention;
- ! The right to a fair trial;
- ! Right to equal protection of the law;
- ! Freedom from arbitrary interference with privacy, family, home or correspondence;
- ! Right to asylum from persecution;
- ! Right to a name and nationality;
- ! Right to vote and take part in public affairs;
- ! The right to life, liberty and security of person;
- ! Right of everyone to the highest attainable standard of physical and mental health;
- ! Right to just and favorable conditions of work;
- ! Right to adequate food, shelter, clothing and social security;
- ! Right to participate in cultural life, and, of course;
- ! The right to development.

D. The Right to Development

30. The right to development may be expressed this way: "Everyone has the right to participate in, contribute to, and enjoy economic, social, cultural and political development." This right includes permanent sovereignty over natural resources (article 1); self-determination (article 1); popular participation (article 2); equality of opportunity (article 8); and the advancement of adequate conditions for the enjoyment of other civil, cultural, economic, political and social rights (article 6).

31. The beneficiaries of the right to development are clear as well. As with all human rights, the *human person* is the subject. The right to development is claimable both by individuals, and collectively, by peoples. According to the 1986 Declaration on the Right to Development, States

have the right and the duty to formulate appropriate national development policies for the constant improvement of the well-being of the entire population and all individuals with their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom. States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. As a complement to the efforts of developing countries, effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.

E. Distinguishing between a *Rights-Based* and a *Needs-Based* Approach to Development

32. The *raison d'être* of United Nations development cooperation is, ultimately, the sustained meeting of basic human needs and the realization of human rights especially for the most vulnerable members of the human family. Ethics tell us that these human needs *should* be met. Development is not a matter of charity, but rather a right. The distinction is an important one for UN development work. When something (like development) is defined as a right, it means that someone holds a *claim*, or legal entitlement, and someone else holds a corresponding *duty*, or legal obligation. Governments, and their agents, are therefore accountable to people for delivering on these obligations. The duties held (individually by states vis-a-vis their own people, and collectively by the international community of states) are in some cases positive duties (to do, or provide something) and, in others, negative duties (to refrain from doing something). *With a rights-based approach, effective action for development moves from the optional realm of charity into the mandatory realm of law with identifiable rights, obligations, claim-holders, and duty-bearers. Human rights norms and standards form the legal basis from which duties and obligations derive.* When a State ratifies an international treaty, it voluntarily undertakes obligations which are legally binding on that State. The rights-based approach seeks to ensure that States fulfill their obligations deriving from both customary international law and treaty law. Furthermore, using the rights-based framework opens the door for the use of a rich and growing pool of information, analysis and jurisprudence, developed in recent years by UN treaty bodies and other human rights specialists, on the requirements of adequate housing, health, food, childhood development, the rule of law, and virtually all other elements of SHD. Other actors, including development agencies, non-governmental organizations, development banks and research institutions continue to contribute to development.

F. Sources of Human Rights Standards

33. Human rights norms and standards are derived from two principal types of international sources, namely "customary international law" and "treaty law":

34. Customary international law (or, simply, "custom") is international law which develops through a general and consistent practice of States, followed because of a sense of legal obligation. In other words, if over a period of time, States perform in a certain way because they all believe that they are required to do so, that behavior comes to be recognized as a principle of international law, binding on States, even if not written in a particular agreement. Thus, for example, while the Universal Declaration of Human Rights is not, in itself, a binding treaty, certain provisions of the Declaration are considered to have the character of customary international law because they are shared by the international community and they have been reaffirmed and elaborated in subsequent declarations and resolutions.

35. Treaty law includes the law of human rights as set out in the many international agreements (treaties, covenants, conventions, protocols) collectively (either bilaterally or multilaterally) developed, signed and ratified by States.

(a) These treaties cover whole sets of rights, types of violations, particular groups or situations. The major human rights treaties are:

- The International Covenant on Civil and Political Rights (ICCPR) and the two Protocols thereto;
- The International Covenant on Economic, Social and Cultural Rights (ICESCR);
- The Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- The Convention on the Rights of the Child (CRC);
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;¹
- The Convention on the Prevention and Punishment of the Crime of Genocide;
- The Convention (and protocol) Relating to the Status of Refugees;
- The four Geneva Conventions of 1949 and the two Additional Protocols thereto.

