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Tingkat 29, Menara Tun Razak,
Jalan Raja Laut, 50350 Kuala Lumpur.

603-2612 5600 (T)

603-2612 5620 (F)

humanrights@suhakam.org.my

www.suhakam.org.my

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Statement of Objectives

- a) To provide information on international human rights standards relevant to the work of police
- b) To encourage the development of skills and the formulation and application of policies needed to transform that information into practical behavior.
- c) To sensitize participants to their special role in protecting and promoting human rights and to their potential for affecting human rights in their daily work
- d) To reinforce law enforcement officials respect for, and faith in, human dignity and fundamental human rights
- e) To encourage and reinforce an ethos of legality and of compliance with international human rights standards within law enforcement agencies
- f) To assist law enforcement agencies and individual law enforcement officials in providing effective policing through compliance with international human rights standards.
- g) To equip police educators and trainers to provide human rights education and training for law enforcement officials.

Acknowledgement

These practical readings in human rights and law enforcement officers is hoped to provide information and for the sensitization of protection amongst enforcement officers. Needless to say enforcement officers are front-liners in providing security to the nation. The day-to-day conduct of law enforcement in protecting and ensuring the human rights of all persons contributes to safe, stable and peaceful communities. And violation of rights only undermines, rather than enables, the possibility of real security and stability. A human rights-based approach to policing for communities begins with knowledge and awareness on the part of law enforcement officers as to the limits of lawful law enforcement authority and conduct. Many of these limits are premised on fundamental rights. This knowledge and awareness requires attention to be given to human rights elements of policing during initial, continuation and refresher training for law enforcement.

Core law enforcement duties, carried out with the authority and resources of the state, touch on the most fundamental of rights, often of people where are vulnerable. It is most important for those wielding public authority, such as law enforcement officers, to understand the responsibilities that come with authority which are premised on the foundations of laws and the state's legal process. However, it should also be realized that the government is also the institution primarily responsible and most capable of ensuring, securing and protecting human rights.

Law enforcement body duties are primarily directed at protecting the rights of the citizens; they also include measures that may sometimes limit the rights of individuals in the interests of the state. This cannot be effectively achieved without law enforcement officers knowing about those specific individual or collective rights, in particular, knowing in a practical and tangible way how their day-to-day conduct is enabled or limited by law and by human rights considerations. Training in human rights helps develop a mind-set that for an effective, unthreatening, co-operative working environment, law enforcement officers need a community that is on their sides. So, respect for human rights is not just 'the right thing to do', but leads to more effective policing in a more conducive operating environment.

SUHAKAM has been conducting training and encouraging the use of human rights practice when dealing with the public. It is SUHAKAM's sincere wish that not only enforcement officers but the public at large will find this module on human rights beneficial.

SUHAKAM wishes to record it's appreciation to :

- Office of the United Nations High Commissioner for Human Rights (OHCHR) for their permission to use "Trainer's Guide on Human Rights for the Police" as a source of this human rights readings;
- Commonwealth Secretariat for their permission to incorporate extracts from the "Commonwealth Manual on Human Rights Training for Police" in this publication;
- The Council of Europe for granting us permission to incorporate extracts and some of the graphics from "The Human Rights Challenge in Police Practice" in this human rights readings; and
- Suara Rakyat Malaysia (SUARAM), and Women Aid Organization for contributing some of the case studies.

Glossary

CEDAW	-	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	-	Convention on the Rights of Children
ECHR	-	European Court of Human Rights
FRU	-	Federal Reserve Unit
ICCPR	-	International Covenant on Civil and Political Rights
ICESCR	-	International Covenant on Economic, Social and Cultural Rights
RELA	-	Ikatan Relawan Rakyat (People's Volunteer Corps)
SMRTP	-	Standard Minimum Rules for the Treatment of Prisoners
UDHR	-	Universal Declaration of Human Rights

**PART ONE:
WHAT ARE
HUMAN RIGHTS?**

1.1 WHAT ARE HUMAN RIGHTS?

There are many definitions of human rights and people may well differ and argue about the relevant importance of different particular rights. In human rights training, it will be important to receive different views on the nature, source and effect of human rights. This will enable the trainer to persuasively address any myths, misunderstandings and misconceptions.

Human rights can be defined in various ways, such as generally accepted principles of fairness and justice inherent in every individual by virtue of their humanity or moral rights that belong equally to all people simply because they are human beings. Article 1 of the Universal Declaration on Human Rights (UDHR) explains that “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. Rather than attempting a set definition of human rights, it is useful to consider a few principles that can be applied to explain human rights, or the qualities that apply to human rights, as follows:

‘INHERENT’

Human beings are born free and equal in dignity and rights- this means that their rights are inherent, not given, bought, earned or inherited. By being born human, one is imbued with rights. These rights are indications of our inherent dignity and humanity. At the same time they protect our dignity and humanity.

‘UNIVERSAL’

Human rights are generally accepted principles that apply equally to all human beings, wherever they may live. This is a function of what we share in common- that we are all human, our humanity. ‘Universality’ means that the core content of human rights are the same for all regardless of race, sex, religion, ethnicity, political or other opinion, social or national origin. They are universal because they are the same for everyone everywhere in the world. Rights can also be described as ‘universal’ because they have been settled by overwhelming international consensus, and are protected and proclaimed internationally, including in the United Nations Charter. Those who sometimes attempt to justify violations of rights use a number of explanations but very seldom deny that these rights exist.

‘INALIENABLE’

Because they are inherent, human rights cannot be waived or taken away- they are inalienable. Human rights cannot be renounced, lost or forfeited. Of course, human rights can be limited- see absolute below.

‘INDIVISIBLE’

Human rights are based on the principle of respect for human dignity. In order to live in dignity, all human beings are entitled to freedom, security and decent standards of living all at the same time- human rights cannot be divided up, or made conditional upon each other- it soon becomes obvious that they all interconnected, interdependent and indivisible.

‘FUNDAMENTAL’

Life, dignity and other human values, needs and aspirations depend on recognition and fulfillment of rights. Human rights form the basis of every human being.

“APPLY EQUALITY”

All people have the same human rights, and it follows that all human beings have the right to equal protection of their rights. This entails equal treatment before the law, and equal access to the law itself. The principle of equality of application of the law entails that police officers may not unjustifiably discriminate against any person for example, treating someone differently only because of that persons' race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

‘ABSOLUTE’

Certain core rights create obligations that are absolute and cannot be limited. Under international law they include the right to life (the absolute prohibition on taking life arbitrarily-without any process of law), the right to be free from torture (the absolute prohibition on torture, an international criminal act), the right to be free from slavery (the absolute prohibition on torture), the right to recognition as a person before the law, and prohibition on retrospective criminal punishment.

However, the human rights system was not created in a vacuum and provides that most human rights protected in international law may be limited if competing social interests are important enough, in particular circumstances, for example, to take into account the legitimate claims and entitlement of other individuals and groups. Most rights can certainly be limited temporarily and for rational purposes, provided the limits are proportional to the justifiable purpose for which the limitation is imposed, and only limited to the extent strictly necessary to reach that other purpose.

International law provides that rights can only validly be limited in accordance with the general, published laws in ways that are reasonable and justifiable in an open and democratic society and only to the extent necessary in order to protect the rights of others. The principles of proportionality, legality, accountability and necessity should guide police officers when limiting the rights of a person. Police officers should also be able to justify their actions and also be able to indicate that they were reasonable in their actions.

1.2 EXAMPLES OF HUMAN RIGHTS

Human rights are described in the UDHR and in the various treaties, declaration, guidelines and bodies of principle 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. The rights guaranteed to all human beings include:

- Freedom of association, expression, assembly and movement;
- Right to life;
- Freedom from torture and cruel, inhuman or degrading treatment or punishment;
- Freedom from arbitrary arrest or detention;
- Right to a fair trial;
- Freedom from discrimination;
- Right to equal protection of the law;
- Freedom from arbitrary interference with privacy, family, home or correspondence;
- Right to asylum;
- Right to nationality;
- Freedom of thought, conscience and religion;

1.3 WHO MONITORS HUMAN RIGHTS?

Merely listing a set of rules is not enough to ensure their application. Accordingly, the implementation of human rights standards is closely watched at several levels. At the national level, human rights are monitored by:

- Concerned government agencies and services,
- National human rights institutions (such as a human rights commission or ombudsman);
- Human rights and other non-governmental organizations (NGOs);
- The courts;
- Parliament;
- The media;
- Professional organizations (such as lawyers, doctors, etc.);
- Trade unions;
- Religious organizations; and
- University centres.

1.4 HOW CAN RESPECTING HUMAN RIGHTS HELP THE POLICE?

Respect for human rights by law enforcement agencies actually enhances their effectiveness. Where human rights are systematically respected, police officers have developed professionalism in their approaches to solving and preventing crime and maintaining public order. In this sense, respect for human rights by police is, in addition to being a moral, legal and ethical imperative, a practical requirement for law enforcement. When police are seen to respect, uphold and defend human rights:

- Public confidence is built and community cooperation fostered;
- Legal prosecutions are successful in court;

- Police are seen as part of the community, performing a valuable social
- The fair administration of justice and hence confidence in the system is served;
- An example is set for respect for the law by others in society;
- Police are able to be closer to the community and therefore in a position to prevent and solve crimes through proactive policing;
- Support is elicited from the media, from the international community and from higher authorities;
- A contribution is made to the peaceful resolution of conflicts and complaints.

An effective police service is one that serves as the first line of defence in the protection of human rights. Its members carry out their work in a way that does not rely on fear and raw power, but instead on regard for the law, honour and professionalism.

1.5 Selected International Human Rights Instruments Relevant to Law Enforcement

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Code of Conduct for Law Enforcement Officials
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Declaration on the Protection of All Persons from Enforced Disappearance
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Elimination of All Forms of Discrimination against Women
- Convention on the Rights of the Child
- Standard Minimum Rules for the Treatment of Prisoners
- Convention relating to the Status of Refugees
- Declaration on the Human Rights of Individuals Who are not Nationals of the Country in Which They Live
- Convention for the protection of Human Rights and fundamental Freedoms
- Resolution 690(1979) on the Declaration on the Police

**PART TWO:
HUMAN RIGHTS
IN MALAYSIA**

2.1 FEDERAL CONSTITUTION OF MALAYSIA

PART II - FUNDAMENTAL LIBERTIES

Article 5. Liberty of the person.

1. No person shall be deprived of his life or personal liberty saves in accordance with law.
2. Where complaint is made to a High Court or any judge thereof that a person is being unlawfully detained the court shall inquire into the complaint and, unless satisfied that the detention is lawful, shall order him to be produced before the court and release him.
3. Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.
4. Where a person is arrested and not released he shall without unreasonable delay, and in any case within twenty-four hours (excluding the time of any necessary journey) be produced before a magistrate and shall not be further detained in custody without the magistrate's authority.

Provided that this Clause shall not apply to the arrest or detention of any person under the existing law relating to restricted residence, and all the provisions of this Clause shall be deemed to have been an integral part of this Article as from Merdeka Day.

Provided further that in its application to a person, other than a citizen, who is arrested or detained under the law relating to immigration, this Clause shall be read as if there were substituted for the words "without unreasonable delay, and in any case within twenty-four hours (excluding the time of any necessary journey)" the words "within fourteen days":

And provided further that in the case of an arrest for an offence which is triable by a Syariah court, references in this Clause to a magistrate shall be construed as including references to a judge of a Syariah court.

5. Clauses (3) and (4) do not apply to an enemy alien.

Article 6. Slavery and forced labour prohibited.

1. No person shall be held in slavery.
2. All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes.
3. Work or service required from any person as a consequence of a conviction or a finding of guilt in a court of law shall not be taken to be forced labour within the meaning of this Article, provided that such work or service is carried out under the supervision and control of a public authority.
4. Where by any written law the whole or any part of the functions of any public authority is to be carried on by another public authority, for the purpose of enabling those functions to be performed the employees of the first mentioned public authority shall be bound to serve the second mentioned public authority, and their service with the second mentioned

public authority shall not be taken to be forced labour within the meaning of this Article, and no such employee shall be entitled to demand any right from either the first mentioned or the second mentioned public authority by reason of the transfer of his employment.

Article 7. Protection against retrospective criminal laws and repeated trials

1. No person shall be punished for an act or omission which was not punishable by law when it was done or made, and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.
2. A person who has been acquitted or convicted of an offence shall not be tried again for the same offence except where the conviction or acquittal has been quashed and a retrial ordered by a court superior to that by which he was acquitted or convicted.

Article 8. Equality

1. All persons are equal before the law and entitled to the equal protection of the law.
2. Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent or place of birth or gender in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.
3. There shall be no discrimination in favour of any person on the ground that he is a subject of the Ruler of any State.
4. No public authority shall discriminate against any person on the ground that he is resident or carrying on business in any part of the Federation outside the jurisdiction of the authority.
5. This Article does not invalidate or prohibit -
 - (a) any provision regulating personal law;
 - (b) any provision or practice restricting office or employment connected with the affairs of any religion, or of an institution managed by a group professing any religion, to persons professing that religion;
 - (c) any provision for the protection, well-being or advancement of the aboriginal peoples of the Malay Peninsula (including the reservation of land) or the reservation to aborigines of a reasonable proportion of suitable positions in the public service;
 - (d) any provision prescribing residence in a State or part of a State as a qualification for election or appointment to any authority having jurisdiction only in that State or part, or for voting in such an election;
 - (e) any provision of a Constitution of a State, being or corresponding to a provision in force immediately before Merdeka Day;
 - (f) any provision restricting enlistment in the Malay Regiment to Malays.

Article 9. Prohibition of banishment and freedom of movement.

1. No citizen shall be banished or excluded from the Federation.
2. Subject to Clause (3) and to any law relating to the security of the Federation or any part thereof, public order, public health, or the punishment of offenders, every citizen has the right to move freely throughout the Federation and to reside in any part thereof.
3. So long as under this Constitution any other State is in a special position as compared with the States of Malaya, Parliament may by law impose restrictions, as between that State and other States, on the rights conferred by Clause (2) in respect of movement and residence.

Article 10. Freedom of speech, assembly and association.

- 1 Subject to Clauses (2), (3) and (4) -
 - (a) every citizen has the right to freedom of speech and expression;
 - (b) all citizens have the right to assemble peaceably and without arms;
 - (c) all citizens have the right to form associations.
2. Parliament may by law impose -
 - (a) on the rights conferred by paragraph (a) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence;
 - (b) on the right conferred by paragraph (b) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, or public order;
 - (c) on the right conferred by paragraph (c) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, public order or morality.
3. Restrictions on the right to form associations conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labour or education.
4. In imposing restrictions in the interest of the security of the Federation or any part thereof or public order under Clause (2) (a), Parliament may pass law prohibiting the questioning of any matter, right, status, position, privilege, sovereignty or prerogative established or protected by the provisions of Part III, article 152, 153 or 181 otherwise than in relation to the implementation thereof as may be specified in such law.

Article 11. Freedom of religion.

1. Every person has the right to profess and practice his religion and, subject to Clause (4), to propagate it.

2. No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.
3. Every religious group has the right -
 - (a) to manage its own religious affairs;
 - (b) to establish and maintain institutions for religious or charitable purposes; and
 - (c) to acquire and own property and hold and administer it in accordance with law.
4. State law and in respect of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.
5. This Article does not authorize any act contrary to any general law relating to public order, public health or morality.

Article 12. Rights in respect of education.

1. Without prejudice to the generality of Article 8, there shall be no discrimination against any citizen on the grounds only of religion, race, descent or place of birth-
 - (a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees; or
 - (b) in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution (whether or not maintained by a public authority and whether within or outside the Federation).
2. Every religious group has the right to establish and maintain institutions for the education of children in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law; but it shall be lawful for the Federation or a State to establish or maintain or assist in establishing or maintaining Islamic institutions or provide or assist in providing instruction in the religion of Islam and incur such expenditure as may be necessary for the purpose.
3. No person shall be required to receive instruction in or take part in any ceremony or act of worship of a religion other than his own.
4. For the purposes of Clause (3) the religion of a person under the age of eighteen years shall be decided by his parent or guardian.

Article 13. Rights to property.

1. No person shall be deprived of property save in accordance with law.
2. No law shall provide for the compulsory acquisition or use of property without adequate compensation.

2.2 LAWS OF MALAYSIA

Act 597

HUMAN RIGHTS COMMISSION OF MALAYSIA ACT 1999

Date of Royal Assent : 27 August 1999

Date of publication in the Gazette : 09 September 1999

An Act to provide for the establishment of the Human Rights Commission of Malaysia; to set out the powers and functions of such commission for the protection and promotion of human rights in Malaysia; and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament of Malaysia as follows:

Part I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Human Rights Commission of Malaysia Act 1999.
- (2) This Act shall come into operation on a date to be appointed by the Minister by notification published in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires-
 "Government" means the Government of Malaysia;
 "human rights" refers to fundamental liberties as enshrined in Part II of the Federal Constitution;
 "Minister" means the Minister charged with the responsibility for human rights.

Part II

ESTABLISHMENT OF THE HUMAN RIGHTS COMMISSION OF MALAYSIA

Establishment of the Commission

3. (1) There is hereby established a Commission which shall be known as the Human Rights Commission of Malaysia (the "Commission").
- (2) The Commission shall be a body corporate having perpetual succession and a common seal, which may sue and be sued in its name and, subject to and for the purpose of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Commission upon such terms as it deems fit.
- (3) The Commission shall have a common seal which shall bear such device as the Commission shall approve and such seal may be broken, changed, altered or made anew as the Commission thinks fit.
- (4) The common seal shall be kept in the custody of the Secretary to the Commission or such other person as may be authorized by the Commission and shall be authenticated by the Secretary or such authorized person or by any officer authorized by the Secretary or such authorized person in writing.

- (5) All deeds, documents and other instruments purporting to be sealed with the common seal, authenticated as specified in subsection (4) shall until the contrary is proved, be deemed to have been validly executed.
- (6) The common seal of the Commission shall be officially and judicially noticed.

Functions and powers of the Commission

- 4. (1) In furtherance of the protection and promotion of human rights in Malaysia, the functions of the Commission shall be -
 - (a) to promote awareness of the provide education in relation to human rights;
 - (b) to advise and assist the Government in formulating legislation and administrative directives and procedures and recommend the necessary measures to be taken;
 - (c) to recommend to the Government with regard to the subscription or accession of treaties and other international instruments in the field of human rights; and
 - (d) to inquire into complaints regarding infringements of human rights referred to in section 12.
- (2) For the purpose of discharging its functions, the Commission may exercise any or all of the following powers:
 - (a) to promote awareness of human rights and to undertaken research by conducting programmes, seminars and workshops and to disseminate and distribute the results of such research;
 - (b) to advise the Government and/or the relevant authorities of complaints against such authorities and recommend to the Government and/or such authorities appropriate measures to be taken;
 - (c) to study and verify any infringement of human rights in accordance with the provisions of this Act;
 - (d) to visit places of detention in accordance with procedures as prescribed by the lays relating to the places of detention and to make necessary recommendations;
 - (e) to issue public statement on human rights as and when necessary; and
 - (f) to undertake any other appropriate activities as are necessary in accordance with the written laws in force, if any, in relation to such activities.
- (3) The visit by the Commission to any place of detention under paragraph (2)(d) shall not be refused by the person in charge of such place of detention if the procedures provided in the laws regulating such places of detention are complied with.
- (4) For the purpose of this Act, regard shall be had to the Universal Declaration of Human Rights 1948 to the extent that it is not inconsistent with the Federal Constitution.

Members of the Commission and term of office

- 5. (1) The Commission shall consist of not more than twenty members.
- (2) Members of the Commission shall be appointed by the Yang di-Pertuan Agong, on the recommendation of the Prime Minister.
- (3) Members of the Commission shall be appointed from amongst prominent personalities including those from various religious and racial backgrounds.
- (4) Every member shall hold office for a period of two years and is eligible for reappointment.

Chairman and Vice-Chairman

6. (1) The Yang di-Pertuan Agong shall designate one of the members appointed under section 5 to be the Chairman of the Commission.
- (2) The Chairman's term of office shall be his period of membership on the Commission.
- (3) A Vice-Chairman shall be elected by the members of the Commission from amongst themselves.
- (4) Where the Chairman of the Commission is for any reason unable to perform the function of the Chairman, or during any period of vacancy in the office of the Chairman, the Vice-Chairman shall perform the function of the Chairman.

Meeting of the Commission

7. (1) The Chairman of the Commission shall preside at all meetings of the Commission.
- (2) If the Chairman is absent from any meeting, the Vice-Chairman of the Commission shall preside at such meeting.
- (3) The quorum at all meeting shall be two thirds of the number of the members of the Commission.
- (4) The members of the Commission shall use their best endeavors to arrive at all decisions of the meeting by consensus failing which the decision by a two-thirds majority of the members present shall be required.
- (5) The Commission shall determine the conduct of its own proceedings.

Remuneration

8. (1) The Chairman of the Commission shall be paid such remuneration and allowances as the Yang di-Pertuan Agong may determine.
- (2) Every member of the Commission shall be paid allowances at such rates as the Yang di- Pertuan Agong may determine.

Vacation of office

9. The office of a member of the Commission shall become vacant -
 - (a) upon the death of the member;
 - (b) upon the member resigning from such office by the letter addressed to the Yang di-Pertuan Agong;
 - (c) upon the expiration of his term of office; or
 - (d) upon the member being removed from office on any of the grounds specified in section 10.

Disqualification

10. A member of the Commission may be removed from office by the Yang di-Pertuan Agong if -
 - (a) the member is adjudged insolvent by a court of competent jurisdiction;
 - (b) the Yang di-Pertuan Agong, after consulting a medical officer or a registered medical practitioner, is of the opinion that the member is physically or mentally incapable of continuing his office;
 - (c) the member absents himself from three consecutive meeting of the Commission without obtaining leave of the Commission or, in the case of the Chairman, without leave of the Minister;

- (d) the Yang di-Pertuan Agong, on the recommendation of the Prime Minister, is of the opinion that the member-
 - (i) has engaged in any paid office or employment which conflicts with his duties as a member of the Commission;
 - (ii) has misbehaved or has conducted himself in such a manner as to bring disrepute to the Commission; or
 - (iii) has acted in contravention of this Act and in conflict with his duties as a member of the Commission.

Resignation

11. A member of the Commission may at any time resign his office by a letter addressed to the Yang di-Pertuan Agong.

Part III

POWERS OF INQUIRY OF THE COMMISSION

Commission may inquire on own motion or on complaint

12. (1) The Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, inquire into allegation of the infringement of the human rights of such person or group of persons.
- (2) The Commission shall not inquire into any complaint relating to any allegation of the infringement of human rights which-
 - (a) is the subject matter of any proceedings pending in any court, including any appeals; or
 - (b) has been finally determined by any court.
- (3) If the Commission inquires into an allegation under subsection 12(1) and during the pendency of such inquiry the allegation becomes the subject matter of any proceedings in any court, the Commission shall immediately cease to do the inquiry.