(b) All of these instruments are legally binding on the States which are party to them.

36. Human rights standards are also enshrined in other types of instruments, such as declarations, recommendations, bodies of principles, codes of conduct, guidelines and standard rules (such as the Declaration on the Right to Development; the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities; the Basic Principles on the Independence of the Judiciary; the Code of Conduct for Law Enforcement Officials; and the Guidelines on the Role of Prosecutors).

(a) The latter instruments have mainly moral force and provide practical guidance to States in their conduct. Some of their provisions are indeed declaratory of elements of customary international law, and are thus binding. The value of such instruments rests on their recognition and acceptance by a large number of States.

(b) The Declaration on the Right to Development, adopted by the General Assembly in 1986, is an important example. The Declaration recognized development as “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.” It confirmed that development is a right which belongs to every human person.

¹ The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families will enter into force after 20 instruments of ratification or accession have been deposited; 12 States have so far ratified the Convention.

G. Derogation

37. When a public emergency which threatens the life of a nation arises and is officially proclaimed, a State party to the International Covenant on Civil and Political Rights may, under article 4, derogate from a number of rights *to the extent strictly required by the situation*. The State party, however, may not derogate from certain specific rights such as the right to life, the right to be free from torture or cruel, inhuman or degrading treatment or punishment and the right to be free from slavery and servitude, and may not take discriminatory measures on a number of enumerated grounds. The State party is also under an obligation to inform the other States parties immediately, through the Secretary-General, of the derogations it has made, including the reasons therefor, and the date on which the derogations are terminated.

38. The Human Rights Committee, the body which monitors implementation of the ICCPR, holds the view that *measures taken under article 4 are of an exceptional and temporary nature* and may only last as long as the life of the nation concerned is threatened and that *in times of emergency the protection of human rights becomes all the more important, particularly those rights from which no derogations can be made*. The Committee also considers it equally important for States parties, in times of public emergency, to inform the other States parties of the nature and extent of the derogations they have made and of the reasons therefor and, further, to fulfil their reporting obligations under article 40 of the Covenant by indicating the nature and extent of each right derogated from and providing the relevant documentation.

H. The Role of Member States in Standard-Setting

39. The international legal system, as outlined in the Charter of the United Nations, is built around a community of States. The law which governs that system, therefore, is principally law for, by and about States. As such, it is the States themselves who make the rules, through the development of custom, treaties and declarations, bodies of principles and other similar instruments. States agree on the content of these sources and agree to be bound by them. In the case of human rights law, while it is individuals and groups which are protected, it is mainly the conduct of States (and State actors) which is regulated.

I. Human Rights Standard-Setting Fora

40. Human rights standards are developed and codified in various international fora, through a process in which representatives of States members of these fora meet, usually repeatedly over a period of years, to work out the form and content of international human rights instruments, article by article and line by line.

(a) In United Nations fora, all States are invited to attend and participate in the drafting so as to ensure that the final document reflects the views and experience of all regions of the world and all major legal systems. Whether for a binding treaty or an authoritative declaration, every proposal is closely scrutinized and debated, until a final text is agreed upon. Even then, in the case of treaties, a State is not bound by the instrument until it has signed and ratified or acceded to it.

(b) Instruments of universal application are elaborated in United Nations human rights bodies (such as the Commission on Human Rights), to be submitted to the General Assembly for adoption. Expert studies on various human rights problems which may lead to the development of new human rights standards are undertaken each year at the United Nations Sub-Commission on the Promotion and Protection of Human Rights.

(c) Specialized instruments of universal application are also elaborated and adopted by United Nations specialized agencies, such as the International Labor Organization and the United Nations Educational, Scientific and Cultural Organization. Two such instruments are the UNESCO Convention against Discrimination in Education which entered into force on 22 May 1962 and ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries (entry into force on 5 September 1991).

41. Lastly, a number of important regional human rights instruments have been developed by the major regional organizations, including the Council of Europe, the Organization of American States and the Organization of African Unity.