Procedure where infringement is not disclosed or is disclosed

13. (1) Where an inquiry conducted by the Commission under section 12 does not disclose the infringement of human rights, the Commission shall record that finding and shall forthwith inform the person making the complaint.
- (2) Where an inquiry conducted by the Commission under section 12 discloses the infringement of human rights, the Commission shall have the power to refer the matter, where appropriate, to the relevant authority or person with the necessary recommendations.

Powers relating to inquiries

14. (1) The Commission shall, for the purposes of an inquiry under this Act, have the power-
 - (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine;

- (b) to require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Commission an oath or affirmation to every such witness;
 - (c) to summon any person residing in Malaysia to attend any meeting of the Commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;
 - (d) to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings; and
 - (e) to admit or exclude the public from such inquiry or any part thereof.
- (2) Notwithstanding paragraph (1) (c), where a person summoned is a person under detention under any other written law, such summons shall be issued in accordance with the laws applicable in relation to the place of detention.

Evidence before the Commission

15. (1) A person who gives evidence before the Commission shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.
- (2) No person shall, in respect of any evidence written or oral given by that person to or before the Commission, be liable to any action or proceeding, civil or criminal in any court except when the person is charged with giving or fabricating false evidence.

Part IV

STAFF OF THE COMMISSION

Appointment of Secretary and the staff

16. (1) The Commission shall appoint a Secretary to the Commission.
- (2) The Commission may appoint such other officers and servants as may be necessary to assist the Commission in the discharge of its functions under this Act.

Delegation of powers

17. The Commission may delegate to any officer referred to in subsection 16 (2) any of its powers, and the officer to whom such powers are delegated may exercise those powers subject to the direction of the Commission.

Protection of members, officers and servants of the Commission

18. (1) No action, suit, prosecution or proceeding shall be instituted in any court against the Commission or against any member, officer, or servant of the Commission in respect of any act, neglect or default done or committed by him in such capacity provided that he at the time had carried out his functions in good faith.
- (2) Any member, officer or servant of the Commission shall be required to produce in any court, any document received by, or to disclose to any court, any matter or thing coming to the notice of the Commission in the course of any inquiry conducted by the Commission under this act.

- (3) No action or proceeding, civil or criminal shall be instituted in any court against any member of the Commission in respect of any report made by the Commission under this Act or against any other person in respect of the publication by such person of a substantially true account of such report.
- (4) Chapters IX and X of the Penal Code [Act 574] shall apply to members, officers and servants of the Commission as if references to "public servant" had been replaced with "member, officer or servant of the Commission".

Part V

GENERAL

Funds

- 19. (1) The Government shall provide the Commission with adequate funds annually to enable the Commission to discharge its function under this Act.
- (2) The Commission shall not receive any foreign fund.
- (3) Notwithstanding subsection (2), the Commission may receive funds without any conditions from any individual or organization only for the purpose of promoting awareness of and providing education in relation to human rights as many be approved by the Commission.
- (4) The Commission shall cause proper audited accounts to be kept of its income and expenditure, and assets and liabilities.
- (5) The financial year of the Commission shall be the calendar year.
- (6) Any expenses incurred by the Commission in any action or proceeding, civil or criminal, brought by or against the Commission before any court shall be paid out of the funds of the Commission and any costs paid to, or recovered by, the Commission in any such action or proceeding, civil or criminal, shall be credited to the funds of the Commission.
- (7) Any expenses incurred by any member, officer or servant of the Commission, in any civil action or proceeding, brought against him in any court in respect of any act which is done or purported to be done by him under this Act or on the direction of the Commission shall be paid out of the funds of the Commission unless such expenses are recovered by him in such civil action or proceeding.

Application of Act 240

- 20. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act 240] shall apply to the Commission.

Annual Report

- 21. (1) The Commission shall not later than the first meeting of Parliament of the following year, submit an annual report to Parliament of all its activities during the year to which the report relates.
- (2) The report shall contain a list of all matters referred to it, and the action taken in respect of them together with the recommendations of the Commission in respect of each matter.
- (3) The Commission may, whenever it considers it necessary to do so, submit special reports to Parliament in respect of any particular matter or matters referred to it, and the action taken in respect thereof.

Regulations

22. The Minister may make regulations for the purpose of carrying out or giving effect to the provisions of this Act, including for prescribing the procedure to be followed in the conduct of inquiries under this Act.

Power to make disciplinary regulations

23. (1) The Commission may, with the approval of the Minister, make such regulations as it thinks necessary or expedient to provide for the discipline of the officers and servants of the Commission.
- (2) Where any disciplinary regulations are made under this section, the Commission shall cause notice of the effect of those regulations to be given in such manner as it thinks necessary for bringing it to the notice of all officers and servants of the Commission who are affected by those regulations and those regulations shall, notwithstanding sections 19 and 20 of the Interpretation Acts 1948 and 1967 [Act 388], have effect as soon as the notice has been given without publications in Gazette.



PART THREE: BASIC RIGHTS

3.1 THE RIGHT TO LIFE

Summary of the human right:

Everyone has the right to life
The right to life must be protected by law.
A person's life may not be taken arbitrarily.

[Key texts: Article 3 of UDHR + Article 5(1) of Federal Constitution + Article 2 of ECHR + Declaration on the Police Articles 12 and 13]

Clearly the right to life must be the most basic one. The ECHR requires states to enact laws prohibiting certain forms of killing and preventing arbitrary killing by the state. Someone can only be deprived of their life after conviction by a court for a crime for which the death penalty is provided by law. Abolition of the death penalty is a big step forward for the modern democratic state.

ASK YOURSELF: When do I think it might be necessary for the state to kill?

One of the key factors in the maintenance of a trusting relationship between the public and the police is the issue of safety. Threats to life have to be taken seriously. Preventing murders (and other forms of unlawful killing) and investigating such crimes are vastly important police functions.

As we said earlier, human rights law is about the relationship between the state and the individual, where the state has to make sure that these rights are protected and respected. Whenever possible, police officials are required to use peaceful means to keep order, but sometimes they have to use force or firearms in order to protect human lives and this, sadly, sometimes results in deaths.

ASK YOURSELF: When are police officials allowed to use force or firearms in my country? Article 2 of the ECHR defines situations where it is permissible to use force which may result as an unintended outcome in deaths. It does not define situations where it is permissible intentionally to kill an individual. Here is what it says:

“Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- a. in defence of any person from unlawful violence;
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c. in action lawfully taken for the purpose of quelling a riot or insurrection.’

ASK YOURSELF: What meaning would I give to the term “absolutely necessary”?
Can I think of times when we have had to use necessary force?

Police managers need to plan and control police operations in order to minimize, to the greatest extent possible, the use of lethal force and the incidental loss of life. Training in peaceful policing and strict guidelines for the use of firearms are needed to help police officers in judging situations on the street.

If force has to be used, then it has to be proportionate to the situation. In deciding whether use of force is proportionate, the following factors should be taken into account:

- the nature of the aim pursued in the police operation; the perceived dangers to life and limb;
- the degree of the risk that the force employed might result in loss of life. In their use of potentially lethal force, police officials should always bear in mind that these key concepts of “absolutely necessary” and “proportionate” are central to their actions in safeguarding the right to life. Decisions of the European Court of Human Rights have been clear in upholding the principles that police management is responsible for the actions of subordinates.

ASK YOURSELF: What procedures must we follow if individuals are killed during a police operation?

Administrative procedures should ensure that clear records be kept of all such operations to enable investigations into the deaths and to find out if human rights have been respected by police officials. These records are also important for police officials to enable them to protect themselves against wrongful accusations. The same principles hold true in cases where the police have used force.



3.2 THE RIGHT TO LIBERTY

Summary of the human right:

Everyone has the right to liberty and security of person.
No one shall be subjected to arbitrary arrest or detention.

No one shall be deprived of their liberty except on lawful grounds and in accordance with lawful procedures.

[Key texts: Article 5 of Federal Constitution + Article 9 of UDHR + Declaration on the Police Article 8]

Again we are looking here at an area of human rights law which is extremely important to police work. Taking away an individual's liberty is a grave responsibility for which the state must have strong safeguards.

ASK YOURSELF: Why shouldn't police officials have the right to arrest any body whenever they want it is their job, after all?

Police powers to arrest and detain people need to be set within a legal frame work in order to reassure the public that these powers will not be abused and to provide police officials with secure guidelines for their work. These powers have to be exercised reasonably and in strict compliance with the law.

Article 5 of the ECHR sets out a complete list of the six permitted grounds for depriving someone of their liberty. The most important ground related to everyday police work is:

"lawful arrest or detention of a person on reasonable suspicion of having committed an offence, or when it is reasonably considered necessary to prevent a person committing an offence or fleeing after having done so".

ASK YOURSELF: What do I think "reasonable" means here?

Having a reasonable suspicion should be based on the existence of facts or information which would satisfy an objective observer that the person might have committed an offence. Obviously each situation is different and the professional police official requires good training to gain the skills necessary to be able to analyze what action should be taken and when. The other grounds listed in Article 5 are:

- a. lawful detention after conviction by a court;
- b. lawful arrest or detention for non-compliance with a court order, or in order to secure fulfillment of an obligation prescribed by law;
- c. detention of a minor by lawful order for purposes of educational supervision, or for purposes of bringing him before a legal authority;

- d. lawful detention of persons to prevent the spreading of infectious diseases, or of persons of unsound mind, alcoholics, drug addicts or vagrants;
- e. arrest or detention of persons to prevent unauthorized entry into the country, or of persons who are to be deported.

ASK YOURSELF: Do these ground; cover all the situations in which I find myself?

Clear guidelines must accompany the work of the police after someone has been arrested. Every person arrested must be told the reasons for their arrest in simple language they can understand. And they should be informed sufficiently about the facts and the evidence of the case against them. If minors are involved, their parents or legal guardians should be informed. Everyone arrested or detained for an offence should be brought promptly before a judge and also be entitled to trial within a reasonable period of time.

All of these laws and procedures which are put in place lead to a lot of paperwork which can be very frustrating for police officials. Perhaps it helps to know that in completing all those forms, the police official is helping to protect human rights, even if they do make life more complicated.

3.3 THE RIGHT TO A FAIR TRIAL

Summary of the human right:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

[Key text: Article 10, 11 of UDHR +Article 6 of ECHR]

ASK YOURSELF: What would life be like if suspects were presumed to be guilty until proved innocent?

To take up the theme of frustration again, every police official knows of suspected criminals who were set free by the courts when they should have landed in prison. On the other hand, there are plenty of cases in every country of people who have been able to prove their innocence after being convicted of a crime. The essence of a justice system within the modern democratic state is to prevent either type of case becoming the norm. So the police have to have the skills, resources and procedures necessary to investigate crime efficiently and professionally.

ASK YOURSELF: What kinds of skills, resources and procedures do we lack in order to do our job in investigating crime?

Suspected criminals have the right to be treated as innocent until proved guilty. This means that police officials should show their respect for this, especially in their attitude and conduct towards an accused person and in any public statements they may make about their investigations, especially those to the media. We have already highlighted the dangers of false confessions and, in order not to have to rely on them, police officials should be aware of and use all available scientific aids for crime investigations.

ASK YOURSELF: What part do anonymous informants play in our crime investigations?

This question has been taken up by the European Court of Human Rights which accepts that anonymous informers often play a role in leading police officials to capture criminals. But, the court holds that evidence from anonymous informers must be backed up by other types of evidence: this could include statements from other witnesses, documentary evidence or a confession by the accused.

Five basic rights for people charged with criminal offences are set out in the ECHR. They are intended to secure what is known as procedural equality between defense and prosecution - an essential element of a fair trial. These are:

- a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- b. to have adequate time and facilities for the preparation of his defense;

- c. to defend himself in person or through legal assistance of his own choosing;
- d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.



3.4 THE RIGHT TO PRIVACY

Summary of the human right:

Everyone has the right to respect for his private and family life, his home and his correspondence.

There is to be no interference with this right except when done in accordance with the law and when necessary in a democratic society for a number of specified purposes.

[Key texts: Article 12 of UDHR + Article 8 of ECHR + Declaration on the Police Article 15]

Fictional films involving police work often show police officials tapping telephones, putting people under surveillance, breaking into people's homes and, nowadays, hacking into computers to find evidence against criminals. Somehow these acts are shown to be logical and "good" because they serve a greater purpose: bringing the "baddies" to justice.

ASK YOURSELF: When would I be justified to act like the police in such films?

The fact is that the police in films are usually breaking the law in order to enforce the law. However expedient it might seem at the time, there is no justification for police officials to break the law, especially when we are speaking about human rights.

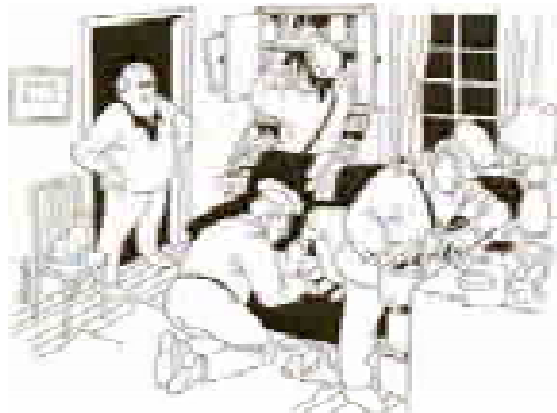
Respect for private and family life, and of home and correspondence are fundamental human rights. When the police are given powers to limit those rights, these powers must always be strictly lawful and necessary for legitimate policing purposes.

ASK YOURSELF: If some politicians asked me to put their opponents under surveillance, what would be my reaction?

Surveillance, searches, interception of correspondence and telephone conversations are all limitations of human rights and can only be undertaken, according to the ECHR:

- in the interests of national security, public safety or the economic well being of the country;
- for the prevention of disorder or crime;
- for the protection of health or morals;
- for the protection of the rights and freedoms of others.

Effective guarantees against abuse should be put in place, so that police officials do not make decisions about this without reference to relevant authorities. Unlimited discretion to subject people to secret surveillance cannot be granted by law, even when made as part of the struggle against serious crime or terrorism.



3.5 THE RIGHT TO THINK, BELIEVE AND EXPRESS ONESELF

Summary of the human right:

Everyone has the right to freedom of thought, conscience and religion, including the freedom to change one's religion or belief and the freedom to manifest religion or belief, in worship, teaching, practice and observance. Everyone has the right to freedom of expression including freedom to hold opinions and to receive and impart information and ideas.

There is to be no interference with these rights except when done in accordance with the law, and when necessary in a democratic society for a number of specified purposes.

[Key texts: Article 11 of Federal Constitution + Article 18 of UDHR + Article 9 of ECHR + Declaration on the Police Article 8]

Freedom of expression constitutes one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the development of every person. This is an area where we see police officials called to demonstrate the very highest skills they possess in tact, negotiation and keeping the peace. Conflicting opinions, when expressed, often lead to conflict. And they lead to conflict of rights.

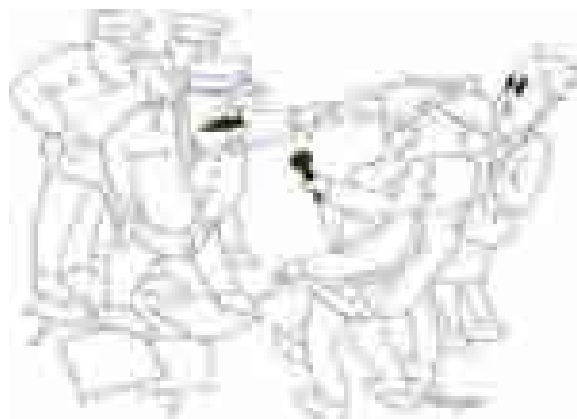
ASK YOURSELF: What types of conflicts have I seen which are relevant here?

Police officials are called on to protect people from discrimination on grounds of religion or belief. For all of these tasks it has to be ensured that the police are trained, briefed and deployed to respect and protect these rights.

Of course, in situations like this where rights are in conflict, the state can limit rights, but these limitations must be set down in law and must be necessary for the development of a democratic society.

These limitations must be:

- in the interests of public safety;
- for the protection of public order, health or morals;
- for the protection of the rights and freedoms of others.



3.6 THE RIGHT TO MEET TOGETHER

Summary of the human right:

Everyone has the right to freedom of peaceful assembly and association with others.

[Key texts: Article 10 of Federal Constitution + Article 20 of UDHR + Article 2 of ECHR]

As with the rights discussed in the previous section, here we are looking at questions of balance. Police officials often concern about public safety during demonstrations. Still, the right to freedom of assembly is a major part of the political and social life of any country, and an essential part of the activities of political parties. The state has a duty to see that this right can be exercised. Limitations of this right can be set by the state:

- for the prevention of disorder or crime;
- for the protection of health or morals;
- for the protection of the rights and freedoms of others.

ASK YOURSELF: What are the regulations in my country covering demonstrations?

Adapting police organizations to the demands of modern democratic societies is a very complex matter and increasingly so in the case of dealing with crowds and demonstrations, in particular. Criticism has intensified of the old policing approach, which regarded crowds as opponents of the police and something to be dispersed as quickly as possible. Little thought was given to the damage that showing and using very forceful police action could have on future relationships with the members of the community.

New approaches, based on the community policing model, aim to defend and protect the human rights of all concerned members of the crowd, innocent bystanders and the police. This means that the police inform themselves of demonstrations that might be held and plan and negotiate with the organizers. In this way patterns of communication can be established and the limits of acceptable actions by the demonstrators can be agreed in advance. It also shows a shift in thinking about the use of force by the police, moving from offensive to defensive strategies with force becoming a last resort. In practice, this modern approach to policing demonstrations reveals itself by seeing police officers dressed in everyday uniforms and posted in non-confrontational ways around the demonstration. Depending on information gathered previously about the possible likelihood of violence, reserve units are kept discreetly in the background. If a flashpoint does occur during the demonstration, only the force which is absolutely necessary is used, in order to minimize the risk of injury to demonstrators and police alike. In order to improve practice for future demonstrations, it is then important to evaluate what happened and why preferably together with the organizers.

ASK YOURSELF: How do we police demonstrations?

The rights covered in these articles of the UDHR include the right to form and join trade unions. This is a right which can find opposition from certain employers.

The Declaration on the Police does not mention trade unions for police, but insists on the possibility for police officials to set up professional organizations and not be penalized for their involvement in them.



3.7 THE RIGHT TO OWNERSHIP

Summary of the human right:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and in accordance with the law.

[Key texts: Article 13 of Federal Constitution + Article 17 of UDHR + Declaration on the Police Articles 1 and 2]

ASK YOURSELF: When do I think a possession is not a possession?

A possession is something to which you are legally entitled, it belongs to you. You bought it, you inherited it, and someone gave it to you. Police officials have the duty to protect everyone's human right to the peaceful enjoyment of their possessions. Examples of relevant police action range from protecting someone's house which is under attack from neighbours to recovering stolen property.

ASK YOURSELF: Can I think of other examples when the police protect the peaceful enjoyment of possessions?

In certain situations police officials are given powers to confiscate or seize property. In such cases they should be aware of the rules and guidelines concerning the handling of property and possessions by the police.

ASK YOURSELF: What rules and guidelines do we have?

Seizing or confiscating property should be done peacefully (or with the minimum use of force) and an efficient system is needed to record each item which has been lawfully confiscated or seized. Adequate and secure storage facilities for such property will ensure that it can be returned or forwarded to the legal owner as appropriate. Associated with this, police officials need to know how to deal properly with "lost and found" articles.

A related issue here is that of corruption, something to which police officials are particularly vulnerable as there will always be people who will try to bribe police officials not to do their duty. The Declaration on the Police is very strong on this issue and requires police officials to act with integrity, impartiality and dignity and in particular to refrain from and vigorously oppose all acts of corruption

ASK YOURSELF: Do I know of occasions when police officials have confiscated or seized possessions illegally?

A related issue here is that of corruption, something to which police officials are particularly vulnerable as there will always be people who will try to bribe police officials not to do their duty. The Declaration on the Police is very strong on this issue and requires police officials to act with integrity, impartiality and dignity and in particular to refrain from and vigorously oppose all acts of corruption.

ASK YOURSELF: What would be my reaction to a colleague who accepts a bribe?

Firm action needs to be taken by executive officers if they discover such behavior, otherwise the reputation of the police and other law enforcement officers will suffer and with it the cooperation of the general public.



3.8 THE RIGHT TO FREEDOM OF MOVEMENT

Summary of the human right:

Everyone lawfully within the territory of a state has the right, within that territory, to liberty of movement and freedom to choose his residence. Everyone is free to leave any country, including his own.

[Key texts: Article 9(2) of the Federal Constitution + Article 13 of UDHR)

ASK YOURSELF: What reasons can I think of that make the right to freedom of movement an important right in a democratic society?

Imagine not being able to get to the hospital of your choice because some people believe it is “theirs” and obstruct your way; imagine not being able to live in your own apartment or house because the neighbours dislike the color of your skin; imagine being stopped at the border of your own country and not being allowed entry. Such are the problems which this right seeks to address.

Police officials are required to protect the right to liberty of movement and freedom to choose residence by responding, without discrimination on any grounds, to complaints that this right and this freedom is being violated.

ASK YOURSELF: When do I think such rights should be restricted by the state?
States are, indeed, allowed to restrict these rights, but only when these restrictions are:

- in the interests of national security or public safety;
- for the maintenance of public order;
- for the prevention of crime;
- for the protection of health or morals;
- for the protection of the rights and freedoms of others.

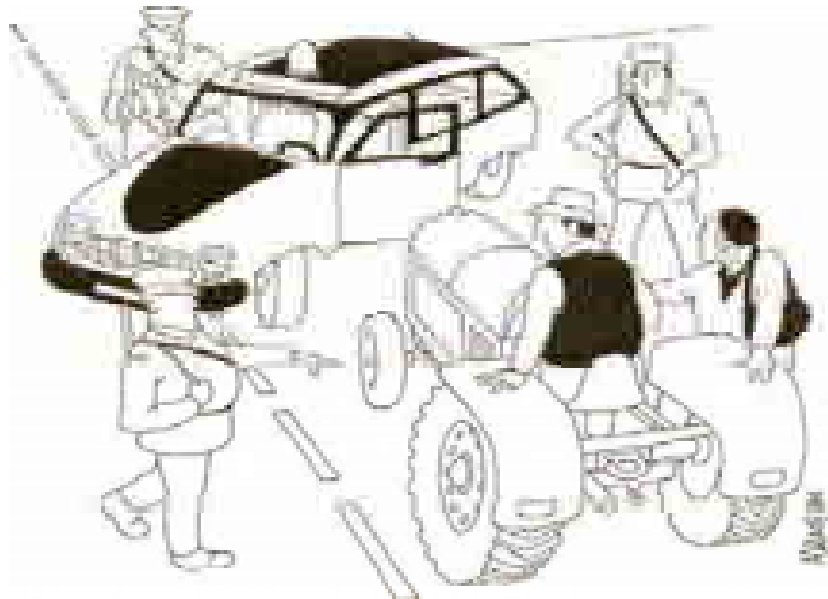
Police officials are required to exercise reasonably their powers to limit the right to liberty and the freedom to choose one's residence. Here are some examples of limitations being held to be justifiable by the European Court of Human Rights:

One government placed the following restrictions on freedom of movement of a member of the Mafia: special police supervision, a prohibition on leaving home without informing the police, being obliged to report to the police on certain days and being subject to a curfew. This was held to be necessary in the interests of public order and the prevention of crime.