J. Monitoring Human Rights

42. Of course, merely establishing a set of rules is not enough to ensure their application. The implementation of human rights standards is closely watched at several levels. National institutions and organizations monitoring human rights are:

- ! Concerned government agencies and services;
- ! “*Paris Principles* institutions” (PPIs), such as an independent human rights commission or an ombudsman (these are sometimes referred to simply as “national human rights institutions”);
- ! Human rights groups and other non-governmental organizations (NGOs);
- ! Community-based organizations (CBOs);
- ! The courts;
- ! Parliament;
- ! The media;
- ! Professional associations (such as those of lawyers, doctors, etc.);
- ! Trade unions;
- ! Religious organizations; and
- ! Academic institutions.

43. At a second level, regional organizations have developed mechanisms to monitor human rights within the relevant countries. Such mechanisms include the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the African Commission on Human and Peoples' Rights, the European Court of Human Rights and the Committee of Ministers of the Council of Europe.

44. At the international level, the United Nations is engaged in several types of human rights monitoring:

(a) The first is "conventional" (or treaty-based) monitoring. Some human rights treaties establish a committee of experts (a “treaty body”, such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child) whose main task is to monitor the implementation of the relevant treaty in States parties, mainly through the examination of periodic reports submitted by those States. In some cases, treaty bodies may also examine individual complaints of human rights violations, under optional complaints procedures.

(b) The second type of monitoring is “extra-conventional” (or charter-based) monitoring. It is based on procedures and mechanisms established by the Commission on Human Rights or the Economic and Social Council, including a confidential procedure for dealing with communications relating to consistent patterns of gross violations of human rights (the “1503 Procedure” after the ECOSOC resolution establishing it) and special procedures which examine, monitor and publicly report on human rights situations either in specific countries and territories (“country mechanisms or mandates”) or concerning a specific human rights problem (“thematic mechanisms or mandates”). They are entrusted to Working Groups composed of experts acting in their individual capacity (such as the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention), to individuals designated as special rapporteurs, representatives and independent experts (such as the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General for human rights in Cambodia, and the Independent Expert on Structural Adjustment Policies) or directly to the Secretary-General (such as the question of Human Rights in Cyprus and the issue of human rights and mass exoduses). A complete list of country and thematic mandates, along with corresponding information on working groups, special rapporteurs, representatives and independent experts can be found in Annex II of this document. Information on the mandates entrusted to the Secretary-General is also included.

(c) The third type is monitoring through peacekeeping and human rights field operations. Recently, there has been a dramatic increase in the number of human rights mandates and components included in United Nations peacekeeping operations. International personnel assigned to PKOs carry out various human rights functions, including monitoring and reporting on the human rights situation. Extensive human rights mandates were provided to ONUSAL in El Salvador, UNTAC in Cambodia, MINUGUA in Guatemala, MICIVIH in Haiti, and others.

45. In addition, the Office of the High Commissioner for Human Rights has established human rights field presences in several countries. Under her global mandate to promote and protect human rights, the High Commissioner is mandated to:

- ! Promote and protect the effective enjoyment by all of all civil, cultural, economic, political and social rights, and in particular the right to development;
- ! Provide, through the OHCHR and other appropriate institutions, advisory services and technical and financial assistance in the field of human rights at the request of the State concerned and regional organizations;
- ! Coordinate relevant United Nations education and public information programmes in the field of human rights;
- ! Play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world, as reflected in the Vienna Declaration and Programme of Action;
- ! Engage in a dialogue with all Governments with a view to securing respect for all human rights; and
- ! Carry out the tasks assigned by the competent bodies of the United Nations system in the field of human rights with a view to improving the promotion and protection of all human rights.

46. Other organizations within the United Nations system also play a crucial role in promoting and monitoring the implementation of human rights standards (these include UNICEF in its mandate to promote and monitor implementation of the Convention on the Rights of the Child; ILO as regards labour standards; UNHCR on the situation and rights of refugees; UNFPA on reproductive rights; UNESCO on freedom of expression and cultural rights, etc.).

47. At the international level, human rights are also monitored by a number of international NGOs.

K. Human Rights Institution-Building and Technical Cooperation

48. The United Nations has been involved in the delivery of human rights assistance since the 1950s. In 1955, the General Assembly established the United Nations programme of advisory services and technical assistance in the field of human rights (now known as the UN programme of Technical Cooperation in the Field of Human Rights). Since that time, countless developing countries on all continents have benefitted from the programme, which provides advice, expertise and other support for the strengthening of domestic institutional capacities for the promotion and protection of human rights. The programme, which is developed and administered by the OHCHR focuses on human rights institution-building for key national actors and agencies.

49. Programme areas, as elaborated upon in the annual report of the Secretary-General to the Commission on Human Rights, today include a broad range of institutional entry points for human rights, democracy and the rule of law. Among these are advisory services, training, fellowships and grants directed to constitutional assistance; legislative reform; free and fair elections; independent judiciaries; fair prosecutions; humane policing; decent penal institutions; effective parliaments; independent national ("*Paris Principles*") institutions; and strong, capable and free national NGOs. As mandated by the Vienna Declaration and Programme of Action, the programme also makes available direct support for the drafting of national plans of action in the field of human rights. Complementary forms of assistance are made available by other actors in the UN system, including UNDP.

50. The programme of technical cooperation and advisory services is also involved in the training of judges, lawyers, prosecutors, police officers and prison personnel in the area of human rights in the administration of justice. The purpose of this training is to familiarize these groups with international standards for human rights in the administration of justice; to facilitate examination of humane and effective techniques for the performance of law enforcement, penal and judicial functions in a democratic society; and to prepare these groups to disseminate this information in their own training activities.

51. As noted above, a number of other UN development agencies have long provided important assistance to Member States in addressing particular human rights challenges. These agencies and their areas of competence are enumerated in paragraph 21.

L. Human Rights Education

52. Human rights education may be defined as training and public information efforts aimed at building a universal culture of human rights. Human rights education seeks to:

- ! Strengthen respect for human rights and fundamental freedoms;
- ! Ensure the full development of the human personality and sense of dignity;

- ! Promote understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;
- ! Enable all persons to participate effectively in a free society;
- ! Further the activities of the United Nations for the maintenance of peace.²

53. The importance of human rights education to the realization of basic human rights cannot be ignored. Human rights education constitutes an essential contribution to the prevention of human rights violations, and thus to the prevention of wider conflicts, and represents an important investment for the achievement of a just society in which all human rights of all persons are valued and respected.

54. The 50th Anniversary of the UDHR in 1998 provided new impetus to human rights promotional activities at the international, regional, national and local levels. The High Commissioner, in her role as the Coordinator of the UN Decade for Human Rights Education (1995-2004), has been focusing the work of her Office in building a universal culture of human rights. One significant achievement under the Plan of Action for the Decade was the translation into approximately 300 languages of the UDHR.

M. Human Rights Enforcement

55. International human rights law obliges States to take all necessary measures to give force to the standards contained in its treaties and customary principles. This means, *inter alia*, ensuring compatibility of national legislation with international law, ensuring redress for victims, prosecuting offenders, preventing abuses and combating impunity. Thus, in the first instance, it is the individual States themselves which must act to enforce the standards, principally through their domestic legal systems.

56. Where they do not, cannot, or will not do so, they may be compelled, in certain circumstances, to extradite, transfer or surrender an alleged offender for prosecution elsewhere. Some treaties, like the Convention against Torture, expressly require States parties to try or extradite offenders.

57. In the 1990s, special tribunals were established at the international level to prosecute violators. In the wake of genocide and crimes against humanity in Rwanda and the former Yugoslavia, *ad hoc* tribunals were established by the UN Security Council to bring to justice the persons responsible. And as the decade and the millennium drew to a close, the international community advanced the cause of enforcement significantly, with the adoption at Rome on 17 July 1998 of the Statute of the International Criminal Court, laying the foundation for a permanent international tribunal to give effect to the half-century-old promise of the Universal Declaration of Human Rights that:

“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 [...]”

² See the report of the United Nations High Commissioner for Human Rights on the implementation of the Plan of Action for the United Nations Decade of Human Rights Education (1995-2004) (A/51/506/Add.1), appendix, para. 2.

N. UN Mechanisms for Human Rights Complaints

58. The UN receives thousands of complaints (also called “communications or petitions”) of human rights violations every year. A variety of mechanisms have been established by the Organization to handle such complaints, including:

- ! treaty-based procedures, which consider complaints from individuals about violations of the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the International Convention on the Elimination of All Forms of Racial Discrimination;
- ! the “1503 Procedure”, which, named for the ECOSOC resolution which established it, is a confidential procedure for dealing with complaints of patterns of gross violations of human rights in any country;
- ! extra-conventional mechanisms, such as special rapporteurs and working groups of the Commission on Human Rights, including through urgent appeals to Governments.