When a person is released from custody pending trial and this release is subject to guarantees, then freedom of movement can be restricted in a number of ways, including: prohibition from leaving the country or a refusal to issue travel papers. This interference could be regarded as necessary for the prevention of crime.

ASK YOURSELF: What other examples can I think of when freedom of movement has been legally restricted?

It is for the state to decide the conditions which would make a foreigner's presence "lawful". This means that foreigners admitted to a country provisionally and under certain conditions are only "lawfully" in the territory of that state as long as they comply with the conditions imposed, as would be the case, for example, for refugees in most countries. They still benefit from the whole range of human rights, which means for police officials that such people should be treated without discrimination.



3.9 THE RIGHT TO ADEQUATE HOUSING

Summary of the human right:

The right to adequate housing [is] a basic human right, people should be protected by law against unfair eviction from their homes or land. All stages of the eviction process have identifiable human rights implications. The right to adequate housing, which is widely recognized under international human rights law, includes the right to be protected from forced eviction. This right has been expressed in various formulations in numerous human rights instruments.

[Key texts: Article 13 of the Federal Constitution + Article 25 of UDHR + Article 11(1) ICESCR + Article 12(1) & 17 ICCPR + Article 27 CRC]

ASK YOURSELF: Who is affected by forced eviction in Malaysia?

In Malaysia, groups largely affected by forced eviction are 'squatters' (urban pioneers), plantation workers and indigenous people. This group of people usually lives as a community and quite often they would have live on that land for many years or generations. The indigenous people usually live on their ancestral land for generation and have a very strong bond with their land.

ASK YOURSELF: What you will face during an eviction?

The urban pioneers cleared and developed the land. The indigenous people have been living on their ancestral land for generations. The plantation workers are one of the communities that lives under the poverty line and do not have resources to obtain alternative housing. Quite often, they also live in the plantation for generations.

As such, it is not easy to evict this group of people from their land. The fact they have develop the land for years gives them equity on their land. It could also be culturally sensitive to remove them from their land. Thus, you may face resistance from the people who have been living the land.

Sometimes, eviction also involves demolition of houses and places of worship. Demolition of places of worship is very sensitive and one has to handle it with care.

Following are the guideline for enforcement agencies to follow during an eviction.

Following are the guidelines for enforcement agencies to follow during an eviction process.

1. Guideline on Eviction and Demolition of Houses

- i) The authority should ensure the status of the land – whether the land is state or private owned. The status of the land will determine the jurisdiction of the law and the role of the enforcement agencies.
- ii) It also advisable that the authority knows the status of previous negotiations, promises and offers made by any parties to the people (victims) involved.
- iii) The authority should ensure the status of settlement (kampung) – whether they are urban pioneers or squatters. Urban pioneers are people who have cleared, developed

and lived in the land for many years. While squatters are those who stayed on the land for a short period of time.

- iv) The authority must also look into the question of equity. The fact that the urban pioneers have worked/developed the land, gives them equity over the land involved.
- v) Sometimes people live in a settlement with permission from the authority concerned like the plantation workers who live in quarters provided by the management. There are also people who have been relocated in 'rumah panjang' by the authority. During the eviction process, this group of people must be given due consideration and permanent alternative housing.
- vi) When there is a dispute over the land involved, the authority has to look at the legal status. The authority must determine whether there are any pending court cases and appeals.
- vii) Before an eviction process takes place, proper notices should be issued to the parties involved. The notice also must be served properly to all parties concerned.
- viii) Issues like relocation and compensation must be resolved first before eviction processes takes place. These issues should be resolved through consultations with the parties concerned.
- x) During eviction, the authority should try to its level best to minimizes the use of force and the role of the enforcement agencies like police, FRU and RELA. The authority should allow time for negotiations and consultations with people involved.

2. Guideline on Demolition of Places of Worship

- i) If it is found that a place of worship was built without approval, it is imperative that the relevant authorities consult with the members of the affected community to make them aware of the reasons as to why the structure has to be demolished. This consultation process will also provide a middle ground for a solution to be found.
- ii) The authorities or persons carrying out the demolition should be more sensitive when dealing with religious traditions of the group affected, and when handling items that is sacred. For instance, it would be wise to pull back the process while prayers are being conducted. There should be respect for the sensitivities of affected groups as well as for the symbols of faith in places of worship. The items could be handed over to the affected group or other persons for transfer to another place of worship of the same faith, with consent.
- iii) Preserve places of worship with a historical background. Such places should be preserved whenever they contribute to the historical background of Malaysia's multi-religious society. This would affirm the nation's commitment to realizing freedom of religion in line with Article 11 of the Federal Constitution.
- iv) Allow operation of existing places of worship where their operations were allowed by various authorities before the Land Code was enforced
- v) Provide an alternative site for members of affected groups to build a new place of worship whenever such structure is demolished.

**PART FOUR:
CODE OF CONDUCT
FOR LAW
ENFORCEMENT
OFFICERS**

4.1 Police Investigation

4.1.1 Objectives

Participants will know the applicable international standards and their relevance to police practice relating to criminal investigation.

4.1.2 Sources

UDHR (article 3, 5, 10, 11(1) and 12)

ICCPR (article 7, 9(1), 14 and 17(1))

Code of Conduct (arts. 2, 4 and 5)

Torture Convention (preamble; arts 2 and 13)

Principles on Detention or Imprisonment (principles 1, 17, 18, 21, 23 and 36)

4.1.3 Standards

In investigation, the interviewing of witnesses, victims and suspects, personal searches, searches of vehicles and premises, and the interception of correspondence and communications:

Everyone has the right to security of person.

Everyone has the right to a fair trial.

Everyone is to be presumed innocent until proven guilty in a fair trial.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.

No one shall be subjected to unlawful attacks on his honor or reputation.

No pressure, physical or mental, shall be exerted on suspects, witnesses or victims in attempting to obtain information.

Torture and other inhuman or degrading treatment is absolutely prohibited.

Victims and witnesses are to be treated with compassion and consideration.

Confidentiality and care in the handling of sensitive information are to be exercised at all times.

No one shall be compelled to confess or to testify against himself/herself.

Investigatory activities shall be conducted only lawfully and with due cause.

Neither arbitrary nor unduly intrusive investigatory activities shall be permitted.

Investigations shall be competent, thorough, prompt and impartial; Investigations shall serve to identify victims, to recover evidence, to discover witnesses, to discover cause, manner, location and time of crime, to identify and apprehend perpetrators.

Crime scenes shall be carefully processed and evidence carefully collected and preserved.

4.1.4 Practice

4.1.4.1 All police officials

Develop standardized procedures for the recording of information during investigations.

When in doubt about the legality of an investigative activity, where possible consult superiors before proceeding.

Treat all suspects as innocent persons, politely, respectfully and professionally.

Keep a detailed record of all interviews conducted.

Enroll in in-service training to sharpen your investigation skills.

Always advise to victim, witness or suspect of his or her rights before interviewing.

Before undertaking any investigatory action, ask yourself: Is it legal? Will it stand up in court? Is it necessary? Is it unduly intrusive?

Never seek or rely on a confession as the basis for a case. Rather, the purpose of investigation should be the securing of independent evidence.

Seek a warrant or court order whenever possible before conducting searches. Warrantless searches should be the exception, carried out only when reasonable and with due cause: when incidental to a lawful arrest; when free consent is granted; or when obtaining a warrant in advance would be impossible in the circumstances.

Know the community to which you are assigned. Develop proactive strategies for preventing crime, including through awareness of risks existing in your community.

4.1.4.2 Command and supervisory officials

Establish administrative mechanisms to expedite the investigatory process.

Establish standing orders emphasizing legal safeguards for investigations.

Provide training programmes on legal standards and effective scientific techniques for investigations.

Establish strict supervisory procedures for the management of confidential information.

Establish victim support mechanisms in concert with relevant with relevant social agencies.

Establish policies that limit reliance on confessions.

Develop community policing strategies, enabling police to be closer to the community and hence to information vital to the prevention and solving of crimes.

Solicit technical cooperation, including, where necessary, from international technical policing programmes, on current techniques and technologies for police investigations.

Announce and enforce strict penalties for violations of regulations governing the legality of investigatory practices.

4.2 Arrest

4.2.1 Objectives

Participants will know the international standards applicable to official action that has the effect of depriving a person of his or her liberty, including for the alleged commission of an offence, and will understand selected practical aspects of the implementation of those standards.

4.2.2 Sources

UDHR (article 3, 9, 11, 13 and 29(2))

ICCPR (article 9, 12 and 14)

SMRTP (rules 7, 44(3), 92 and 93)

Principles on Detention or Imprisonment (principles 10, 11, 12, 14, 16(1), 17, 18, 21(1), 32, 37 and 38)

4.2.3 Standards

Everyone has the right to liberty and security of the person and to freedom of movement.

No one shall be subjected to arbitrary arrest or detention.

No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.

Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest.

Anyone who is arrested shall be promptly informed of any charges against him.

Anyone who is arrested shall be brought promptly before a judicial authority.

Anyone who is arrested shall have the right to appear before a judicial authority for the purpose of having the legality of his arrest or detention reviewed without delay, and shall be released if the detention is found to be unlawful.

Anyone who is arrested has the right to trial within a reasonable time, or to release.

Detention pending trial shall be the exception rather than the rule.

All arrested or detained persons shall have access to a lawyer or other legal representative, and adequate opportunity to communicate with that representative.

A record of every arrest must be made and shall include:

- 1) The reason for the arrest
- 2) The time transferred to a place of custody
- 3) The time of appearance before a judicial authority
- 4) The identity of involved officers
- 5) The precise information on the place of custody
- 6) The details of the interrogation

The arrest record shall be communicated to the detainee, or to his legal counsel.

The family of the arrested person shall be notified promptly of his arrest and place of detention.

No one shall be compelled to confess or to testify against himself.

Where necessary, an interpreter shall be provided during interrogation.

4.2.4 Practice

4.2.4.1 All police officials

Review regularly, for a clear understanding of your powers of arrest and of the procedures to adopt upon and following arrest.

Participate in training to develop and maintain the necessary interpersonal skills, especially communication skills, to enable you to effect arrests expertly, discreetly and with due respect for human dignity.

Where resistance is not evident, attempt calm, polite, disarming language when effecting an arrest, resorting to strong, authoritative tones only when necessary.

Develop and maintain the necessary technical and tactical skills to enable you to carry out arrests expertly, discreetly and with due respect for human dignity.

Develop and maintain skills in the use of handcuffs and other means of restraint.

Develop your self-confidence, including through self-defense skills.

Seek an arrest order/warrant whenever possible.

Carry a small card in your uniform, setting forth the rights of an arrestee, and read those rights, verbatim, to the arrestee once he/she has been secured.

Study conflict resolution techniques, through in-service training or in available community education programmes.

Keep careful arrest records with detail as the first rule of thumb.

4.2.4.2 Command and Supervisory Officials

Issue and enforce clear standing orders on arrest procedures.

Provide continuous training to all officers on procedures for arrest, the rights of the arrested, and techniques for effecting arrest safely and humanely.

Provide training in inter-personal skills, conflict resolution techniques, self defense and the use of restraint mechanisms.

Develop standard forms for the recording of arrest information, based on this session and the laws and procedures for arrest in your jurisdiction.

When arrests can be planned in advance, ensure that a range of options is available, and that planning, preparation, briefing and tactics adopted are appropriate to the circumstances and conditions under which the arrest is to be affected.

Debrief the officers involved after every arrest and carefully check the arrest record to be sure it is complete.

Establish procedures to ensure unhindered access of legal counsel to arrested persons.

4.3 Detention

4.3.1 Objectives

Participants will have a basic knowledge of the international standards for conditions of detention and the treatment of detainees, and the ability to practice the application of those standards.

4.3.2 Sources

UDHR (article 5 and 11)

ICCPR (article 7, 9, 10 and 14)

SMRTP

Principles on Detention or Imprisonment (principles 1, 5(2), 6, 8, 10, 11, 12, 14, 15, 16(1), 17, 18, 19, 21(1), 22, 24, 25, 26, 30, 32, 36 and 37)

Torture Convention (preamble, art. 2)

4.3.3 Standards

Pre-trial detention shall be the exception rather than the rule.

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Everyone charged with a penal offence shall be presumed innocent until proved guilty in a fair trial.

No detainee shall be subjected to torture or to cruel inhuman or degrading treatment or punishment, or to any form of violence or threats.

Detained persons shall be held only in officially recognized places of detention, and their family and legal representatives are to receive full information.

Juveniles are to be separated from adults, women from men, and unconvicted persons from convicted persons.

Decisions about the duration and legality of detention are to be made by a judicial or equivalent authority.

The detainee shall have the right to be informed of the reason for detention and any charges against him.

Detainees have the right to contact with the outside world, to visits from family members, and to communicate privately and in person with a legal representative.

Detainees shall be kept in humane facilities, designed to preserve health, and shall be provided with adequate food, water, shelter, clothing, medical services, exercise and items of personal hygiene.

The religious and moral belief of detainees shall be respected.

Every detainee shall have the right to appear before a judicial authority, and to have the legality of his detention reviewed.

The rights and special status of women and juvenile detainees are to be respected.

No one shall take advantage of the situation of a detained person to compel him to confess or to otherwise incriminate himself or another person.

Measures for discipline and order shall only be those set out in law and regulations, shall not exceed those necessary for safe custody, and shall not be inhumane.

4.3.4 Practice

4.3.4.1 All police officials

Enroll in training programmes to sharpen your counseling, riot control, first aid, self defense, conflict resolution and supervisory skills.

Study the entry, review and assessment records of all detainees to be aware of persons at risk.

Facilitate visits by religious leaders, legal representatives, family members, inspectors and medical personnel.

Study and employ modern best practice techniques for interviewing.

Wear a clearly visible identity badge at all times.

Do not enter the facility carrying a firearm, except to transport a detainee outside.

Carry out regular checks of detainees to ensure safety and security.

Consult closely with medical personnel on all matters of diet, restraint and discipline.

Report immediately any suspicion of mistreatment of detainees, physical or mental.

Never use restraining instruments for punishment. Use them only where necessary to prevent escape during transfer, on certified medical grounds, or on the order of the Director, where other methods have failed, for the purpose of preventing injury to the detainee or others, or damage to the facility.

Facilitate the use of recreational materials, books and writing materials.

Carefully study rules on the use of force.

Review and follow relevant recommendations set out below for command and supervisory officials.

4.3.4.2 Command and supervisory officials

Establish, disseminate and enforce, and regularly review standing orders on the treatment of detainees.

Provide specialized training to all staff charged with duties in detention facilities.

Adopt special measures to ensure respect for the religious and moral beliefs of detainees, including dietary customs.

Enforce a three-point notification system: notice of reason for detention (immediate); notice of charges (prompt); notice of rights of detainee (twice: concurrent with notice of reasons and again with notice of charges).

In making assignments, arrange to have officers supervising detainees independent from arresting officers and investigating officers.

Meet periodically with the prosecutor, a judge, police investigators and social workers to assist in identifying persons for whom detention is no longer necessary.

Assign female staff to guard, search and supervise female detainees. Prohibit the entry into female sections of male staff, except in emergencies.

Assign a special room, separate from family visit areas, for detainees to meet privately with legal counsel.

Arrange a meeting area for normal face-to-face visits, with a grill, table or similar divider between visitor and detainee.

Strongly prohibit, immediately investigate and severely punish, including through initiation of criminal action, every act of torture or cruel, inhuman or degrading treatment or punishment.

Provide for meals, meeting basic dietary needs, at regular times, with no more than 15 hours between morning and evening meals.

Assign at least one officer to be on duty at all times with training in psychological care and counseling, including suicide prevention.

Assess all detainees, upon entry, for signs of illness, injury, alcohol or drug intoxication, and mental illness.

Handle minor matters of discipline discreetly and routinely. Handle more serious matters with pre-established procedures, the existence of which have been explained to all detainees upon entry.

Officers in detention areas should not carry firearms, except when transporting detainees outside the facility.

Train all officers assigned to detention areas in non-lethal control methods, and in riot control techniques and equipment use.

Require all detention officers to wear clearly visible identity badges to facilitate accurate reporting of violations.

Establish and inform staff of a range of penalties for violations, ranging, as appropriate, from suspension, pay-docking and termination to criminal prosecution for serious violations.

4.4 The Use of Force and Firearms

4.4.1 Objectives

Participants will be familiar with international rules governing the use of force and firearms, their impact on the rights to life and security of person, and international requirement for the appropriate use of force and firearms for lawful policing purposes.

4.4.2 Sources

UDHR (articles 3 and 5)

ICCPR (articles 6, 7 and 9)

Torture Convention (preambles, arts. 1, 2, and 4)

Principles on Force and Firearms (principles 2, 4, 5, 6, 7, 8, 9, 10, 11(f), 20, 22, 23, 24, 25, and 26)

4.4.3 Standards

Use of force

Everyone has the right to life, security of person, and freedom from torture and cruel, inhuman or degrading treatment or punishment.

Non-violent means are to be attempted first.

Force is to be used only when strictly necessary.

Force is to be used only for lawful law enforcement purposes.

No exceptions or excuses shall be allowed for unlawful use of force.

Use of force shall always be proportional to lawful objectives.

Restraint is to be exercised in the use of force.

Damage and injury are to be minimized.

A range of means for differentiated use of force is to be made available.

All officers are to be trained in the use of the various means for differentiated use of force.

All officers are to be trained in the use of non-violent means.

Accountability for the use of force and firearms

All incidents of the use of force or firearms shall be followed by reporting and review by superior officials.

Superior officials shall be held responsible for the actions of police under their command if the superior official knew or should have known of abuses but failed to take concrete action.

Officials who refuse unlawful superior orders shall be given immunity.

Officials who commit abuses of these rules shall not be excused on the grounds that they were following superior orders.

Permissible circumstances for the use of firearms

Firearms are to be used only in extreme circumstances.

Firearms are to be used only in self-defense or in defense of others against the imminent threat of death or serious injury.

Or To prevent a particularly serious crime that involves a grave threat to life.

Or To arrest or prevent the escape of a person posing such a threat and who is resisting efforts to stop the threat.

And In every case, only when less extreme measures are insufficient.

Intentional lethal use of force and firearms shall be permitted only when strictly unavoidable in order to protect human life.

Procedures for the use of firearms

The officer is to identify himself/herself as a police official.

And The officer is to give a clear warning.

And The officer is to allow adequate time for the warning to be obeyed.

But This shall not be required if the delay would result in death or serious injury to the officer or others.

Or It is clearly pointless or inappropriate in the circumstances to do so.

After the use of firearms

Medical aid is to be rendered to all injured persons.

The relatives or friends of those affected are to be notified.

Investigations are to be conducted where requested or required.

A full and detailed report of the incident is to be provided.

4.4.4 Practice

4.4.4.1 All police officials

Enroll in training programmes to improve your skills in first aid; self defense; the use of defensive equipment; the use of non-lethal instruments; the use of firearms; crowd behavior; conflict resolution and personal stress management.

Acquire and practice the use of shields, defensive vests, helmets and non-lethal instruments.

Acquire, practice and use a range of means for the differentiated use of force, including non-lethal incapacitating weapons.

Participate in stress counseling activities.

Carefully store and secure all firearms issued to you.

Assume that every firearm is loaded.

Study and employ techniques for persuasion, mediation and negotiation.

Plan in advance for the gradual progressive use of force, beginning with non-violent means.

Be alert to the physical and mental state of your colleagues and intervene where necessary to see that they receive appropriate care, counseling or training.

4.4.4.2 Command supervisory officials

Establish and enforce clear standing orders on the use of force and firearms.

Provide regular training in first aid, self defense, the use of defensive equipment, the use of non-lethal weapons, the use of firearms, crowd behavior, conflict resolution, stress management, persuasion, mediation and negotiation.

Acquire and issue defensive equipment, including helmets, shields, bullet-proof vests, gas masks and bullet-proof vehicles.

Acquire and issue non-lethal incapacitating and crowd dispersal instruments.

Acquire the broadest possible range of means for the differentiated use of force.

Provide for periodic assessments of officers to gauge on a continuous basis their mental and physical health and suitability to judge the need for and use of force and firearms.

Provide stress counseling for all officers involved in the use of force.

Establish clear reporting guidelines for every incidence of the use of force and firearms.

Strictly regulate the control, storage and issue of firearms, including procedures for ensuring that officers are accountable for arms and ammunition issued to them.

Prohibit the use of weapons and ammunition that cause unwarranted injury, damage or risk.

Periodically check to ensure that only officially issued weapons and ammunition are being carried by officers. Provide for appropriate sanctions against any officer found in possession of non-official issue materials (especially such items as fragmentation, hollow-point or dum-dum bullets).

Develop strategies to reduce the risk of officers being forced to use firearms.

4.5 Protection of Juveniles

4.5.1 Objectives

Participants will have a basic understanding of the international human rights standard applying especially to juveniles in contact with the criminal justice system, and will be sensitized to the importance of protecting all children from abuse, and of measures to prevent juvenile crime.

4.5.2 Sources

UDHR (articles 1 and 25(2))

CRC (articles 3, 9, 19, 37 and 40)

SMRTP (rules 27, 28, 29, 30, 31, 32, 33, 34, and 37)

4.5.3 Standards

Children are to benefit from all human rights guarantees available to adults. In addition, the following rules are applicable to children.

Children shall be treated in a manner which promotes their sense of dignity and worth; which facilitates their reintegration into society; which reflects the best interests of the child; and which takes into account the needs of persons of their age.

Children shall not be subjected to torture; to cruel, inhuman or degrading treatment or punishment, to corporal punishment, or to life imprisonment without possibility of release.

Detention or imprisonment of children shall be an extreme measure of last resort; detention shall be for the shortest possible time.

Children shall be separated from adult detainees.

Detained children shall receive visits and correspondence from family members.

A minimum age for criminal responsibility shall be established.

Non-judicial proceedings and alternatives to institutional care shall be provided for.

The child's privacy shall be respected and complete and secure records shall be maintained and kept confidential.

The use of physical restraints and force on children shall be exceptional and employed, for the shortest time possible, only when all other control measures have been exhausted and have failed.

Weapons shall not be carried in juvenile institutions.

Discipline shall respect the child's dignity and shall instill in the child a sense of justice, self-respect and respect for human rights.

Officials dealing with juveniles shall be specially trained and personally suited to that purpose. Periodic as well as unannounced visits to juvenile facilities shall be undertaken by inspectors. Parents are to be notified of any arrest, detention, transfer, sickness, injury or death.