59. UN staff in the field, including Resident Coordinators and other members of Country Teams, should generally not reject complaints of human rights violations. Once received, these should be promptly and confidentially transmitted to the OHCHR for processing under the above mechanisms. In principle, complainants should have exhausted domestic remedies. While there is no formal standard form for complaints, compliance with the following general guidelines should be encouraged:

- ! the complaint should not be anonymous;
- ! it should present a clear and sufficiently detailed statement of the author’s claim;
- ! it should not contain abusive language;
- ! it should clearly indicate the country against which the complaint is made;
- ! it should explain how domestic remedies have been exhausted, or, alternatively, how they are unavailable, demonstrated to be ineffective, or representing unreasonable delay;
- ! if redress is expressly sought under a particular treaty mechanism, (1) the author must be either the victim, or an authorized representative of the victim, (2) the country in question must be a party to the treaty and must have made any necessary declarations regarding application of the mechanism; and (3) the specific provision alleged to have been violated should be cited.

60. Other organizations within the United Nations system have established mechanisms to handle complaints in their fields of competence. One such example is UNESCO. In 1978 the Executive Board of UNESCO laid down a confidential procedure for the examination of communications (complaints) received by the Organization concerning alleged violations of human rights in its areas of competence, namely education, science, culture and information. This procedure is set out in 104 EX/Decision 3.3 of the Executive Board and can be found on UNESCO’s website.

O. UNDAF and CCA

61. The main focus of development operations continues to be at the country level, where programmes are intended to support national priorities. The United Nations Development Assistance Framework (UNDAF) is the planning framework for the development operations of the UN system at the country-level, in close consultation with Governments. The UNDAF covers all the programmable and operational engagements of participating organizations for development cooperation at the country-level.

62. The UNDAF is based on the Common Country Assessment (CCA) which seeks to generate ‘a common understanding of the causes of development problems as well as the needs and priorities of a country. *This consensus helps define the purpose and strategy of U.N. system support to a country* as described within the UNDAF.’ In effect, the CCA is the review and analysis of the national development situation. Its objective is to identify key issues that will form the basis for advocacy, policy dialogue and preparation of the UNDAF.

63. In preparing the CCA, the UN Country Team will use the Indicator Framework which allows human rights areas of concern to be identified. The UNDAF should also be informed by the comprehensive body of international human rights instruments which form an integral part of a State’s obligations to individuals within its jurisdiction.

64. Resident Coordinators have a crucial role to play in ensuring that the vision of mainstreaming human rights into the Organization’s work programme is taken account of. They should encourage and facilitate United Nations agencies to integrate human rights standards and practices into their programmes promoting a coherent United Nations approach.

65. The UNDAF and CCA Guidelines have been disseminated to all United Nations Country Teams.

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List of Human Rights Country and Thematic Mandates
(As at June 2000)

COUNTRY MANDATES:

Afghanistan	Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan	Mr. Kamal Hossain (Bangladesh)
Burundi	Special Rapporteur of the Commission on Human Rights on the situation of human rights in Burundi	Ms. Marie-Therese Aissata Keita (Côte d'Ivoire)
Cambodia	Special Representative of the Secretary-General on the situation of human rights in Cambodia	To be appointed
Cyprus	Mandate entrusted to the Secretary-General on the question of human rights in Cyprus	Secretary-General
Democratic Republic of the Congo	Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo	Mr. Roberto Garretón (Chile)
East Timor	Mandate entrusted to the Secretary-General on the situation of human rights in East Timor	Secretary-General
Equatorial Guinea	Special Representative of the Commission on Human Rights on the situation of human rights in Equatorial Guinea	Mr. Gustavo Gallón Giraldo (Colombia)
Former Yugoslavia	Mandate entrusted to the Secretary-General on the situation of human rights in Kosovo	Secretary-General
	Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia	Mr. Jiri Dienstbier (Czech Republic)
Haiti	Independent expert appointed by the Secretary-General on the situation of human rights in Haiti	Mr. Adama Dieng (Senegal)
Iran (Islamic Republic of)	Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran	Mr. Maurice Copithorne (Canada)
Iraq	Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq	Mr. Andreas Mavrommatis (Cyprus)