4.5.4 Practice

4.5.4.1 All police officials

Enrol in specialized training on the effective and humane treatment and care of juvenile offenders.

Participate in educational programmes for children to assist in preventing juvenile crime and juvenile victimization.

Get to know the children in your duty area and their parents.

Be alert to places and adults presenting criminal risks and to the presence of children in such places or in contact with such adults.

If children are sighted away from school during school hours, investigate and notify parents and school authorities.

Promptly investigate any evidence of neglect or abuse of children in their homes, communities or police facilities.

Meet regularly with social workers and medical professionals to discuss children's issues relating to your work.

For non-serious crimes, return juvenile offenders to parents or social agencies.

Keep all records pertaining to children in separate and secure storage.

Report to superiors on any information indicating that a colleague is not suited to dealing with juveniles.

4.5.4.2 Command and supervisory officials

Encourage the use of a variety of dispositions for alternatives to institutional treatment of children, including care, guidance and supervision orders; counseling; probation; foster care; educational and vocational training programmes; and other appropriate and proportionate measures.

Keep complete and secure records on all detained juveniles, including identity; reasons for commitment; day and hour of admission, transfer and release; details of notifications to parents; physical or mental health problems; and staff charged with care and treatment.

Establish procedures for direct complaints and communications by juvenile detainees to the director of the institution or to judicial authorities and social agencies.

Assist in the development and implementation of community programmes for the prevention of juvenile crime.

Recruit, hire and specially train personnel who are suited to dealing with juvenile offenders.

Provide for periodic review and revision of policies for the treatment of juvenile offenders, in consultation with social agencies, medical personnel, the judiciary and community representatives.

Establish expedited procedures for bringing detained juveniles before a court, where judicial action is appropriate.

Establish close liaison and cooperation with juvenile justice, child protection, medical and social agencies.

Develop strategies for regular attention to children in especially vulnerable circumstances such as extreme poverty, homelessness, abusive households or high crime areas.

If possible, establish a special juvenile unit for expert attention to juvenile crime and juvenile victimization incidents.

Issue clear orders on the confidential handling of juvenile records.

Closely supervise staff responsible for dealing with juveniles, and investigate and redress any incidents of abuse, mistreatment or exploitation of children.

4.6 Civil Disorder, States of Emergency and Armed Conflict

4.6.1 Objectives

Participants will have an overall understanding of human rights and humanitarian law standards applicable to policing during exceptional circumstances and to limitations on rights or exceptional measures adopted during periods characterized by such circumstances.

4.6.2 Civil Disorder

4.6.2.1 Sources

UDHR (arts. 13, 18, 19, 20 and 29(2))

ICCPR (arts. 4, 9, 12, 18, 19, 21 and 22)

Principles on Force and Firearms (principles 2, 4, 5, 7, 12, 13 and 14)

4.6.2.2 Standards

All measures for the restoration of order shall respect human rights.

Restoration of order shall be achieved without discrimination.

Any limitations on rights shall be only those determined by law.

Any action taken and any limitations on rights shall be solely for the purpose of securing respect for the rights and freedoms of others, and for meeting the just requirements of morality, public order and general welfare.

Any action taken and any limitations on rights shall be only those consistent with the requirements of a democratic society.

No exceptions shall be allowed with regard to the right to life; the right to freedom from torture; the prohibition of slavery; the prohibition of imprisonment for failure to fulfill a contractual obligation; the prohibition of ex post facto laws; the recognition of everyone as a person before the law; or freedom of thought, conscience and religion.

Non-violent means shall be attempted before the use of force.

Force shall be used only when strictly necessary.

Force shall be used only for lawful law enforcement purposes.

Force applied shall be proportionate to lawful law enforcement objectives.

Every effort shall be made to limit damage and injury.

A range of means for the differentiated use of force shall be available.

No unnecessary limitations on the rights to free speech, assembly, association or movement shall be imposed.

No limitations shall be imposed on freedom of opinion.

The independent functioning of the judiciary shall be maintained.

All wounded and traumatized persons shall be immediately cared for.

4.6.2.3 Practice

4.6.2.3.1 All police officials

Adopt community policing strategies and monitor levels of social tension among various groups in society and between those groups and the authorities.

Be alert to any preparations for unlawful demonstrations.

Be tolerant of unlawful but peaceful non-threatening assemblies, so as not to escalate the situation unnecessarily.

Establish contact with representatives and with individuals in the crowd.

Where it is necessary to disperse a crowd, always leave a clear and obvious corridor of escape.

Deal with a crowd as a group of independently thinking individuals, not as a singleminded mass.

Avoid unnecessarily provocative tactics.

Develop crowd control techniques that minimize the need for the use of force.

Enrol in training programmes to improve your skills in first aid; self-defence; the use of defensive equipment; the use of non-lethal instruments; the use of firearms; crowd behavior; conflict resolution; and personal stress management.

Acquire and practise the use of shields, defensive vests, helmets and non-lethal instruments. Acquire, practise and utilize a range of means for the differentiated use of force, including non-lethal incapacitating weapons.

Study and employ techniques for persuasion, mediation and negotiation. Plan in advance for the gradual progressive use of force, beginning with non-violent means.

4.6.2.3.2 Command and supervisory officials

Issue clear standing orders on respect for peaceful free assembly.

Introduce community policing strategies and monitor levels of social tension among various groups in society, and between those groups and the authorities.

Instruct officials to be tolerant of unlawful but peaceful non-threatening assemblies, so as not to escalate the situation unnecessarily. The paramount objectives to be remembered in developing crowd control strategies are the maintenance of order and safety, and the protection of human rights, not the enforcement of legal technicalities regarding permits or unlawful but non-threatening behavior.

Establish and enforce clear standing orders on the use of force and firearms.

Provide regular training in first aid; self-defence; the use of defensive equipment; the use of non-lethal weapons; the use of firearms; crowd behavior; conflict resolution; stress management; persuasion, mediation and negotiation.

Acquire and issue defensive equipment, including helmets, shields, bullet-proof vests, gasmasks and bullet-proof vehicles.

Acquire and issue non-lethal incapacitating and crowd dispersal instruments.

Acquire the broadest possible range of means for the differentiated use of force.

Establish clear reporting guidelines for every incidence of the use of force and firearms.

Strictly regulate the control, storage and issue of firearms, including procedures for ensuring that officers are accountable for arms and ammunition issued to them.

Prohibit the use of weapons and ammunition that cause unwarranted injury, damage or risk.

Develop strategies to reduce the risk of officers being forced to use firearms.

4.6.3 States of emergency

4.6.3.1 Sources

ICCPR (arts. 4 and 15(1))

4.6.3.2 Standards

States of emergency may be declared only in conformity with the law.

States of emergency may be declared only where a public emergency threatens the life of the nation, and where ordinary measures are plainly inadequate to address the situation.

States of emergency must be officially declared before exceptional measures may be taken.

Any exceptional measures must be strictly required by the exigencies of the situation.

Any exceptional measures must not be inconsistent with other requirements under international law.

Any exceptional measures must not discriminate solely on the basis of race, colour, gender, language, religion or social origin.

No exceptions are permitted with regard to the right to life; the prohibition of torture or cruel, inhuman and degrading treatment; the prohibition of slavery; the prohibition of imprisonment for failure to fulfil a contractual obligation; the prohibition of ex post facto laws; the recognition of everyone as a person before the law; or freedom of thought, conscience and religion.

No one may be held guilty of any criminal offence which was not an offence at the time it was committed.

No one may be subjected to a heavier penalty than that which was applicable at the time the offence was committed.

If the penalty for an offence is reduced by law subsequent to commission of the offence, the offender must benefit from the lighter penalty.

4.6.4 Armed conflict

4.6.4.1 Standards

During armed conflicts and occupation, police are to be considered non-combatants unless they are formally incorporated in the armed forces.

Police have a right to abstain from fulfilling their functions under occupation for reasons of conscience, and this shall not result in an alteration of their status.

Humanitarian law applies in all situations of armed conflict.

Principles of humanity must be safeguarded in all situations.

Non-combatants and persons put out of action by injury, sickness, capture or any other cause must be respected and protected.

Persons suffering from the effects of war must be aided and cared for without discrimination.

Acts prohibited in all circumstances include:

- Murder
- Torture
- Corporal punishment
- Mutilation
- Outrages on personal dignity
- Hostage-taking
- Collective punishment
- Executions without regular trial
- Cruel and degrading treatment

Reprisals against the wounded, sick and shipwrecked, medical personnel and services, prisoners of war, civilians, civilian and cultural objects, the natural environment and works containing dangerous forces are prohibited.

No one may renounce or be forced to renounce protection under humanitarian law.

Protected persons must at all times have resort to a protecting power (a neutral State safeguarding their interests), the International Committee of the Red Cross (ICRC) or any other impartial humanitarian organization.

4.6.4.2 Practice

4.6.4.2.1 All civilian police officials

Undergo training in the requirements of human rights and humanitarian law during armed conflict.

Undergo training in first aid, disaster management and civil defence procedures.

Learn your agency's strategies for the maintenance of order and protection of the civilian population during periods of conflict.

Cooperate closely with medical services, fire-fighters, civilian authorities and the military.

Pay attention to the special needs of particularly vulnerable groups during such periods, including refugees and displaced persons, children and the injured.

4.6.4.2.2 Civilian police commanders and supervisors

Provide training to all officials in the requirements of human rights and humanitarian law during armed conflict.

Provide training in first aid, disaster management and civil defence procedures.

Develop clear strategies for the maintenance of order and protection of the civilian population during periods of conflict.

Develop standard emergency cooperative procedures for coordinated action with medical services, fire-fighters, civilian authorities and the military.

Issue clear instructions on the civilian status of the police during armed conflict.

4.6.4.2.3 Police incorporated in armed forces during conflict

Learn and apply the “soldier’s rules”:

“Be a disciplined soldier. Disobedience of the laws of war dishonors your army and yourself, and causes unnecessary suffering; far from weakening the enemy’s will to fight, it often strengthens it.

Fight only enemy combatants and attack only military objectives.

Destroy no more than your mission requires.

Do not fight enemies who are ‘out of combat’ or who surrender.
Disarm them and hand them over to your superior.

Collect and care for the wounded and sick, be they friend or foe.

Treat all civilians, and all enemies in your power, with humanity.

Prisoners of war must be treated humanely and are bound to give only information about their identity. No physical or mental torture of prisoners of war is permitted.

Do not take hostages.

Abstain from all acts of vengeance.

Respect all persons and objects bearing the emblem of the Red Cross, the Red Crescent, the white flag of truce or emblems designating cultural property.

Respect other people’s property. Looting is prohibited.

Endeavor to prevent any breach of the above rules. Report any violation to your superior.
Any breach of the laws of war is punishable.

4.7 The Human Rights of Women

4.7.1 Objectives

Participants will have a basic understanding of human rights standards applying especially to women in the administration of justice, and will be sensitized to the importance of eliminating gender discrimination in law enforcement activities and to the important role of the police in combating violence against women in all its forms.

4.7.2 Sources

UDHR (art. 2)

ICCPR (arts. 2, 3 and 26)

CEDAW (preamble 3, 9 and 14; arts. 1, 2(d)-(f), 3, 5(a), 7, 8, 9, 10, 11, 12, 13,14 and 15)

Code of Conduct (preamble, arts. 1 and 2)

SMRTP (rules 23 and 53)

Principles on Detention or Imprisonment (principles 5)

4.7.3 Standards

Women are entitled to equal enjoyment and protection of all human rights in the political, economic, social, cultural, civil and all other fields.

These rights include the rights to life; equality; liberty and security of person; equal protection under the law; freedom from discrimination; the highest attainable standard of mental and physical health; just and favorable conditions of work; and freedom from torture and other cruel, inhuman or degrading treatment or punishment.

Violence against women may be physical, sexual or psychological and includes battering, sexual abuse, dowry violence, marital rape, harmful traditional practices, no spousal rape and violence, sexual harassment, forced prostitution, trafficking in women and exploitation-related violence.

Violence against women, in all its forms, violates and impairs or nullifies the enjoyment by women of human rights and fundamental freedoms.

Police shall exercise due diligence to prevent, investigate and make arrests in respect of all acts of violence against women, whether perpetrated by public officials or private persons, in the home, the community and official institutions.

Police shall take rigorous official action to prevent the victimization of women and shall ensure that revitalization does not occur as a result of police omissions or gender-insensitive enforcement practices.

Violence against women is a crime and must be treated as such, also when it occurs within the family.

Arrested or detained women shall not suffer discrimination and shall be protected from all forms of violence or exploitation.

Women detainees shall be supervised and searched by female officers and staff.

Women shall be detained separately from male detainees.

Pregnant women and nursing mothers shall be provided with special facilities in detention.

Law enforcement agencies shall not discriminate against women in recruitment, hiring, training, assignment, promotion, salary or other career or administrative matters.

Law enforcement agencies shall recruit sufficient numbers of women to ensure fair community representation and the protection of the rights of female suspects, arrestees and detainees.

4.7.4 Practice

4.7.4.1 All police officials

Treat domestic violence crimes as legally equivalent to other assaults.

Respond promptly to domestic violence and sexual violence calls, inform victims of available medical, social, psychological and material support, and provide transportation to a safe place.

Investigate domestic violence thoroughly and professionally. Interview the victims, witnesses, neighbors and medical professionals.

Prepare detailed reports of domestic violence incidents and follow-up carefully, both with superiors and with the victim, check reports against previous incidents in the files, and take all necessary action to prevent a recurrence.

After medical, administrative and other procedures have been completed, offer to accompany a victim of domestic violence to her home to move her personal effects to a safe place.

Enroll in training to develop your skills in aiding and protecting victims of domestic violence.

Cooperate closely with medical professionals and social agencies in handling cases of domestic violence.

Ensure that a female officer is present during all contacts with women offenders and with women victims of crime. Defer completely to female colleagues, where possible.

Separate female from male detainees. Be sure that female officers supervise and search female detainees.

If male, abstain from and discourage gender-insensitive conversations and jokes with male colleagues.

Ask female colleagues for their feelings and perceptions on any policies, practices, behavior or attitudes that are gender-specific, initiate improvements yourself, and support them in their efforts to do so.

4.7.4.2 Command and supervisory officials

Issue and enforce clear standing orders on prompt and effective responses to domestic violence calls and their legal equivalence to other forms of assault.

Provide regular training to officials on addressing violence against women.

Establish a special police unit for domestic violence calls and consider assigning social workers to serve jointly in such units with police.

Establish close liaison and joint strategies with medical professionals, social work agencies, local "safe houses" and relevant community organizations.

Assign female officers to deal with female victims of crime.

Review recruitment, hiring, training and promotions policies to remove any gender bias.

Assign female officers to carry out all searches and supervision of female detainees, and separate female from male detainees.

Provide for special detention facilities for pregnant women and nursing mothers. Adopt policies prohibiting discrimination against officers on the basis of pregnancy or maternity.

Establish open channels of communication for complaints or recommendations by female officers on issues of gender bias.

Increase patrols and preventive action in high crime areas, including foot patrols and community involvement in crime prevention, to reduce the risk of violent crimes against women.

4.8 Refugees and Non-nationals

4.8.1 Objectives

Participants will have a basic understanding of and sensitivity to the special vulnerability of refugees, internally displaced persons and non-nationals, and an understanding of the international standards protecting such groups, and of the role of police officials in enforcing those standards.

4.8.2 Refugees

4.8.2.1 Sources

UDHR (art. 14)

ICCPR (art. 13)

Refugee Convention (arts. 1(a)(2), 4, 15, 16, 21, 22, 23, 26, 27, 28, 31, 32 and 33)

4.8.2.2 Standards

Everyone has the right to seek and to enjoy in another country asylum from persecution.

A refugee is a person who, owing to a well-founded fear of persecution on the grounds of race, religion, nationality, membership of a particular social group or political opinion, is unable or unwilling to return to his or her country of origin (or, if stateless, to his or her country of habitual residence).

Refugees are entitled to all basic human rights, with the exception of certain political rights, but if they are unlawfully within the territory, certain limitations on movement may be applied in the interest of public order and health.

Refugees shall be granted treatment which is at least as favorable as that granted to nationals in the exercise of basic rights, such as freedom of association; freedom of religion; access to elementary education; public relief; access to courts; property rights; and housing.

No one shall be returned to a country where his or her life or freedom would be threatened or where he or she would be persecuted, or to a third country likely to return the refugee to such a country.

Refugees unlawfully within the territory of a State, who have come directly from a country of persecution and who present themselves without delay to the authorities, shall not be penalized.

Refugees coming directly from a country of persecution shall not be refused at least temporary entry.

Refugees lawfully in the territory of a State have the right to freedom of movement and residence.

Refugees lawfully within the territory shall be granted travel documents and identity papers.

Persons seeking asylum shall be informed of the necessary procedures, provided with the necessary facilities to do so and allowed to remain pending a final decision.

No refugee shall be expelled except on grounds of national security or public order, and only on the basis of a decision reached in accordance with due process of law.

Before expulsion, a refugee shall be given an opportunity to offer evidence, to be represented and to appeal to a higher authority.

4.8.3 Non-nationals

4.8.3.1 Sources

ICCPR (arts. 2, 3, 12, 13 and 26)

Declaration on Non-Nationals (arts. 1, 5, 6, 7 and 10)

4.8.3.2 Standards

Non-nationals include foreigners and stateless persons.

Non-nationals are lawfully within the territory if they have entered in accordance with the provisions of the legal system or if they possess a valid residence permit.

Non-nationals lawfully within the territory are entitled to all human rights, except certain political rights.

Non-nationals have the same right to leave and to emigrate as nationals.

Non-nationals lawfully within the territory, who have close attachments to the State and view it as their own (who have created a home, who were born in the State or who have resided in the State for a long time) shall not be expelled.

Other non-nationals lawfully within the territory may be expelled only if decided by law, if the decision is not arbitrary or discriminatory, and if procedural guarantees have been afforded.

Procedural guarantees for expulsion include the right to be heard, the right to review by a competent authority, the right to representation, the right to appeal to a higher authority, enjoyment of full facilities to pursue a remedy, the right to remain pending an appeal, and the right to be informed of available remedies.

Exceptions for some procedural guarantees may be allowed, but only for compelling reasons of national security such as political or military threats to the whole nation.

Collective or mass expulsions are prohibited.

The spouse and minor dependent children of a non-national lawfully in the territory must be admitted to join the non-national.

All non-nationals must be free to communicate with their consulate or diplomatic mission.

Non-nationals who are expelled should be permitted to depart to any country that accepts them and may not be sent to a country where their human rights would be violated.

4.8.3.4 Practice

4.8.3.4.1 All police officials

Be alert to any evidence of xenophobic or racist activity in your duty area.

Cooperate closely with immigration authorities and social agencies assisting refugees and non-nationals.

In areas with high immigrant concentrations, reassure residents of their right to seek police protection and assistance without fear of being deported.

Remind colleagues that unlawfully present non-nationals are not criminals or criminal suspects solely by virtue of their immigration status.

Provide visible security for refugee shelters and camps.

4.8.3.4.2 Command and supervisory officials

Issue clear orders on the special vulnerability and protective needs of refugees and non-nationals.

Develop cooperative schemes with community representatives to combat racist and xenophobic violence and intimidation.

Organize foot patrols for areas of high refugee concentration, and consider establishing police sub-stations in such areas.

Establish special units, with the necessary legal training, linguistic skills and social skills, to work with terms of reference focusing on protection rather than enforcement of immigration laws.

Police agencies charged with border control and immigration law enforcement should provide specialized training in the rights of refugees and non-nationals, and in procedural guarantees afforded to such groups.

Liaise closely with social agencies providing support services to refugees and non-nationals in need.

4.9 Victims

4.9.1 Objectives

Participants will understand the special responsibility of police to protect victims of crime, abuse of power and human rights violations, to treat them with respect, compassion and care, and to act with due diligence in providing them with all available redress.

4.9.2 Sources

Victims Declaration (principles 4, 5, 6, 8, 11, 12, 14, 15 and 16)
Principles on Summary Executions (principle 15)

4.9.3 Standards

All victims of crime, abuse of power or human rights violations shall be treated with compassion and respect.

Victims shall have access to mechanisms of justice and to prompt redress.

Redress procedures shall be expeditious, fair, inexpensive and accessible.

Victims shall be informed of their rights in seeking redress and protection.

Victims shall be informed of their role in formal proceedings, the scope, timing and progress of proceedings, and the disposition of their cases.

Victims shall be allowed to present their views and feelings on all matters where their personal interests are affected.

Victims shall receive all necessary legal, material, medical, psychological and social assistance, and shall be informed of their availability.

Inconvenience to victims shall be minimized in the handling of their cases.

The privacy and safety of victims shall be protected.

Unnecessary delay in the handling of victims' cases shall be avoided.

Offenders should, where appropriate, make restitution.

Governments should make restitution where public officials are at fault.

Financial compensation should be made available from the offender or, if not available, from the State.

Police should be trained in the needs of victims and provided with guidelines to ensure proper and prompt aid.

4.9.4 Practice

4.9.4.1 All police officials

Inform all victims, in clear and understandable language, of available legal, material, medical, psychological and social assistance, and, if they so desire, put them directly in contact with such assistance.

Keep a roster of contacts handy, with all information on available services for assistance to victims.

Carefully explain to victims their rights, their role in legal proceedings, the scope, timing and progress of such proceedings, and the disposition of their cases.

Provide transportation to medical services and to the victim's residence, and offer to check the security of the premises and to patrol the area.

Enroll in victim assistance training.

Keep records on victims secure and carefully protect their confidentiality. Inform victims of measures that will be taken to these ends.

Return any recovered property of the victim as soon as possible after completing the necessary procedures.

4.9.4.2 Command and supervisory officials

Provide victim assistance training to all officials.

Establish close cooperative procedures with medical, social, legal and other victim assistance agencies and programmes.

Establish victim assistance units composed of police officials (male and female), medical or paramedical professionals, social workers and counselors for rapid deployment.

Establish official victim assistance guidelines, ensuring prompt, proper and comprehensive attention to the legal, material, medical, psychological and social assistance needs of victims. Review crime records in developing preventive strategies, with a focus on preventing revitalization.

Assign designated officers to follow and expedite victims' cases aimed at obtaining redress and justice.

4.10 Police Violations of Human Rights

4.10.1 Objectives

Participants will understand the importance of strict measures for the prevention of human rights violations by police, of prompt, thorough and effective investigations into the commission of such acts, and of effective sanctions for guilty parties.

4.10.2 Sources

SMRTP (rule 36)

Code of Conduct (arts. 2, 7 and 8)

Principles on Detention or Imprisonment (principles 33)

Principles on Force and Firearms (principles 22, 23, 24, 25 and 26)

4.10.3 Standards

Law enforcement officials shall respect and protect human dignity, and shall maintain and uphold the human rights of all persons.

Law enforcement agencies shall be accountable to the community as a whole.

Effective mechanisms shall be established to ensure internal discipline and external control as well as the effective supervision of law enforcement officials.

Law enforcement officials who have reason to believe that a violation has occurred, or is about to occur, shall report the matter.

Provision shall be made for the receipt and processing of complaints against law enforcement officials by members of the public, and the existence of the provisions shall be publicized.

Investigations into violations shall be prompt, competent, thorough and impartial.

Investigations shall seek to identify victims, to recover and preserve evidence, to discover witnesses, to discover the cause, manner, location and time of the violation, and to identify and apprehend perpetrators.

Crime scenes shall be carefully processed.

Superior officers shall be held responsible for abuses if they knew or should have known of their occurrence and did not take action.

Police are to enjoy immunity from prosecution or discipline for refusing unlawful superior orders.

Obedience to superior orders shall not be a defence for violations committed by police.

4.10.4 Practice

4.10.4.1 Command and supervisory officials

Issue clear standing orders and provide regular training on the protection of human rights of all persons who come into contact with the police. Emphasize that all officers have both the right and the duty to defy unlawful superior orders, and to report such unlawful orders to a higher official at once.

Remove from service any official implicated in a human rights violation, pending the outcome of an appropriate investigation. If the official is found to be guilty (in a trial), criminal and disciplinary sanctions should be imposed. If innocent, the official's name should be cleared, and all benefits restored.

Issue a clear statement of policy, and corresponding orders, requiring full disclosure and the cooperation of all officials with both independent and internal investigations.

Establish, and strictly enforce, heavy sanctions for interference or non-cooperation with internal and independent investigations.

Review regularly the effectiveness of the chain of command within the agency and take prompt action to strengthen it where indicated.

Provide clear guidelines on the preparation of reports, the collection and preservation of evidence, and procedures for protecting witness confidentiality.

Provide entry-level and continuous in-service training for all officials, emphasizing the human rights aspects of police work contained in this Guide.

Develop careful screening processes for new recruits and arrange for periodic assessments of all officers to determine the appropriateness of their character for law enforcement duties.

Establish an accessible mechanism for receipt of complaints by members of the community, and fully investigate and redress all such complaints.

Strictly regulate the control, storage and issue of weapons and ammunition.

Carry out periodic, unannounced spot checks on detention facilities, police stations and sub-stations, and inspect weapons and ammunition carried by police to ensure that they comply with official regulations.



PART FIVE: CASE STUDY

5.1 The Use of Force and Firearms

5.1.1

Ali, a 19 year-old sixth-form student, and two of his friends, Ahmad (25) and Abu (24), were shot dead by police. Police claimed that the men had been staking out a bank in preparation for a robbery, and that when their car was followed by police they sped away, crashed, and on alighting refused to surrender and opened fire on the police. The police stated they returned fire killing all three men, whom they claimed were linked to at least 20 cases of armed robbery. Police reportedly cordoned off the area where they were shot before the shooting, and reported that guns and bullets were found in the car.

Ali's family disputed the police version of events insisting that their son, a high school student, had no criminal record and was not, as alleged, a "marksman and a weapons expert". According to a police report lodged by a friend of Ali who saw his body in the mortuary, there were two gunshot wounds to Ali's chest, but his shirt (which the police refused to release) had no bullet holes in it. He also claimed that there were bruise marks on his face, legs and back. In addition, the brother of Ahmad stated "there were about four or five red bruises on the back of his [brother's] body which looked like cane marks. His lips were also swollen and his nose bleeding."

A post-mortem report found that there were two gunshot wounds to Ali's upper chest. In findings that increased his relatives' mistrust of the police version of events, the report stated that the wounds showed bullets had exited the body, suggesting that the firing may have taken place at close range.

As in similar cases, the families of the victims reported apparent obstruction from police and medical officials as they sought to gain copies of the official post mortem report, to arrange a second private post mortem and to receive information about the progress of police investigations into their complaints. Ali's relatives, reporting that staff told them that police had instructed the hospital not to take the body for a second post-mortem, filed a report complaining that the police were attempting to suppress evidence.

Initial attempts to secure a coroner's inquest were also unsuccessful. On 28 October 2003, a magistrate ruled that a formal application, accompanied by appropriate affidavits, was required, and that time should be given for the police to complete their investigations in order for the magistrate to be in a position to decide whether or not an inquest should be held. No significant progress was made until October 2004, when in response to continued appeals from NGOs and others, the AG announced that inquests would be held in relation to Ali's and four other controversial cases of deaths in custody and police shootings.

Questions

1. Read the case study carefully.
2. Based on the facts of case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
3. Based on the facts of case study, what are the weaknesses on the part of the police?
4. Based on the facts of the case study, when are police officials allowed to use force or firearms. What meaning would we give to the term "absolutely necessary"?
5. You are appointed as a member of a Reform Committee and ought to draft guidelines, based on human rights principles on how a police officer ought to handle a case such as the one contained in case study. Please list the guidelines.

5.2 Death in Custody

5.2.1

Malaysia's soft-spoken Attorney General (AG) is in the hot seat. AG has to decide how to proceed after a judicial inquiry found 11 policemen, including four senior officers, responsible for the death of a suspect in the most spectacular robbery in recent Malaysian memory.

The events began during a Hari Raya holiday weekend in early March when a gang of thieves, imitating a scene from the 1981 movie *Loophole*, tunneled their way into a vault of a Mayban Finance branch in Kuala Lumpur. The robbers escaped with millions of dollars worth of cash, jewellery and other valuables from more than 650 safe, deposit boxes. All they left behind were a few hammers, screw, drivers, a trolley, some empty water bottles and uneaten doughnuts.

On April 27, nearly two month later, police came to the workplace of Mr. Haa, 42 year old air-conditioner repairman, and told him he was wanted for questioning in connection with the heist. Once during his interrogation, Haa called his wife, Ying and asked her not to retain a lawyer. Someone else started talking on the phone when she asked Lee if he had been beaten.

A family member insists Haa didn't have a criminal record. Three times, Ying says, she went to tell police "I know where my husband was during Hari Raya, but they wouldn't listen to me. On May 13, police arrived at her house and told her that Haa was dead. They gave no explanation for this death, only telling her to pick up his corpse from the morgue of a local hospital.

Questions quickly surfaced about how a healthy suspect could die after 16 days in police custody. The IGP promised a "fair and thorough investigation to identify the perpetrators of the crimes, even if they turn out to be police officers." The Prime Minister who is also the Minister of Home Affairs, pledged that government would investigate and take the responsible parties to court" if it was found that Haa had been "murdered".

Four police investigations were conducted but each of them failed to identify those responsible for Haa's death. Finally on October 10, the AG ordered to judicial inquiry. It was headed by a Sessions Court Judge, who released his verdict on November 27 in a courtroom packed with police personnel and journalists.

The judge declared that an autopsy of Haa's body found that he had "suffered at least 45 external injuries all over his body and seven fractured ribs". The judge said Haa had experienced severe pain before his death "caused by Blunt trauma such as punching with fists, kicking and beating with blunt instruments like a rubber hose". Haa died in the custody of the police after he faced lengthy interrogations which at any one time lasted more than 96 hours." Pictures of the dead victim displayed during the inquiry showed his head slumped in a toilet bowl.

The judge also ruled that the police had illegally detained Haa under the country's Emergency Ordinance, which is intended to maintain public security in cases where weapons are involved. Police need a special order from the Home Minister to detain people under this ordinance. But in Haa's case, a police senior officer had acted on his own authority to detain the suspect and interrogate him in connection with the Mayban robbery, a criminal rather than a public security case.

"In view of all this, it is my decision that the 11 officers were involved in or criminally responsible for Haa's death," the judge concluded, referring to the above senior officer, other three senior officers and seven policemen who had controlled the interrogation of Haa from the time of his arrest until his death.

Questions

1. Read the case study carefully.
2. Is an issue such as death in detention or assault in detention an isolated case or common occurrence?
3. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
4. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
5. There is a general public perception that the police normally carry out their own punishment and use torture to help them in investigation as well as getting confessions from those arrested?
Is this perception accurate?
6. Based on the facts of the case study, what are the weaknesses on the part of the police?
7. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in case study 2. Please list the guidelines.

5.2.2

Davin, 22 years old, died in December 2003 at the police station. Following arrest on drug-related charges he was brought to his house where, according to his sister, she saw him being punched in his stomach by police. He was then taken into a locked room from where his sister said she heard sounds of assaults and cries of pain. About half an hour later he was brought out, vomiting blood. He died the next day. Despite evidence of abuse on Davin body, the burial permit said he had died of a stomach ulcer. Responses from the deputy head of police included that the deceased vomited in the police station (narcotics office) and was sent to hospital for treatment. The doctor who treated him was subsequently in charge of the post mortem and certified cause of death as "peritonitis with duodenal ulcer."

1. Read the case study carefully.
2. Is an issue such as death in detention or assault in detention an isolated case or common occurrence?
3. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
4. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
5. There is a general public opinion that the police normally carry out their own punishment and use torture to help them in investigations as well as getting confessions from those arrested?
Is this perception accurate?
6. Based on the facts of the case study, what are the weaknesses on the part of the police?

7. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in the case study, Please list the guidelines.

5.2.3

Mat, a 28 year-old coconut trader, was arrested on 28 July 2003 on a drug-related charge. After being detained for at least 4 days at police station, he was transferred to the prison. His brother said that the family had been unaware of Mat's arrest until 5 August, when he received an anonymous phone call informing him that Mat had died on 4 August and asking him come to the hospital to identify the body.

According to a first post-mortem carried out in a government hospital (as required under the CPC for all deaths in custody) Mat apparently died of a perforated ulcer. However, when mortuary staff uncovered the upper section of his body for identification purposes, his brother noticed several large bruises across his chest and suspected that he had been assaulted. The bruises, along with the fact that he was apparently in good health prior to his arrest, led the family to lodge a police report and to call for an investigation.

The family also sought to arrange for a second, independent, post-mortem. The Medical Centre which initially agreed to conduct the second examination subsequently refused, citing a requirement for a court order or a police permit. The family's application to the High Court for such an order was turned down, increasing the likelihood that, in future, requests for second post-mortems will be acted upon only if specifically authorized by a magistrate or the police.

Because the family could not afford a burial plot, Mat's body was cremated eliminating the possibility of a further post-mortem and reducing the probability that an inquest would be in a position to determine whether his death in custody was unlawful or whether any police officer was criminally responsible for any assaults or negligent in the provision of medical care.

1. Read the case study carefully.
2. Is an issue such as death in detention or assault in detention an isolated case or common occurrence?
3. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
4. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
5. There is a general public opinion that the police normally carry out their own punishment and use torture to help them in investigation as well as getting confession from those arrested?
Is this opinion accurate?
6. Based on the facts of the case study, what are the weaknesses on the part of the police?
7. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in the case study. Please list the guidelines.

5.3 Women's Issues- Rape, Sexual Harassment, Domestic Violence

5.3.1

Jenny 43 years old has been married for 17 years and has 3 children. Her husband started abusing her when she was pregnant with her first child. He used to hit her and regularly kicked her in the abdomen. He would also shout at her, insult, swear and ridicule her, using words like "bitch, liar and cheat". He would steal or take away her money and accuse her of losing or spending it. There were various other degrading forms of abuse that has reduced her self esteem and has made her feel as if she was to be blamed for her husband's problems.

Her husband frequently jeers at her saying that he could do anything and no one would question him. He keeps stating that even the police would not be interested in her complaints.

Two years ago when she went to lodge a police report, the attending officer asked her "Kenapa tak beri ke...? Itulah sebab suami pukul". (the police officer was insinuating that the reason Jenny was abused is because she refuses to have sex with her husband). Thus no further action was taken.

Jenny's most current police report was made on 16.3.2001. Jenny, who had been kicked in the stomach region and thighs, was made to wait several hours before being attended to. Her physical and emotional agony was further aggravated when an officer commented, "you look like that, definitely your husband will kick you..."

On 10.4.2001, a welfare officer consented to assist Jenny in applying for an Interim Protection Order (IPO). Jane managed to get her IPO on 30.4.2001. the IPO issued was attached with Powers of Arrest. She was scheduled to meet the magistrate again on 30.5.2001 for the review of the IPO.

Jenny was assaulted by her husband on 17.6.2001, when she returned home to collect her belongings. Following that incident, Jenny lodged a police report at around 11.00 p.m on the same day. Her husband also lodged a police report the following morning (19.6.2001) stating that Jenny had stolen his Identity Card (IC) and driver's license. Jenny was then called by the police to give a statement on the allegation made by her husband. The police informed Jenny that they would have to conduct a thorough investigation before taking any action against her husband for the report made on the violation of the IPO.

The case was deemed weak because it was Jenny who returned to her matrimonial home and it was not her husband who deliberately looked her up to assault her. Therefore the police would have to conduct further investigation despite the fact that a Power of Arrest was attached to the IPO.

Subsequently, Jenny went to the Magistrate Court to get her IPO renewed on 20.6.2001. The Investigating Officer (IO) who was present before the Magistrate reported on the status of the investigation. When asked about the latest incident, which violated the IPO, the IO elaborated that the husband cannot be arrested merely based on the allegation made by Jenny. An investigation would have to be conducted to ascertain that a violation had occurred and only then will the Power of Arrest be effective.

Questions

1. Read the Case and study carefully.
2. Is police insensitivity an isolated case or a common occurrence?

3. (i) How accurate is the opinion that the police would not be interested in helping an abused spouse?
(ii) Why is such a opinion formed?
4. What are the characteristics of police personnel who will be insensitive towards an abused spouse?
5. Why does insensitivity towards an abused spouse occur?
6. Based on the facts of the case study, are there any violations of the legal rights of the abusing spouse and the abused spouse?
7. Based on the facts of the case study, what are the violations of the human rights of the abusing spouse and the abused spouse?
8. Based on the facts of the case study, what are the weaknesses on the part of the police vis-à-vis the abusing spouse and the abused spouse?
9. Based on the facts of the case study, what reforms are required to ensure that rights of both the abusing spouse and the abused spouse are guaranteed?
10. Draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in Case study.

5.3.2

In May, a woman detainee claimed she was forced by a police officer to perform oral sex on another male detainee during her detention at the Police Station. The 42-year-old woman was arrested along with her 40-year-old husband and 17-year-old daughter. According to the police report lodged by the victim, she was forced to perform oral sex on another 23-year-old male detainee who was brought into the room wearing only his underwear. The woman also claimed the police threatened to rape her daughter. The woman's husband too lodged a police report, claiming he was assaulted and harassed by the police. In his report, the man said he was stripped naked, photographed and asked to appear nude in front of his daughter.

Questions

1. Read the case study carefully.
2. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
3. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
4. Based on the facts of the case study, what are the weaknesses on the part of the police?
5. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in the case study. Please list the guidelines.

5.3.3

Visha is a 34 year old woman, married for 16 years with three children. As her tailoring business became more successful, her husband started beating her with his fists and belt and torturing her mentally one and half years ago. He monitored her every activity and restricted her movement. He even prevented her from going out and from making any telephone calls. Her eldest daughter was also abused physically as she was seen by the father as a figure of support to her mother.

The situation became unbearable and Visha sought shelter. When she went to lodge a police report, her husband was present at the police station. Although he continued to harass her there, the desk officers made no attempt to stop him. In addition, during her interview with the Investigating Officer, her complaint was not taken seriously at all as there was no visible injury.

Her next step was to see a welfare officer. Although the welfare officer was sympathetic, she persisted in asking Visha questions as to why her husband beat her, thus implying that Visha was somehow at fault for the abuse. She added remarks like “biasalah” when Visha described the abuse and requested an Interim Protection Order (IPO) from the courts which will instruct her husband to stop committing domestic violence on her.

At the Magistrate Court the welfare officer did not turn up and sent another welfare officer who was not familiar with her case. After some delay, an IPO was issued.

Visha moved to another town to try and rebuild her life, but her husband went looking for her. He told the police there that she was a prostitute and was probably pushing drugs. Based on his unfounded allegations, four policemen entered her house and went through her belongings. The police, upon not finding any evidence, left the place. Meanwhile, her husband managed to steal all her important documents.

Visha made a police report in that town stating that she had an IPO, but the police, now more attentive, seemed not to know what an IPO was and said that they are unable to do anything as the IPO was issued in another district. Visha returned to the first police station to lodge a report on her husband violating the IPO and stealing her documents. This time, she was told that he committed these acts in another town that was outside their jurisdiction, and there was nothing they could do.

Visha moved to another town again. Once more, her husband managed to track her down and threatened to kill her if she did not return. She lodged another police report at this town. Yet again, the front desk officer insisted that the IPO was not valid there. When Visha informed the police officers that the IPO was valid throughout the country, she was told that it was not a violation, as the IPO was only valid against physical injury and Visha's husband only threatened to harm her.

As a last recourse, Visha left for another country, as it was the only way she felt she could be safe.

Questions

1. Read the Case study carefully.
2. Is police insensitivity an isolated case or a common occurrence?

3. (i) How accurate is the opinion that the police would not be interested in helping an abused spouse?
(ii) Why is such a perception formed?
4. What are the characteristics of police personnel who will be insensitive towards an abused spouse?
5. Why does insensitivity towards an abused spouse occur?
6. Based on the facts of the case study, are there any violations of the legal rights of the abusing spouse and the abused spouse?
7. Based on the facts of the case study, what are the violations of the human rights of the abusing spouse and the abused spouse?
8. Based on the facts of the case study, what are the weaknesses on the part of the police vis-à-vis the abusing spouse and the abused spouse?
9. Based on the facts of the case study, what reforms are required to ensure that rights of both the abusing spouse and the abused spouse are guaranteed?
10. Draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in the case study.

5.4 Juvenile: Victim of Assault

5.4.1

Choon, 17 years old, reported he was assaulted by a number of police in May 2003. He had been riding his motorcycle when he was chased by plainclothes officers whom he feared may be robbers. They caught him and reportedly beat him up before taking him to the lockup at police headquarters. A medical report found that Choon sustained “multiple bodily injuries affecting the back, right and left upper limbs, face and both ankles.” A relative later claimed that police threatened to bring serious charges against Choon, including carrying firearms, if the family pursued the case in court.

1. Read the case study carefully.
2. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
3. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
4. There is a general public perception that the police normally carry out their own punishment and use torture to help them in investigation as well as getting confessions from those arrested?
Is this perception accurate?
5. Based on the facts of the case study, what are the weaknesses on the part of the police?
6. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in the case study. Please list the guidelines.

5.5 Medical Treatment

5.5.1

The deceased is an innocent victim and a perfectly healthy youth who regularly plays football. He was unlawfully arrested on 3.4.2002 and was moved to four different police stations for about 2 1/2 months and was finally given a detention order under the Emergency Ordinance 1969. The deceased contracted Tuberculosis while in Police Detention and became very ill with high temperature, vomiting, shivering, lips cracking, losing weight drastically, feeling cold and no appetite. He pleaded with the police to take him to hospital. He pleaded for mercy and begged for his life but to no avail. He asked his family to also plead with the police and also a very Senior Cabinet Minister to take him to hospital. The same was done but to no avail. He subsequently became critically ill at the police lock-up and only then was he sent to the Hospital where he died. The police even at that critical moment while he was fighting for his life did not allow the mother to go near him and told her to go home. The worst form of cruelty was when the deceased was let to die with both of his hand handcuffed to the bed. The hospital has refused to give the family the post mortem report up to date. The Second Post Mortem Report shows abrasions on both hands and the pictures enclosed there showed bedsores. The deceased died a slow and painful death. He did not deserve to die.

Questions

1. Read the case study carefully.
2. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
3. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
4. Based on the facts of the case study, what are the weaknesses on the part of the police?
5. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles on how a police officer ought to handle a case such as the one contained in the case study. Please list the guidelines.

5.5.2

Mr. T was arrested together with nine other persons after fleeing from an illegal gaming outlet following a dispute with the proprietor. The group stumbled onto a police patrol car and were arrested on suspicion of committing a robbery. All 10 men were taken to the police station and were later remanded for 12 days, from 18 to 30 July 2002. Mr. T had undergone a heart operation several years earlier during which a prosthetic valve was installed that requires a medical supplement known as waffarin, a type of anti-coagulant. Due to the operation, he had a visible 8-inch scar running below his neck across his chest.

According to a statutory declaration affirmed by the cousin brother of Mr. T who was detained with the deceased, Mr. T started complaining of chest pains and inability to sleep to the police beginning on 20 July. His condition worsened and he was not able to eat for three days; he also had bouts of vomiting. Mr. T and his friends made repeated pleas for medical attention, and his special circumstances were conveyed to the police but to no avail. On 26 July, the police finally brought him to a government clinic, where an assistant treated him, as the doctor was absent. The assistant said that he was "treated" for asthma, as that was what the police told him about the victim. He was given some medication, but his condition further deteriorated. On 27 July, the police took him to hospital. He was pronounced dead the next day. The police denied any negligence or foul play and said that the deceased could have

“died anywhere,” since he had not taken his medication and did not inform the police of his condition. He added that the hospital only detected the condition when they did a chest X-ray.

Questions

1. Read the case study carefully.
2. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
3. Based on the facts of case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
4. Based on the facts of the case study, what are the weaknesses on the part of the police?
5. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in the case study. Please list the guidelines.

5.5.3

Police personnel were alleged to have beaten Mr. P together with another 19-year-old, Mr. L, while the two were being detained at the police station. According to a police report, the duo were arrested and blindfolded at the police station before they were beaten with rubber hoses. The complainant said: “I saw that Mr. P had red bruises of about 6-inches long on his back and his right hand. There were also swellings on his head, feet and the soles of his feet. As for Mr. L, there were (similar) bruises on both his shoulders.” The two youths were subsequently released by the Magistrate’s Court but were re-arrested the same day by the police. The lawyer said the two were rearrested while they were seeking medical treatment for their injuries at the hospital. The hospital staff apparently notified the police, who came and removed the two back to the police station. The police later suddenly brought the two youth back to the hospital’s police booth and released them at about 2 a.m. An online news, Malaysiabar.com, reported that when it contacted the police station, a police officer who declined to be named said that there were no records that the two youths were held during the past two days at the station.

Questions

1. Read the case study carefully.
2. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
3. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
4. Based on the facts of the case study, what are the weaknesses on the part of the police?
5. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in the case study. Please list the guidelines.

5.6 Migrant Workers

5.6.1

In March, the police raided apartment blocks in search of undocumented Indian nationals. Police personnel conducted mass block searches, and 191 persons—186 Indian nationals, 4 Pakistanis and a Burmese were arrested and detained. The detainees, most of whom were IT specialists, claimed that they had proper documentation, which most of them provided. However, this failed to satisfy the authorities, as they were not familiar with the various types of visas and worker's passes. Of the 191 persons detained, 155 produced documentation while 36 were not able to. Many of the documents were scratched or defaced by the police during the "verification" of these documents. The detainees complained that the authorities acted in a high-handed manner, handcuffed most of them and detained them at the police station instead of checking the documents properly at the apartments. They added that some of those arrested were roughed up by being kicked and slapped and stripped naked. Some were detained for up to 12 hours without food or water. The operation started at 7 a.m., and their ordeal only ended at 7 p.m. that day. The immigration authorities did not participate in the raid, nor was appropriate verification equipment taken along.