Myanmar	Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar	Mr. Rajsoomer Lallah (Mauritius)
Occupied Arab Territories	Mandate entrusted to the Secretary-General on the question of the violation of human rights in the occupied Arab territories, including Palestine	Secretary-General
	Mandate entrusted to the Secretary-General on the situation of human rights in southern Lebanon and western Bekaa	Secretary-General
	Mandate entrusted to the Secretary-General on the situation in occupied Palestine	Secretary-General
	Mandate entrusted to the Secretary-General on human rights in the occupied Syrian Golan	Secretary-General
	Special Committee to Investigate Israeli Practices affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	3 members (Representatives of Malaysia, Senegal & Sri Lanka)
	Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied since 1967	Mr. Giorgio Giacomelli (Italy)
Rwanda	Special Representative of the Commission on Human Rights on the situation of human rights in Rwanda	Mr. Michel Moussalli (Switzerland)
Somalia	Independent expert appointed by the Secretary-General on the situation of human rights in Somalia	Ms. Mona Rishmawi (Jordan)
Sudan	Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan	Mr. Leonardo Franco (Argentina)

THEMATIC MANDATES:

AIDS/HIV	Mandate entrusted to the Secretary-General on human rights and HIV/AIDS	Secretary-General
Arbitrary detention	Working Group on Arbitrary Detention	Chairman Mr. Kapil Sibal India) 5 members Independent experts
Child	Special Rapporteur of the Commission on Human Rights on the sale of children, child prostitution and child pornography	Ms. Ofelia Calcetas-Santos (Philippines)
	Special Representative of the Secretary-General on children in armed conflict	Mr. Olara Otunnu (Côte d'Ivoire)
Defenders	Special Representative on the situation of human rights defenders	To be appointed
Development	Independent expert of the Commission on Human Rights on the right to development	Mr. Arjun K. Sengupta (India)
Disappearances	Working Group on Enforced or Involuntary Disappearances	Chairman Mr. Ivan Tosevski (The former Yugoslav Republic of Macedonia) 5 members Independent experts
Education	Special Rapporteur of the Commission on Human Rights on the right to education	Ms. Katarina Tomasevski (Croatia)
Executions	Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions	Ms. Asthma Jahangir (Pakistan)
Food	Special Rapporteur of the Commission on Human Rights on the right to food	To be appointed
Forensic science	Mandate entrusted to the Office of the High Commissioner for Human Rights on human rights and forensic science	High Commissioner

Freedom of opinion and expression	Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression	Mr. Abid Hussain (India)
Housing	Special Rapporteur of the Commission on Human Rights on adequate housing	To be appointed
Independence of judges and lawyers	Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers	Mr. Param Cumaraswamy (Malaysia)
Internally displaced persons	Representative of the Secretary-General on internally displaced persons	Mr. Francis Deng (Sudan)
Mass exoduses	Mandate entrusted to the Secretary-General on human rights and mass exoduses	Secretary-General
Mercenaries	Special Rapporteur of the Commission on Human Rights on use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	Mr. Enrique Bernales-Ballesteros (Peru)
Migrants	Special Rapporteur of the Commission on Human Rights on the human rights of migrants	Ms. Gabriela Rodriguez Pizarro (Costa Rica)
Poverty	Independent expert of the Commission on Human Rights on human rights and extreme poverty	Ms. Anne-Marie Lizin (Belgium)
Racial discrimination	Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	Mr. Maurice Glèlè-Ahanhanzo (Benin)
Religious intolerance	Special Rapporteur of the Commission on Human Rights on the question of religious intolerance	Mr. Abdelfattah Amor (Tunisia)
Reprisals	Mandate entrusted to the Secretary-General on cooperation with representatives of United Nations human rights bodies	Secretary-General
Special procedures	Mandate entrusted to the Secretary-General on human rights and thematic procedures	Secretary-General

Structural adjustment & Foreign debt	Independent expert of the Commission on Human Rights on structural adjustment policies and foreign debt	Mr. Fantu Cheru (United States of America)
Torture	Special Rapporteur of the Commission on Human Rights on the question of torture	Mr. Nigel Rodley (U.K.)
Toxic waste	Special Rapporteur of the Commission on Human Rights on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights	Ms. Fatma Zohra Ksentini (Algeria)
Women	Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences	Ms. Radhika Coomaraswamy (Sri Lanka)

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(As at June 2000)

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