Questions

1. Read the case study carefully.
2. Based on the facts of the case study, are there any violations of the legal rights of the victim?
If yes, please list the said legal rights.
3. Based on the facts of the case study, are there any violations of the human rights of the victim?
If yes, please list the said human rights.
4. Based on the facts of case study, what are the weaknesses on the part of the police?
5. You are appointed as a member of the Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in case study. Please list the guidelines.

5.7 Forced Eviction

5.7.1

Kampung Merembak is situated near the city of Kuala Lumpur. Kampung Merembak was started more than 40 years ago and it had basic infrastructure like water and electricity supplied by government. More than 80 families live in this village.

Suddenly, in the year 2003, the people in the village were given notice to vacate the land. The developer, Syarikat ABYZ is a state owned joint-venture company and promise the people that they will be provided with alternative housing closer to their village.

Unfortunately, the housing project promised by the developer has been abandoned and the developer did not make any effort to fulfill the promise made to the people.

Later, on November 2005, the people in kampung Merembak received another notice to vacate the land and move out from the village. they have not been offered any permanent alternative housing. The only offer from the developer is rental house located about 30km away from their current place. this offer contradicted with the policy by the state government which says any relocation or alternative housing must be provided within 2-4km from their current location.

The people disputed the action by the developer and filed a case in court. The court has fixed 30 April 2007 for hearing. But the developer, with the assistance from the local authority have demolished the houses in Kampung Merembak on 17, 20 and 30th November 2006. The people then lodged complaints with ACA, PCB, SUHAKAM, the Prime Minister Department and Ministry of Housing.

While waiting for these agencies to investigate and the court case to proceed, the people rebuild their houses. But, the developer once again demolished the houses. This time around the developer was assisted by an enforcement agency. Around 100 members of the enforcement agency joined the demolition operation. Some members of the enforcement were seen helping the developer in removing belongings from the houses and some were even operating the machine (bulldozer). The members were also had seen having lunch together with developer. They also made a road block preventing outsiders to come to the village in support of the people.

After confronting with the developer and the enforcement agency, the people managed to stop the demolition. The people said the land dispute is pending in court and various agencies have not completed their investigation.

Soalan

1. Read the case study carefully
2. Base on the facts of the case study, are there any violations if the rights of the victim? if yes, please list the said human rights.

3. Based on the facts of the case study, what the weaknesses on the part of the said enforcement agency?
4. You are appointed as a member of Reform Committee and ought to draft guidelines, based on human rights principles, on how a enforcement officer ought to handle a case such as the one contained in case study, Please list the guidelines?

5.7.2

Forced Eviction

SUHAKAM received a complaint from 18 people from Kampung Satu alleging human rights violations by Daria Sdn Bhd and the police. In the report was a claim that the 18 people were villagers who had been occupying a piece of land in Kampung Satu since 1985. It consisted of an area of 74 acres of agricultural land and the occupation had been with the approval of the village chief. It was alleged that these people (the villagers) had cultivated and worked on the land without objection from any party for five years.

It was also stated that in 1989, the villagers had made application to the Land and Survey Department for alienation of the said land. It was contended that their application complied with State Land requirements. There was a claim that 'State Customary Practices (Amalan Adat Negeri)' entitled these villagers to the land after three years of occupation and cultivation if no one raise any objection. The villagers assumed that the land belonged to them and were only awaiting government approval.

It was claimed that in 1992, one Daira Sdn Bhd (the company) made an application to the Land Office for alienation of the said land to the company. The villagers had objected to that application through a letter to the Land Office.

On May 2003, representatives from the company accompanied by about 10 police officers and three bailiffs came 'to chase the villagers away from the land'. Then on 27 May, the same workers from the company came into the land with chainsaws and heavy machinery to destroy the properties of the villagers. The villagers claimed that they reacted by objecting to the demolition. That night, 18 villagers were arrested at about 11.30pm. On 28 May, a remand order was granted by a District Officer (acting as Second Class Magistrate) for the villagers to be remanded for 14 days.

Allegations of violation of human rights in the Report

1. That there was improper use of force by the police during the eviction process on 22 may 2003 causing one Minah to be warded at the government hospital.
2. That a police officer pointed his gun at a villager.
3. That the villagers were prevented from making police report by ASP Ali who called then into his room and frightened them from making the report.

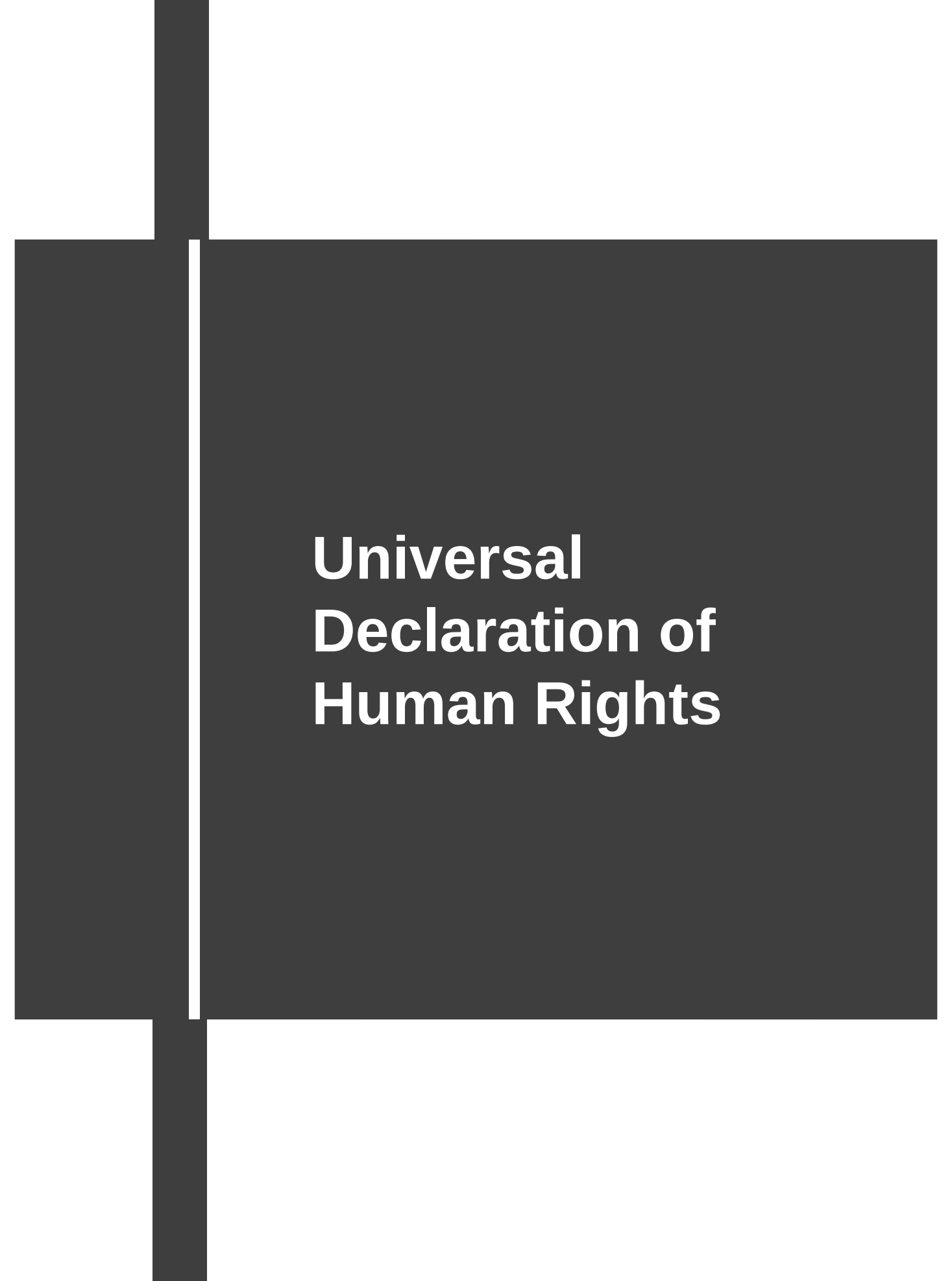
4. That on 28 May 2003, when the police took 188 villager for remand in the lockup and during the rest of the remand period, there were numerous human rights violations:

- a) Family members were not allowed to visit the detainees.
- b) The maximum period of remand (14days) had been given for this case though the alleged offences in which they were arrested were comparatively less serious than many other offences, such as murder, where sometimes the maximum period of remand is not extended to the fullest. In this case the District Officer was one who gave the remand order.
- c) There was a 70 year old detainee and he could not converse in Malay.
- d) Detainees were placed in an over-crowded cell.
- e) Detainees were made to sleep on the cement floor and not given sleeping mats.
- f) Detainees were prevented from praying as prayer attire ('telekung sembayang') was not allowed in the lockup.
- g) The toilets in the cell were extremely dirty and smelly causing some of the villagers to be ill.
- h) Detainees were questioned or interrogated at night and were not allowed to rest.
- i) Detainees were questioned or interrogated on issues that were not relevant to the case at hand and the police tried to force or intimidate the detainees to withdraw the police report that had been made on the alleged improper use of force by the police.
- j) Spectacles and clothes had been taken off.
- k) The police purposely delayed the interrogation or investigation process to torture the villagers.
- l) There was hostile treatment from the police until a point where the police verbally abused and intimidated the detainees.

1. Read the case study carefully.
2. Is an issue such as death in detention or assault in detention an isolated case or common occurrence?
3. Based on the facts of the case study, are there any violations of the legal rights of the victim?

If yes, please list the said legal rights.

4. Based on the facts of case study, are there any violations of the human rights of the victim? If yes, please list the said human rights.
5. There is a general public perception that the police normally carry out their own punishment and use torture to help them in investigation as well as getting confession from those arrested? Is this perception accurate?
6. Based on the facts of case study, what are the weaknesses on the part of the police?
7. You are appointed as a member of Reform Committee and ought to draft guidelines, based on human rights principles, on how a police officer ought to handle a case such as the one contained in case study, please list the guidelines.



Universal Declaration of Human Rights

Universal Declaration of Human Rights

Preamble

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

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

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

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

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

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

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

Now, therefore,

8The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article I

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

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

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

Article 4

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

Article 5

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

Article 6

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

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9 No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

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

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

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

Article 15

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

Article 16

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

Article 17

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

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

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

Article 21

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

Article 22

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

Article 23

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

Article 24

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

Article 25

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

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

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

Article 28

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

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

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



International Covenant on Civil and Political Rights

International Covenant on Civil and Political Rights

**Adopted and opened for signature, ratification and accession by General Assembly
resolution 2200A (XXI) of 16 December 1966**

entry into force 23 March 1976, in accordance with Article 49

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

ART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

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

2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;
- (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
- (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
 - (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - (iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

- (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
- 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

- 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
- 2. Everyone shall be free to leave any country, including his own.
- 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
- 4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

- 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
- 2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
- 3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
 5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
 6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
 7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

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

Article 17

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

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are

necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General

of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.
4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State. 2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.
2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant. 2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.
3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.
2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected. 2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:
 - (a) Twelve members shall constitute a quorum;
 - (b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
 - (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
 - (b) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.
5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
 - (a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;
 - (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
 - (c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;
 - (d) The Committee shall hold closed meetings when examining communications under this article;
 - (e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the

matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

- (f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
 - (g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;
 - (h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph(b), submit a report:
 - (i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
 - (ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.
2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary- General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1.
 - (a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;
 - (b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.
5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.
6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.
7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:
 - (a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;
 - (b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;
 - (c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;
 - (d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.
8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.
9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

1. Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:
 - (a) Signatures, ratifications and accessions under article 48;
 - (b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.



Code of Conduct for Law Enforcement Officials

Code of Conduct for Law Enforcement Officials

Adopted by General Assembly resolution 34/169 of 17 December 1979

Article 1

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary :

- (a) The term "law enforcement officials", includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.
- (b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.
- (c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.
- (d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary :

- (a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.
- (b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary :

- (a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to

use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

- (b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.
- (c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

Commentary :

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary :

- (a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which:

"[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments]."

- (b) The Declaration defines torture as follows:

"... torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes

as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.”

- (c) The term “cruel, inhuman or degrading treatment or punishment” has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Commentary :

- (a) “Medical attention”, which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.
- (b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgement of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.
- (c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Commentary :

- (a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.
- (b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.
- (c) The expression “act of corruption” referred to above should be understood to encompass attempted corruption.

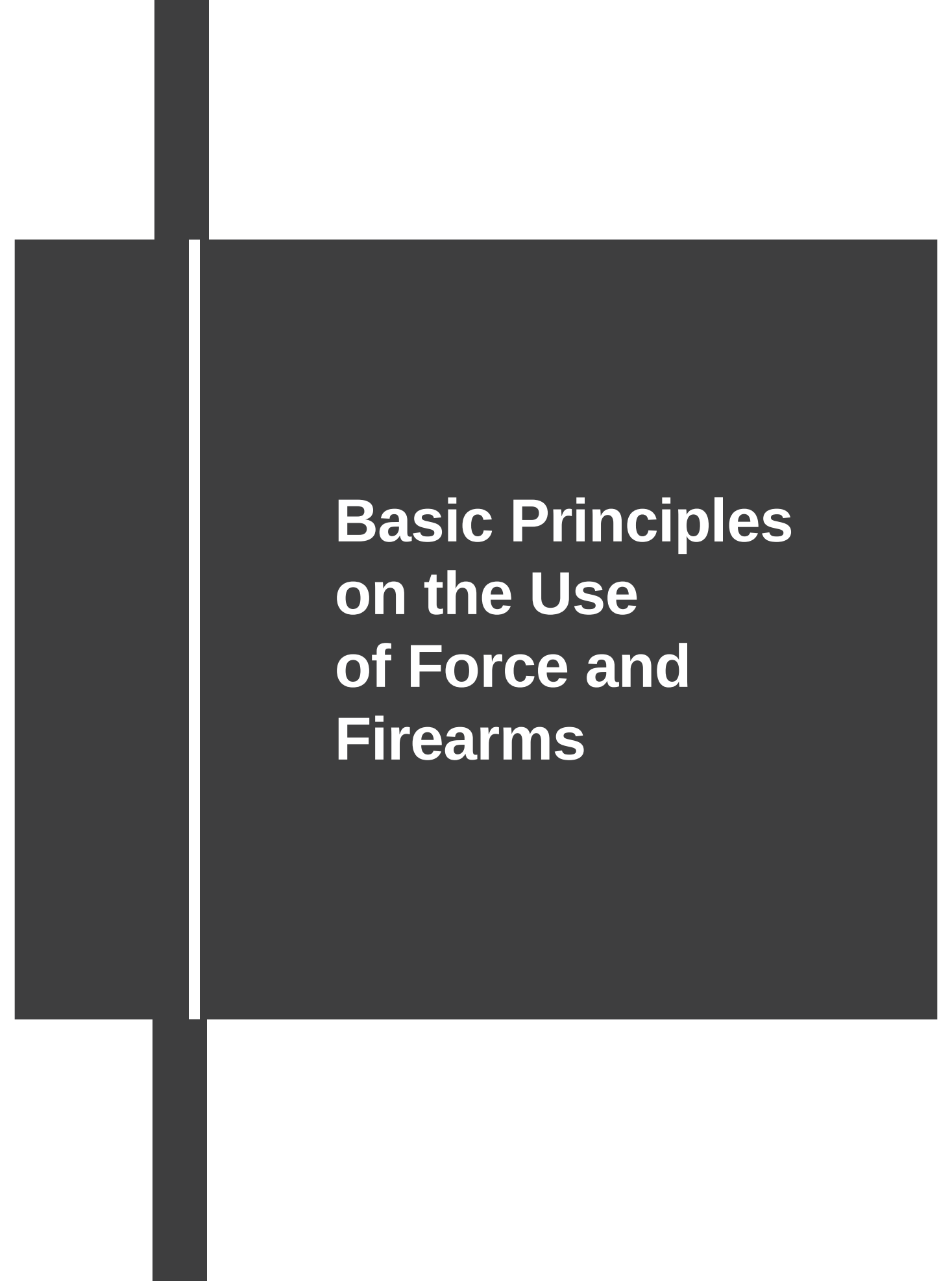
Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Commentary :

- (a) This Code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.
- (b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.
- (c) The term “appropriate authorities or organs vested with reviewing or remedial power” refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.
- (d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.
- (e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.



Basic Principles on the Use of Force and Firearms

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

Whereas the work of law enforcement officials is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Whereas the Standard Minimum Rules for the Treatment of Prisoners provide for the circumstances in which prison officials may use force in the course of their duties,

Whereas article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials,

Whereas the Seventh Congress, in its resolution 14, inter alia, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia, welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

General provisions

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.
2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.
3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.
4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
 - (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
 - (b) Minimize damage and injury, and respect and preserve human life;
 - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
 - (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle
7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.
8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.
10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.
11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:
 - (a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;
 - (b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
 - (c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
 - (d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
 - (e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;
 - (f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.
13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.
14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.
16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.
17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

Qualifications, training and counselling

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.
19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.
20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.
21. Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.
23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.
 25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.
 26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.
- * In accordance with the commentary to article 1 of the Code of Conduct for Law Enforcement Officials, the term "law enforcement officials" includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

**Body of Principles for
the Protection of All
Persons under Any
Form of Detention or
Imprisonment**

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Adopted by General Assembly resolution 43/173 of 9 December 1988

Scope of the Body of Principles

These principles apply for the protection of all persons under any form of detention or imprisonment.

Use of Terms

For the purposes of the Body of Principles:

- (a) "Arrest" means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;
- (b) "Detained person" means any person deprived of personal liberty except as a result of conviction for an offence;
- (c) "Imprisoned person" means any person deprived of personal liberty as a result of conviction for an offence;
- (d) "Detention" means the condition of detained persons as defined above;
- (e) "Imprisonment" means the condition of imprisoned persons as defined above;
- (f) The words "a judicial or other authority" means a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence.

Principle 1

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

Principle 2

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

Principle 3

There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognized or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognize such rights or that it recognizes them to a lesser extent.

Principle 4

Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

Principle 5

1. These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.

2. Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.

Principle 6

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. 1 No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

Principle 7

1. States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.
2. Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.
3. Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

Principle 8

Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.

Principle 9

The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority.

Principle 10

Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

Principle 11

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

Principle 12

1. There shall be duly recorded:

- (a) The reasons for the arrest;
- (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;
- (c) The identity of the law enforcement officials concerned;
- (d) Precise information concerning the place of custody.

2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

Principle 13

Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself of such rights.

Principle 14

A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 13 and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest.

Principle 15

Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

Principle 16

1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.
2. If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.
3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

4. Any notification referred to in the present principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require.

Principle 17

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.
2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Principle 18

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.
2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.
3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.
4. Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.
5. Communications between a detained or imprisoned person and his legal counsel mentioned in the present principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

Principle 19

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

Principle 20

If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence.

Principle 21

1. It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, to incriminate himself otherwise or to testify against any other person.
2. No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement.

Principle 22

No detained or imprisoned person shall, even with his consent, be subjected to any medical or scientific experimentation which may be detrimental to his health.

Principle 23

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.
2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described in paragraph 1 of the present principle.

Principle 24

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.

Principle 25

A detained or imprisoned person or his counsel shall, subject only to reasonable conditions to ensure security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.

Principle 26

The fact that a detained or imprisoned person underwent a medical examination, the name of the physician and the results of such an examination shall be duly recorded. Access to such records shall be ensured. Modalities therefore shall be in accordance with relevant rules of domestic law.

Principle 27

Non-compliance with these principles in obtaining evidence shall be taken into account in determining the admissibility of such evidence against a detained or imprisoned person.

Principle 28

A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.

Principle 29

1. In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.
2. A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph 1 of the present principle, subject to reasonable conditions to ensure security and good order in such places.

Principle 30

1. The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the description and duration of disciplinary punishment that may be inflicted and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.
2. A detained or imprisoned person shall have the right to be heard before disciplinary action is taken. He shall have the right to bring such action to higher authorities for review.

Principle 31

The appropriate authorities shall endeavour to ensure, according to domestic law, assistance when needed to dependent and, in particular, minor members of the families of detained or imprisoned persons and shall devote a particular measure of care to the appropriate custody of children left with out supervision.

Principle 32

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.
2. The proceedings referred to in paragraph 1 of the present principle shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

Principle 33

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.
2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.
3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.
4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.

Principle 34

Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation.

Principle 35

1. Damage incurred because of acts or omissions by a public official contrary to the rights contained in these principles shall be compensated according to the applicable rules or liability provided by domestic law.
2. Information required to be recorded under these principles shall be available in accordance with procedures provided by domestic law for use in claiming compensation under the present principle.

Principle 36

1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.

Principle 37

A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody.

Principle 38

A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.

Principle 39

Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.

General clause

Nothing in this Body of Principles shall be construed as restricting or derogating from any right defined in the International Covenant on Civil and Political Rights.

1. The term “cruel, inhuman or degrading treatment or punishment” should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time.

**Declaration on the
Protection of all
Persons
from Enforced
Disappearance**

Declaration on the Protection of all Persons from Enforced Disappearance

General Assembly resolution 47/133 of 18 December 1992

The General Assembly,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations and other international instruments, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Deeply concerned that in many countries, often in a persistent manner, enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law,

Considering that enforced disappearance undermines the deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms, and that the systematic practice of such acts is of the nature of a crime against humanity,

Recalling its resolution 33/173 of 22 December 1978, in which it expressed concern about the reports from various parts of the world relating to enforced or involuntary disappearances, as well as about the anguish and sorrows caused by those disappearances, and called upon Governments to hold law enforcement and security forces legally responsible for excesses which might lead to enforced or involuntary disappearances of persons,

Recalling also the protection afforded to victims of armed conflicts by the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977,

Having regard in particular to the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which protect the right to life, the right to liberty and security of the person, the right not to be subjected to torture and the right to recognition as a person before the law,

Having regard also to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides that States parties shall take effective measures to prevent and punish acts of torture,

Bearing in mind the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Standard Minimum Rules for the Treatment of Prisoners,

Affirming that, in order to prevent enforced disappearances, it is necessary to ensure strict compliance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment contained in the annex to its resolution 43/173 of 9 December 1988, and with the Principles on the Effective Prevention and Investigation of Extra-legal,

Arbitrary and Summary Executions, set forth in the annex to Economic and Social Council resolution 1989/65 of 24 May 1989 and endorsed by the General Assembly in its resolution 44/162 of 15 December 1989,

Bearing in mind that, while the acts which comprise enforced disappearance constitute a violation of the prohibitions found in the aforementioned international instruments, it is none the less important to devise an instrument which characterizes all acts of enforced disappearance of persons as very serious offences and sets forth standards designed to punish and prevent their commission,

1. Proclaims the present Declaration on the Protection of All Persons from Enforced Disappearance, as a body of principles for all States;
2. Urges that all efforts be made so that the Declaration becomes generally known and respected;

Article 1

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.
2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

Article 2

1. No State shall practise, permit or tolerate enforced disappearances.
2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

Article 3

Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Article 4

1. All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.
2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases of enforced disappearance.

Article 5

In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such disappearances liable under civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law.

Article 6

1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.
2. Each State shall ensure that orders or instructions directing, authorizing or encouraging any enforced disappearance are prohibited.
3. Training of law enforcement officials shall emphasize the provisions in paragraphs 1 and 2 of the present article.

Article 7

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Article 8

1. No State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 9

1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carry out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7 above.
2. In such proceedings, competent national authorities shall have access to all places where persons deprived of their liberty are being held and to each part of those places, as well as to any place in which there are grounds to believe that such persons may be found.
3. Any other competent authority entitled under the law of the State or by any international legal instrument to which the State is a party may also have access to such places.

Article 10

1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.
2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

Article 11

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.

Article 12

1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.
2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.

Article 13

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.
2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.
3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.
4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.
5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.
6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

Article 14

Any person alleged to have perpetrated an act of enforced disappearance in a particular State shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State for the purpose of prosecution and trial unless he has been extradited to another State wishing to exercise jurisdiction in accordance with the relevant international agreements in force. All States should take any lawful and appropriate action available to them to bring to justice all persons presumed responsible for an act of enforced disappearance, who are found to be within their jurisdiction or under their control.

Article 15

The fact that there are grounds to believe that a person has participated in acts of an extremely serious nature such as those referred to in article 4, paragraph 1, above, regardless of the motives, shall be taken into account when the competent authorities of the State decide whether or not to grant asylum.

Article 16

1. Persons alleged to have committed any of the acts referred to in article 4, paragraph 1, above, shall be suspended from any official duties during the investigation referred to in article 13 above.
2. They shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts.
3. No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations.
4. The persons presumed responsible for such acts shall be guaranteed fair treatment in accordance with the relevant provisions of the Universal Declaration of Human Rights and other relevant international agreements in force at all stages of the investigation and eventual prosecution and trial.

Article 17

1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.
2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.
3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

Article 18

1. Persons who have or are alleged to have committed offences referred to in article 4, paragraph 1, above, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.
2. In the exercise of the right of pardon, the extreme seriousness of acts of enforced disappearance shall be taken into account.

Article 19

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

Article 20

1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance, and shall devote their efforts to the search for and identification of such children and to the restitution of the children to their families of origin.
2. Considering the need to protect the best interests of children referred to in the preceding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review, by the child's closest relatives.
3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother's enforced disappearance, and the act of altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.
4. For these purpose, States shall, where appropriate, conclude bilateral and multilateral agreements.

Article 21

The provisions of the present Declaration are without prejudice to the provisions enunciated in the Universal Declaration of Human Rights or in any other international instrument, and shall not be construed as restricting or derogating from any of those provisions.

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

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

**Adopted and opened for signature, ratification and accession by General Assembly
resolution 39/46 of 10 December 1984**

entry into force 26 June 1987, in accordance with article 27 (1)

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases: (a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
(b) When the alleged offender is a national of that State;
(c) When the victim is a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or

military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.
3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.
6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.
7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:
 - (a) Six members shall constitute a quorum;
 - (b) Decisions of the Committee shall be made by a majority vote of the members present.
3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.
3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure;
 - (a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
 - (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
 - (c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;
 - (d) The Committee shall hold closed meetings when examining communications under this article;
 - (e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of

the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

- (f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
 - (g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
 - (h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:
 - (i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
 - (ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.
2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.
3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:
 - (a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
 - (b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
6. The Committee shall hold closed meetings when examining communications under this article.
7. The Committee shall forward its views to the State Party concerned and to the individual.
8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 23

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

PART III

Article 25

1. This Convention is open for signature by all States. 2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.
3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- (a) Signatures, ratifications and accessions under articles 25 and 26;
- (b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
- (c) Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.



Convention on the Elimination of All Forms of Discrimination against Women

Convention on the Elimination of All Forms of Discrimination against Women

Adopted and opened for signature, ratification and accession by
General Assembly resolution 34/180 of 18 December 1979 entry into force 3
September 1981, in accordance with article 27(1)

The States Parties to the present Convention,

NOTING that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

NOTING that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

NOTING that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

CONSIDERING the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

NOTING ALSO the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

CONCERNED, however, that despite these various instruments extensive discrimination against women continues to exist,

RECALLING that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

CONCERNED that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

CONVINCED that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

EMPHASIZING that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

AFFIRMING that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

CONVINCED that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

BEARING IN MIND the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

AWARE that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

DETERMINED to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

HAVE AGREED on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - (a) The right to work as an inalienable right of all human beings;
 - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
 - (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
 - (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
 - (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
 - (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.
3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - (a) Within one year after the entry into force for the State concerned;
 - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure. 2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

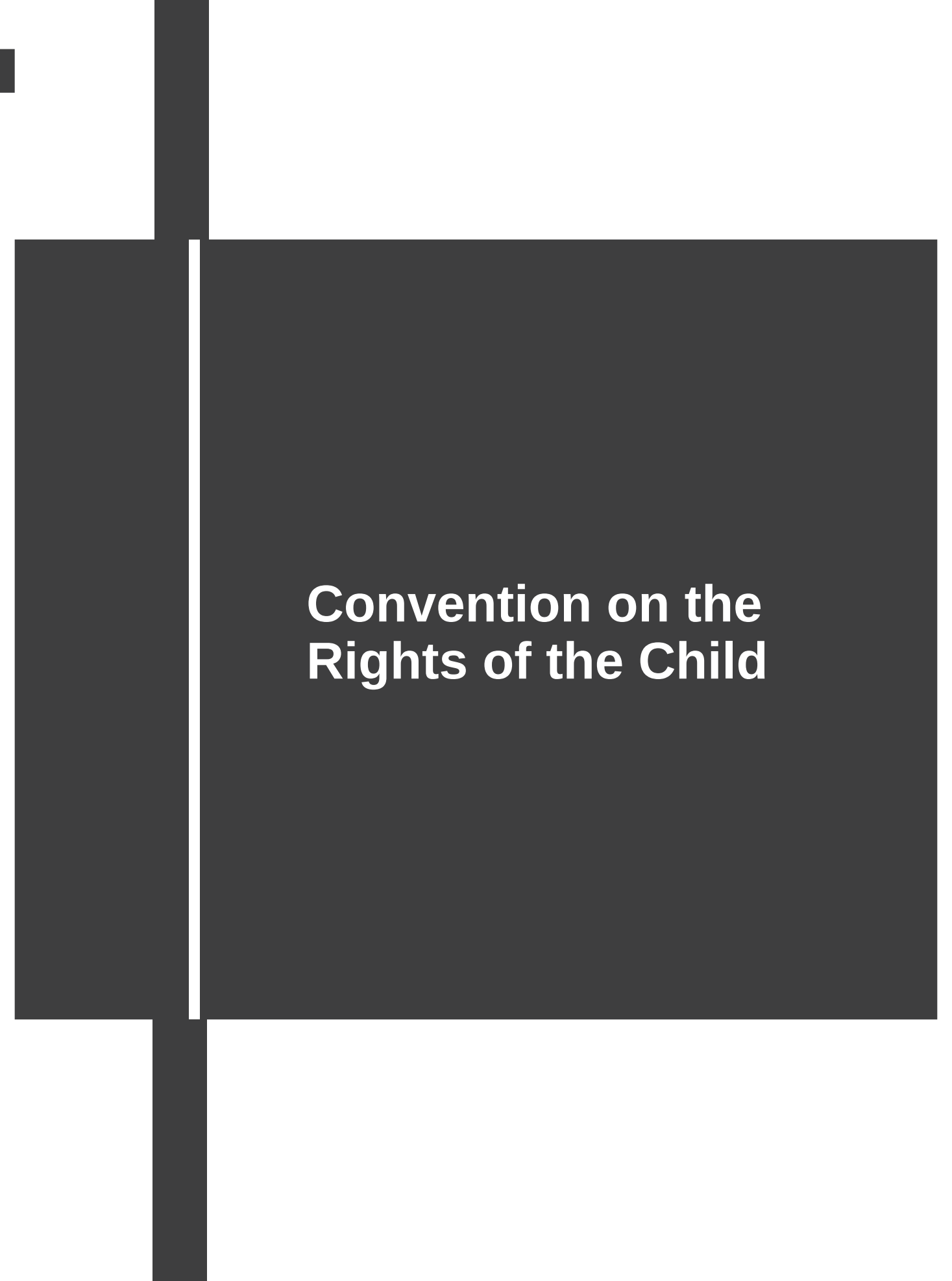
1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.



Convention on the Rights of the Child

Convention on the Rights of the Child

**Adopted and opened for signature, ratification and accession by General Assembly
resolution 44/25 of 20 November 1989**

entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

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

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin; (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;

- (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
 3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion

of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
 - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) To have his or her privacy fully respected at all stages of the proceedings.
3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:
 - (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other

alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems. (amendment)
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:
 - (a) Within two years of the entry into force of the Convention for the State Party concerned;
 - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;
- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed

amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.



Standard Minimum Rules for the Treatment of Prisoners

Standard Minimum Rules for the Treatment of Prisoners

Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

Preliminary Observations

1. The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.
2. In view of the great variety of legal, social, economic and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.
3. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.
4. (1) Part I of the rules covers the general management of institutions, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to "security measures" or corrective measures ordered by the judge.
(2) Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.
5. (1) The rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general part I would be equally applicable in such institutions.
(2) The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

PART I

RULES OF GENERAL APPLICATION

Basic principle

6. (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- (2) On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

Register

7. (1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:
 - (a) Information concerning his identity;
 - (b) The reasons for his commitment and the authority therefor;
 - (c) The day and hour of his admission and release.
- (2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register. Separation of categories
8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,
 - (a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;
 - (b) Untried prisoners shall be kept separate from convicted prisoners;
 - (c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;
 - (d) Young prisoners shall be kept separate from adults. Accommodation
9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.
- (2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.
10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.
11. In all places where prisoners are required to live or work,
 - (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
 - (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.
13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.
14. All pans of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Personal hygiene

15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.
16. In order that prisoners may maintain a good appearance compatible with their self respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

Clothing and bedding

17. (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.
 - (2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.
 - (3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.
18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.
19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food

20. (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
 - (2) Drinking water shall be available to every prisoner whenever he needs it.

Exercise and sport

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

- (2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.

Medical services

- 22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.
- (2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.
- (3) The services of a qualified dental officer shall be available to every prisoner.
- 23. (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.
- (2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.
- 24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.
- 25. (1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.
- (2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.
- 26. (1) The medical officer shall regularly inspect and advise the director upon:
 - (a) The quantity, quality, preparation and service of food;
 - (b) The hygiene and cleanliness of the institution and the prisoners;
 - (c) The sanitation, heating, lighting and ventilation of the institution;
 - (d) The suitability and cleanliness of the prisoners' clothing and bedding;
 - (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

- (2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

Discipline and punishment

27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.
28. (1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.
- (2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.
29. The following shall always be determined by the law or by the regulation of the competent administrative authority:
 - (a) Conduct constituting a disciplinary offence;
 - (b) The types and duration of punishment which may be inflicted;
 - (c) The authority competent to impose such punishment.
30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.
- (2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.
- (3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter.
31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.
32. (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.
- (2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.
- (3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Instruments of restraint

33. Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:
- (a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
 - (b) On medical grounds by direction of the medical officer; (c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.
34. The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

Information to and complaints by prisoners

35. (1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.
- (2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.
36. (1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.
- (2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.
- (3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.
- (4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

Contact with the outside world

37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.
38. (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.
- (2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities

to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

Books

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Religion

41. (1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.
- (2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.
- (3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.
42. So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

Retention of prisoners' property

43. (1) All money, valuables, clothing and other effects belonging to a prisoner which under the regulations of the institution he is not allowed to retain shall on his admission to the institution be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition. (2) On the release of the prisoner all such articles and money shall be returned to him except in so far as he has been authorized to spend money or send any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him.
- (3) Any money or effects received for a prisoner from outside shall be treated in the same way.
- (4) If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

Notification of death, illness, transfer, etc.

44. (1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner.
- (2) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.
- (3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution.

Removal of prisoners

45. (1) When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.
- (2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.
- (3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them.

Institutional personnel

46. (1) The prison administration, shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.
- (2) The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.
- (3) To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.
47. (1) The personnel shall possess an adequate standard of education and intelligence.
- (2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.
- (3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.

48. All members of the personnel shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.
49. (1) So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.
 - (2) The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.
50. (1) The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience.
 - (2) He shall devote his entire time to his official duties and shall not be appointed on a part-time basis.
 - (3) He shall reside on the premises of the institution or in its immediate vicinity. (4) When two or more institutions are under the authority of one director, he shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.
51. (1) The director, his deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.
 - (2) Whenever necessary, the services of an interpreter shall be used.
52. (1) In institutions which are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.
 - (2) In other institutions the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.
53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.
 - (2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.
 - (3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.
54. (1) Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

- (2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.
- (3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

Inspection

- 55. There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

PART II

RULES APPLICABLE TO SPECIAL CATEGORIES

A. PRISONERS UNDER SENTENCE

Guiding principles

- 56. The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under Preliminary Observation I of the present text.
- 57. Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.
- 58. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.
- 59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.
- 60. (1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.
 - (2) Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.
- 61. The treatment of prisoners should emphasize not their

exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.
63. (1) The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups; it is therefore desirable that such groups should be distributed in separate institutions suitable for the treatment of each group.
- (2) These institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.
- (3) It is desirable that the number of prisoners in closed institutions should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the population should be as small as possible.
- (4) On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.
64. The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation.

Treatment

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.
66. (1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.

- (2) For every prisoner with a sentence of suitable length, the director shall receive, as soon as possible after his admission, full reports on all the matters referred to in the foregoing paragraph. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.
- (3) The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

Classification and individualization

67. The purposes of classification shall be:

- (a) To separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence;
- (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

68. So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

69. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

Privileges

70. Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conduct, develop a sense of responsibility and secure the interest and co-operation of the prisoners in their treatment.

Work

71. (1) Prison labour must not be of an afflictive nature.

- (2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.
- (3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.
- (4) So far as possible the work provided shall be such as will maintain or increase the prisoners, ability to earn an honest living after release.
- (5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.
- (6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.

72. (1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.
- (2) The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution.
73. (1) Preferably institutional industries and farms should be operated directly by the administration and not by private contractors.
- (2) Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.
74. (1) The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.
- (2) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen.
75. (1) The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen.
- (2) The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.
76. (1) There shall be a system of equitable remuneration of the work of prisoners.
- (2) Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.
- (3) The system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his release.

Education and recreation

77. (1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.
- (2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.
78. Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

Social relations and after-care

79. Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.
80. From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.
81. (1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.
- (2) The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.
- (3) It is desirable that the activities of such agencies shall be centralized or co-ordinated as far as possible in order to secure the best use of their efforts.

B. INSANE AND MENTALLY ABNORMAL PRISONERS

82. (1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.
- (2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.
- (3) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.
- (4) The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.
83. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

C. PRISONERS UNDER ARREST OR AWAITING TRIAL

84. (1) Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as "untried prisoners," hereinafter in these rules.
- (2) Unconvicted prisoners are presumed to be innocent and shall be treated as such.
- (3) Without prejudice to legal rules for the protection of individual liberty or prescribing

the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special regime which is described in the following rules in its essential requirements only.

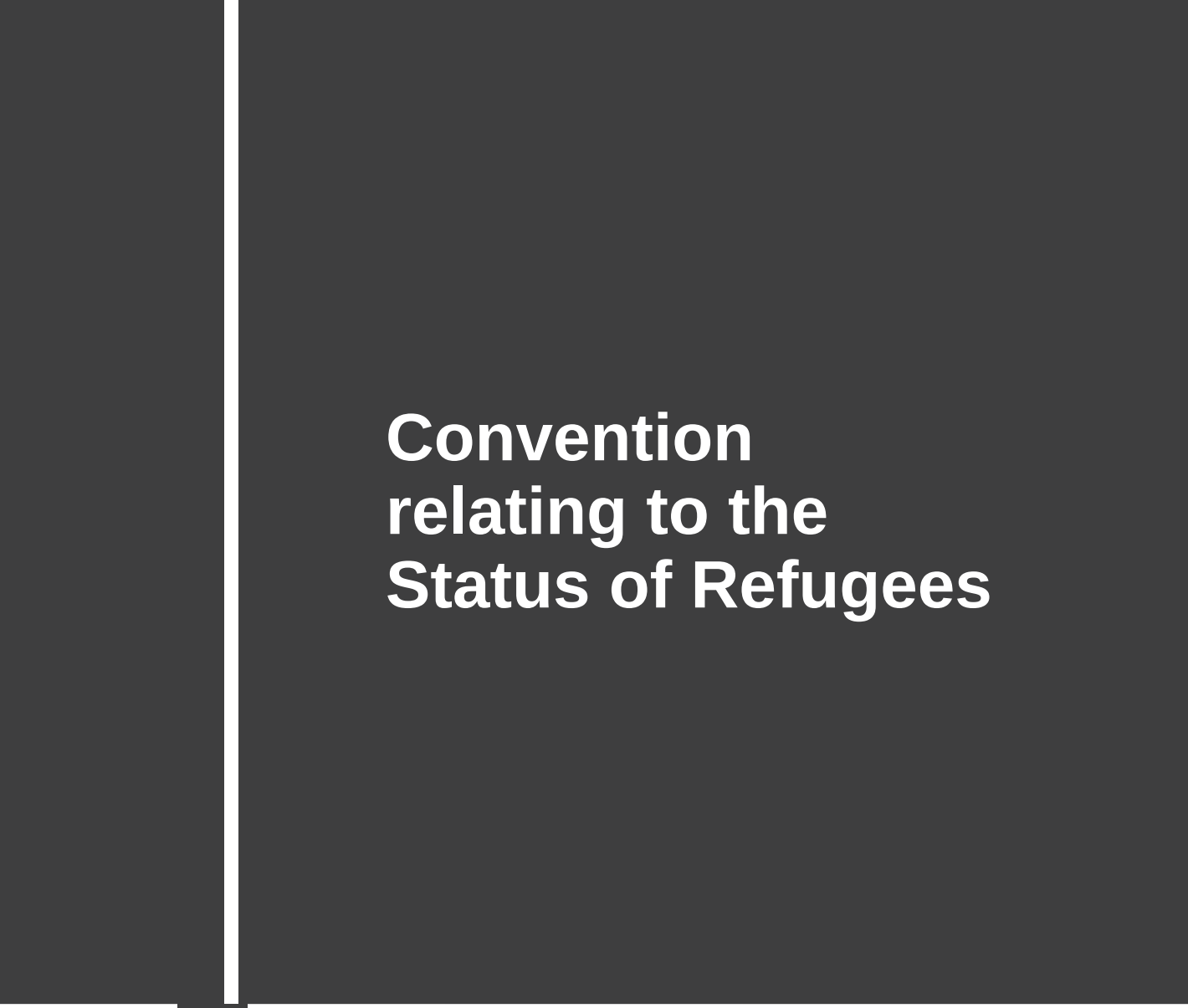
85. (1) Untried prisoners shall be kept separate from convicted prisoners.
(2) Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.
86. Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.
87. Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.
88. (1) An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.
(2) If he wears prison dress, it shall be different from that supplied to convicted prisoners.
89. An untried prisoner shall always be offered opportunity to work, but shall not be required to work. If he chooses to work, he shall be paid for it.
90. An untried prisoner shall be allowed to procure at his own expense or at the expense of a third party such books, newspapers, writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.
91. An untried prisoner shall be allowed to be visited and treated by his own doctor or dentist if there is reasonable ground for his application and he is able to pay any expenses incurred.
92. An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.
93. For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official.

D. CIVIL PRISONERS

94. In countries where the law permits imprisonment for debt, or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.

E. PERSONS ARRESTED OR DETAINED WITHOUT CHARGE

95. Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political Rights, persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C. Relevant provisions of part II, section A, shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.



Convention relating to the Status of Refugees

Convention relating to the Status of Refugees

189 U.N.T.S. 150, entered into force April 22, 1954.

PREAMBLE

The High Contracting Parties,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international- scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1. - Definition of the term "refugee"

A. For the purposes of the present Convention, the term "refugee,, shall apply to any person who:

- (1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

- (2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

- B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either (a) "events occurring in Europe before 1 January 1951"; or (b) "events occurring in Europe or elsewhere before 1 January 1951"; and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.
- (2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.
- C. This Convention shall cease to apply to any person falling under the terms of section A if:
 - (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
 - (2) Having lost his nationality, he has voluntarily reacquired it; or
 - (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
 - (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
 - (5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

- (6) Being a person who has no nationality he is, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A (I) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

- D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

- E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.
- F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:
- (a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - (b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
 - (c) He has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2. - General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3. - Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4. - Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 5. - Rights granted apart from this Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6. - The term “in the same circumstances”

For the purposes of this Convention, the term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7. - Exemption from reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.
3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.
4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.
5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8. - Exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9. - Provisional measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10. - Continuity of residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11. - Refugee seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II

JURIDICAL STATUS

Article 12. - Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13. - Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14. - Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting States, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15. - Right of association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16. - Access to courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CHAPTER III

GAINFUL EMPLOYMENT

Article 17. - Wage-earning employment

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.
2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:
 - (a) He has completed three years' residence in the country;
 - (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;
 - (c) He has one or more children possessing the nationality of the country of residence.
3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18. - Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19. - Liberal professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.
2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

CHAPTER IV

WELFARE

Article 20. - Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21. - Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22. - Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23. - Public relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24. - Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters;
 - (a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;
 - (b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
 - (i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

- (ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.
- 2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.
- 3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.
- 4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non- contracting States.

CHAPTER V

ADMINISTRATIVE MEASURES

Article 25. -Administrative assistance

- 1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
- 2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.
- 3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.
- 4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
- 5. The provisions of this article shall be without prejudice to articles 27 and 28.

Article 26. - Freedom of movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.

Article 27. - Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28. - Travel documents

- 1 . The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.
2. Travel documents issued to refugees under previous international agreements by Parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29. - Fiscal charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30. - Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.
2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31. - Refugees unlawfully in the country of refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.
2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32. - Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33. - Prohibition of expulsion or return (“refoulement”)

1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

Article 34. - Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI

EXECUTORY AND TRANSITORY PROVISIONS

Article 35. - Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.
2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:
 - (a) The condition of refugees,
 - (b) The implementation of this Convention, and
 - (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 36. - Information on national legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

Article 37. - Relation to previous conventions

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between Parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

CHAPTER VII

FINAL CLAUSES

Article 38. - Settlement of disputes

Any dispute between Parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 39. - Signature, ratification and accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.
2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 40. - Territorial application clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.
2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article 41. - Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

- (a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of parties which are not Federal States;
- (b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;
- (c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 42. - Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16 (1), 33, 36-46 inclusive.
2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 43. - Entry into force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 44. - Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.
3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 45. - Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

Article 46. -Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

- (a) Of declarations and notifications in accordance with section B of article 1;
- (b) Of signatures, ratifications and accessions in accordance with article 39;
- (c) Of declarations and notifications in accordance with article 40;
- (d) Of reservations and withdrawals in accordance with article 42;
- (e) Of the date on which this Convention will come into force in accordance with article 43;
- (f) Of denunciations and notifications in accordance with article 44;
- (g) Of requests for revision in accordance with article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments.

DONE at Geneva, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

**Declaration on the
Human Rights of
Individuals Who are not
Nationals
of the Country in which
They Live**

Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live

Adopted by General Assembly resolution 40/144 of 13 December 1985

The General Assembly,

Considering that the Charter of the United Nations encourages universal respect for and observance of the human rights and fundamental freedoms of all human beings, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in that Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the Universal Declaration of Human Rights proclaims further that everyone has the right to recognition everywhere as a person before the law, that all are equal before the law and entitled without any discrimination to equal protection of the law, and that all are entitled to equal protection against any discrimination in violation of that Declaration and against any incitement to such discrimination,

Being aware that the States Parties to the International Covenants on Human Rights undertake to guarantee that the rights enunciated in these Covenants will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Conscious that, with improving communications and the development of peaceful and friendly relations among countries, individuals increasingly live in countries of which they are not nationals, Reaffirming the purposes and principles of the Charter of the United Nations,

Recognizing that the protection of human rights and fundamental freedoms provided for in international instruments should also be ensured for individuals who are not nationals of the country in which they live,

Proclaims this Declaration:

Article 1

For the purposes of this Declaration, the term "alien" shall apply, with due regard to qualifications made in subsequent articles, to any individual who is not a national of the State in which he or she is present.

Article 2

1. Nothing in this Declaration shall be interpreted as legitimizing the illegal entry into and presence in a State of any alien, nor shall any provision be interpreted as restricting the right of any State to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay or to establish differences between nationals and

aliens. However, such laws and regulations shall not be incompatible with the international legal obligations of that State, including those in the field of human rights.

2. This Declaration shall not prejudice the enjoyment of the rights accorded by domestic law and of the rights which under international law a State is obliged to accord to aliens, even where this Declaration does not recognize such rights or recognizes them to a lesser extent.

Article 3

Every State shall make public its national legislation or regulations affecting aliens.

Article 4

Aliens shall observe the laws of the State in which they reside or are present and regard with respect the customs and traditions of the people of that State.

Article 5

1. Aliens shall enjoy, in accordance with domestic law and subject to the relevant international obligation of the State in which they are present, in particular the following rights:
 - (a) The right to life and security of person; no alien shall be subjected to arbitrary arrest or detention; no alien shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law;
 - (b) The right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence;
 - (c) The right to be equal before the courts, tribunals and all other organs and authorities administering justice and, when necessary, to free assistance of an interpreter in criminal proceedings and , when prescribed by law, other proceedings;
 - (d) The right to choose a spouse, to marry, to found a family;
 - (e) The right to freedom of thought, opinion, conscience and religion; the right to manifest their religion or beliefs, subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others;
 - (f) The right to retain their own language, culture and tradition;
 - (g) The right to transfer abroad earnings, savings or other personal monetary assets, subject to domestic currency regulations.
2. Subject to such restrictions as are prescribed by law and which are necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others, and which are consistent with the other rights recognized in the relevant international instruments and those set forth in this Declaration, aliens shall enjoy the following rights:
 - (a) The right to leave the country;

- (b) The right to freedom of expression;
 - (c) The right to peaceful assembly;
 - (d) The right to own property alone as well as in association with others, subject to domestic law.
3. Subject to the provisions referred to in paragraph 2, aliens lawfully in the territory of a State shall enjoy the right to liberty of movement and freedom to choose their residence within the borders of the State.
 4. Subject to national legislation and due authorization, the spouse and minor or dependent children of an alien lawfully residing in the territory of a State shall be admitted to accompany, join and stay with the alien.

Article 6

No alien shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and, in particular, no alien shall be subjected without his or her free consent to medical or scientific experimentation.

Article 7

An alien lawfully in the territory of a State may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons why he or she should not be expelled and to have the case reviewed by, and be represented for the purpose before, the competent authority or a person or persons specially designated by the competent authority. Individual or collective expulsion of such aliens on grounds of race, colour, religion, culture, descent or national or ethnic origin is prohibited.

Article 8

1. Aliens lawfully residing in the territory of a State shall also enjoy, in accordance with the national laws, the following rights, subject to their obligations under article 4:
 - (a) The right to safe and healthy working conditions, to fair wages and equal remuneration for work of equal value without distinction of any kind, in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (b) The right to join trade unions and other organizations or associations of their choice and to participate in their activities. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary, in a democratic society, in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (c) The right to health protection, medical care, social security, social services, education, rest and leisure, provided that they fulfil the requirements under the relevant regulations for participation and that undue strain is not placed on the resources of the State.

2. With a view to protecting the rights of aliens carrying on lawful paid activities in the country in which they are present, such rights may be specified by the Governments concerned in multilateral or bilateral conventions.

Article 9

No alien shall be arbitrarily deprived of his or her lawfully acquired assets.

Article 10

Any alien shall be free at any time to communicate with the consulate or diplomatic mission of the State of which he or she is a national or, in the absence thereof, with the consulate or diplomatic mission of any other State entrusted with the protection of the interests of the State of which he or she is a national in the State where he or she resides.

Convention for the Protection of Human Rights and Fundamental Freedoms

as amended by Protocol No. 11 Rome, 4.XI.1950

The text of the Convention had been amended according to the provisions of Protocol No. 3 (ETS No. 45), which entered into force on 21 September 1970, of Protocol No. 5 (ETS No. 55), which entered into force on 20 December 1971 and of Protocol No. 8 (ETS No. 118), which entered into force on 1 January 1990, and comprised also the text of Protocol No. 2 (ETS No. 44) which, in accordance with Article 5, paragraph 3 thereof, had been an integral part of the Convention since its entry into force on 21 September 1970. All provisions which had been amended or added by these Protocols are replaced by Protocol No. 11 (ETS No. 155), as from the date of its entry into force on 1 November 1998. As from that date, Protocol No. 9 (ETS No. 140), which entered into force on 1 October 1994, is repealed and Protocol No. 10 (ETS No. 146) has lost its purpose.

Chart of Declarations under former Articles 25 and 46 of the ECHR
Protocol
Protocols: No. 4 | No. 6 | No. 7
No. 12 | No. 13 | No. 14
Français

The governments signatory hereto, being members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;

Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;

Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend;

Being resolved, as the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration,

Have agreed as follows:

Article 1 – Obligation to respect human rights 1

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

Section I – Rights and freedoms 1

Article 2 – Right to life¹

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
 - a. in defence of any person from unlawful violence;
 - b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - c. in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3 – Prohibition of torture¹

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

Article 4 – Prohibition of slavery and forced labour¹

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this article the term "forced or compulsory labour" shall not include:
 - a. any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - b. any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - c. any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
 - d. any work or service which forms part of normal civic obligations.

Article 5 – Right to liberty and security¹

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - a. the lawful detention of a person after conviction by a competent court;
 - b. the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
 - c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed

an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

- d. the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - e. the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
 - f. the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
 3. Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
 5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

Article 6 – Right to a fair trial¹

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - b. to have adequate time and facilities for the preparation of his defence;
 - c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

- d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7 – No punishment without law¹

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8 – Right to respect for private and family life¹

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9 – Freedom of thought, conscience and religion¹

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10 – Freedom of expression¹

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial

integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11 – Freedom of assembly and association¹

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12 – Right to marry¹

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 13 – Right to an effective remedy¹

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14 – Prohibition of discrimination¹

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 15 – Derogation in time of emergency¹

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.
3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe

when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Article 16 – Restrictions on political activity of aliens¹

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17 – Prohibition of abuse of rights¹

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18 – Limitation on use of restrictions on rights¹

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Section II – European Court of Human Rights²

Article 19 – Establishment of the Court

To ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto, there shall be set up a European Court of Human Rights, hereinafter referred to as “the Court”. It shall function on a permanent basis.

Article 20 – Number of judges

The Court shall consist of a number of judges equal to that of the High Contracting Parties.

Article 21 – Criteria for office

1. The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.
2. The judges shall sit on the Court in their individual capacity.
3. During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office; all questions arising from the application of this paragraph shall be decided by the Court.

Article 22 – Election of judges

1. The judges shall be elected by the Parliamentary Assembly with respect to each High Contracting Party by a majority of votes cast from a list of three candidates nominated by the High Contracting Party.

2. The same procedure shall be followed to complete the Court in the event of the accession of new High Contracting Parties and in filling casual vacancies.

Article 23 – Terms of office

1. The judges shall be elected for a period of six years. They may be re-elected. However, the terms of office of one-half of the judges elected at the first election shall expire at the end of three years.
2. The judges whose terms of office are to expire at the end of the initial period of three years shall be chosen by lot by the Secretary General of the Council of Europe immediately after their election.
3. In order to ensure that, as far as possible, the terms of office of one-half of the judges are renewed every three years, the Parliamentary Assembly may decide, before proceeding to any subsequent election, that the term or terms of office of one or more judges to be elected shall be for a period other than six years but not more than nine and not less than three years.
4. In cases where more than one term of office is involved and where the Parliamentary Assembly applies the preceding paragraph, the allocation of the terms of office shall be effected by a drawing of lots by the Secretary General of the Council of Europe immediately after the election.
5. A judge elected to replace a judge whose term of office has not expired shall hold office for the remainder of his predecessor's term.
6. The terms of office of judges shall expire when they reach the age of 70.
7. The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration.

Article 24 – Dismissal

No judge may be dismissed from his office unless the other judges decide by a majority of two-thirds that he has ceased to fulfil the required conditions.

Article 25 – Registry and legal secretaries

The Court shall have a registry, the functions and organisation of which shall be laid down in the rules of the Court. The Court shall be assisted by legal secretaries.

Article 26 – Plenary Court

The plenary Court shall:

- a. elect its President and one or two Vice-Presidents for a period of three years; they may be re-elected;
- b. set up Chambers, constituted for a fixed period of time;

- c. elect the Presidents of the Chambers of the Court; they may be re-elected;
- d. adopt the rules of the Court, and
- e. elect the Registrar and one or more Deputy Registrars.

Article 27 – Committees, Chambers and Grand Chamber

1. To consider cases brought before it, the Court shall sit in committees of three judges, in Chambers of seven judges and in a Grand Chamber of seventeen judges. The Court's Chambers shall set up committees for a fixed period of time.
2. There shall sit as an ex officio member of the Chamber and the Grand Chamber the judge elected in respect of the State Party concerned or, if there is none or if he is unable to sit, a person of its choice who shall sit in the capacity of judge.
3. The Grand Chamber shall also include the President of the Court, the Vice-Presidents, the Presidents of the Chambers and other judges chosen in accordance with the rules of the Court. When a case is referred to the Grand Chamber under Article 43, no judge from the Chamber which rendered the judgment shall sit in the Grand Chamber, with the exception of the President of the Chamber and the judge who sat in respect of the State Party concerned.

Article 28 – Declarations of inadmissibility by committees

A committee may, by a unanimous vote, declare inadmissible or strike out of its list of cases an application submitted under Article 34 where such a decision can be taken without further examination. The decision shall be final.

Article 29 – Decisions by Chambers on admissibility and merits

1. If no decision is taken under Article 28, a Chamber shall decide on the admissibility and merits of individual applications submitted under Article 34.
2. A Chamber shall decide on the admissibility and merits of inter-State applications submitted under Article 33.
3. The decision on admissibility shall be taken separately unless the Court, in exceptional cases, decides otherwise.

Article 30 – Relinquishment of jurisdiction to the Grand Chamber

Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects.

Article 31 – Powers of the Grand Chamber

The Grand Chamber shall:

- a. determine applications submitted either under Article 33 or Article 34 when a Chamber has relinquished jurisdiction under Article 30 or when the case has been referred to it under Article 43; and
- b. consider requests for advisory opinions submitted under Article 47.

Article 32 – Jurisdiction of the Court

1. The jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the protocols thereto which are referred to it as provided in Articles 33, 34 and 47.
2. In the event of dispute as to whether the Court has jurisdiction, the Court shall decide.

Article 33 – Inter-State cases

Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the protocols thereto by another High Contracting Party.

Article 34 – Individual applications

Chart of Declarations under former Articles 25 and 46 of the ECHR

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

Article 35 – Admissibility criteria

1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.
2. The Court shall not deal with any application submitted under Article 34 that:
 - a. is anonymous; or
 - b. is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
 - c. The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application.
 - d. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

Article 36 – Third party intervention

1. In all cases before a Chamber or the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings.
2. The President of the Court may, in the interest of the proper administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings.

Article 37 – Striking out applications

1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that:
 - a. the applicant does not intend to pursue his application; or
 - b. the matter has been resolved; or
 - c. for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.

2. The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course.

Article 38 – Examination of the case and friendly settlement proceedings

1. If the Court declares the application admissible, it shall:
 - a. pursue the examination of the case, together with the representatives of the parties, and if need be, undertake an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities;
 - b. place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights as defined in the Convention and the protocols thereto.
2. Proceedings conducted under paragraph 1.b shall be confidential.

Article 39 – Finding of a friendly settlement

If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief statement of the facts and of the solution reached.

Article 40 – Public hearings and access to documents

1. Hearings shall be in public unless the Court in exceptional circumstances decides otherwise.

2. Documents deposited with the Registrar shall be accessible to the public unless the President of the Court decides otherwise.

Article 41 – Just satisfaction

If the Court finds that there has been a violation of the Convention or the protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.

Article 42 – Judgments of Chambers

Judgments of Chambers shall become final in accordance with the provisions of Article 44, paragraph 2.

Article 43 – Referral to the Grand Chamber

1. Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber.
2. A panel of five judges of the Grand Chamber shall accept the request if the case raises a serious question affecting the interpretation or application of the Convention or the protocols thereto, or a serious issue of general importance.
3. If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

Article 44 – Final judgments

1. The judgment of the Grand Chamber shall be final.
2. The judgment of a Chamber shall become final:
 - a. when the parties declare that they will not request that the case be referred to the Grand Chamber; or
 - b. three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or
 - c. when the panel of the Grand Chamber rejects the request to refer under Article 43. The final judgment shall be published.

Article 45 – Reasons for judgments and decisions

1. Reasons shall be given for judgments as well as for decisions declaring applications admissible or inadmissible.
2. If a judgment does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 46 – Binding force and execution of judgments

1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.

Article 47 – Advisory opinions

1. The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the protocols thereto.
2. Such opinions shall not deal with any question relating to the content or scope of the rights or freedoms defined in Section I of the Convention and the protocols thereto, or with any other question which the Court or the Committee of Ministers might have to consider in consequence of any such proceedings as could be instituted in accordance with the Convention.
3. Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a majority vote of the representatives entitled to sit on the Committee.

Article 48 – Advisory jurisdiction of the Court

The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its competence as defined in Article 47.

Article 49 – Reasons for advisory opinions

Reasons shall be given for advisory opinions of the Court.

If the advisory opinion does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Advisory opinions of the Court shall be communicated to the Committee of Ministers.

Article 50 – Expenditure on the Court

The expenditure on the Court shall be borne by the Council of Europe.

Article 51 – Privileges and immunities of judges

The judges shall be entitled, during the exercise of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder.

Section III – Miscellaneous provisions^{1,3}

Article 52 – Inquiries by the Secretary General¹

On receipt of a request from the Secretary General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention.

Article 53 – Safeguard for existing human rights¹

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

Article 54 – Powers of the Committee of Ministers¹

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

Article 55 – Exclusion of other means of dispute settlement¹

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention.

Article 56 – Territorial application¹

1. ⁴Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.
2. The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.
3. The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.
4. ⁴Any State which has made a declaration in accordance with paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.

Article 57 – Reservations¹

1. Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article.
2. Any reservation made under this article shall contain a brief statement of the law concerned.

Article 58 – Denunciation ¹

1. A High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a party to it and after six months' notice contained in a notification addressed to the Secretary General of the Council of Europe, who shall inform the other High Contracting Parties.
2. Such a denunciation shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being

capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.

3. Any High Contracting Party which shall cease to be a member of the Council of Europe shall cease to be a Party to this Convention under the same conditions.
4. ⁴The Convention may be denounced in accordance with the provisions of the preceding paragraphs in respect of any territory to which it has been declared to extend under the terms of Article 56.

Article 59 – Signature and ratification ¹

1. This Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary General of the Council of Europe.
2. The present Convention shall come into force after the deposit of ten instruments of ratification.
3. As regards any signatory ratifying subsequently, the Convention shall come into force at the date of the deposit of its instrument of ratification.
4. The Secretary General of the Council of Europe shall notify all the members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

Done at Rome this 4th day of November 1950, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

¹ Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

² New Section II according to the provisions of Protocol No. 11 (ETS No. 155).

³ The articles of this Section are renumbered according to the provisions of Protocol No. 11 (ETS No. 155).

⁴ Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

b. Resolution 690 (1979) on the Declaration on the Police Parliamentary Assembly of the Council of Europe

Preamble

The Assembly,

1. Considering that the full exercise of human rights and fundamental freedoms, guaranteed by the European Convention on Human Rights and other national and international instruments, has as a necessary basis the existence of a peaceful society which enjoys the advantages of order and public safety;
2. Considering that, in this respect, police play a vital role in all member states, that they are frequently called upon to intervene in conditions which are dangerous for their members, and that their duties are made yet more difficult if the rules of conduct of their members are not sufficiently precisely defined;
3. Being of the opinion that it is inappropriate for those who have committed violations of human rights whilst members of police forces, or those who have belonged to any police force that has been disbanded on account of inhumane practices, to be employed as policemen;
4. Being of the opinion that the European system for the protection of human rights would be improved if there were generally accepted rules concerning the professional ethics of the police which take account of the principles of human rights and fundamental freedoms;
5. Considering that it is desirable that police officers have the active moral and physical support of the community they are serving;
6. Considering that police officers should enjoy status and rights comparable to those of members of the civil service;
7. Believing that it may be desirable to lay down guidelines for the behaviour of police officers in case of war and other emergency situations, and in the event of occupation by a foreign power;
8. Adopts the following Declaration on the Police, which forms an integral part of this resolution;
9. Instructs its Committee on Parliamentary and Public Relations and its Legal Affairs Committee as well as the Secretary General of the Council of Europe to give maximum publicity to the declaration.

Declaration on the Police

A Ethics

[Parts A and B of the declaration cover all individuals and organisations, including such bodies as secret services, military police forces, armed forces or militias performing police duties, that are responsible for enforcing the law, investigating offences, and maintaining public order and state security.]

1. A police officer shall fulfil the duties the law imposes upon him by protecting his fellow citizens and the community against violent, predatory and other harmful acts, as defined by law.
2. A police officer shall act with integrity, impartiality and dignity. In particular he shall refrain from and vigorously oppose all acts of corruption.
3. Summary executions, torture and other forms of inhuman or degrading treatment or punishment remain prohibited in all circumstances. A police officer is under an obligation to disobey or disregard any order or instruction involving such measures.
4. A police officer shall carry out orders properly issued by his hierarchical superior, but he shall refrain from carrying out any order he knows, or ought to know, is unlawful.
5. A police officer must oppose violations of the law. If immediate or irreparable and serious harm should result from permitting the violation to take place he shall take immediate action, to the best of his ability.
6. If no immediate or irreparable and serious harm is threatened, he must endeavour to avert the consequences of this violation, or its repetition, by reporting the matter to his superiors. If no results are obtained in that way he may report to a higher authority.
7. No criminal or disciplinary action shall be taken against a police officer who has refused to carry out an unlawful order.
8. A police officer shall not co-operate in the tracing, arresting, guarding or conveying of persons who, while not being suspected of having committed an illegal act, are searched for, detained or prosecuted because of their race, religion or political belief.
9. A police officer shall be personally liable for his own acts and for acts of commission or omission he has ordered and which are unlawful.
10. There shall be a clear chain of command. It should always be possible to determine which superior may be ultimately responsible for acts or omissions of a police officer.
11. Legislation must provide for a system of legal guarantees and remedies against any damage resulting from police activities.

12. In performing his duties, a police officer shall use all necessary determination to achieve an aim which legally required or allowed, but he may never use more force than is reasonable.
13. Police officers shall receive clear and precise instructions as to the manner and circumstances in which they should make use of arms.
14. A police officer having the custody of a person needing medical attention shall secure such attention by medical personnel and, if necessary, take measures for the preservation of the life and health of this person. He shall follow the instructions of doctors and other competent medical workers when they place a detainee under medical care.
15. A police officers shall keep secret all matters of a confidential nature coming to his attention, unless the performance of duty or legal provisions require otherwise.
16. A police officer who complies with the provisions of this declaration is entitled to the active moral and physical support of the community he is serving.

B Status

1. Police forces are public services created by law, which shall have the responsibility of maintaining and enforcing the law.
2. Any citizen may join the police forces if he satisfies the relevant conditions.
3. A police officer shall receive thorough general training, professional training and in-service training, as well as appropriate instruction in social problems, democratic freedoms, human rights and in particular the European Convention on Human Rights.
4. The professional, psychological and material conditions under which a police officer must perform his duties shall be such as to protect his integrity, impartiality and dignity.
5. A police officer is entitled to a fair remuneration, and special factors are to be taken into account, such as greater risks and responsibilities and more irregular working schedules.
6. Police officers shall have the choice whether to set up professional organisations, join them and play an active part therein. They may also play an active part in other organisations.
7. A police professional organisation, provided it is representative shall have the right:
 - to take part in negotiations concerning the professional status of officers;
 - to be consulted on the administration of police units;
 - to initiate legal proceedings for the benefit of a group of police officers or on behalf of a particular police officer.
8. Membership of a police professional organisation and playing an active part therein shall not be detrimental to any police officer.

9. In case of disciplinary or penal proceedings taken against him, a police officer has the right to be heard and to be defended by a lawyer. The decision shall be taken within a reasonable time. He shall also be able to avail himself of the assistance of a professional organisation to which he belongs.
10. A police officer against whom a disciplinary measure has been taken or penal sanction imposed shall have the right of appeal to an independent and impartial body or court.
11. The rights of a police officer before any courts or tribunals shall be the same as those of any other citizen.

C. War and other emergency situations - occupation by a foreign power

[This chapter does not apply to the military police]

1. A police officer shall continue to perform his tasks of protecting persons and property during war and enemy occupation in the interests of the civilian population. For that reason he shall not have the status of "combatant", and the provisions of the Third Geneva Convention of 12 August 1949, relative to the treatment of prisoners of war, shall not apply.
2. The provisions of the Fourth Geneva Convention of 12 August 1949, relative to the protection of civilian persons in time of war, apply to the civilian police.
3. The occupying power shall not order police officers to perform tasks other than those mentioned in Article 1 of this chapter.
4. During occupation a police officer shall not:
 - take part in measures against members of resistance movements;
 - take part in applying measures designed to employ the population for military purposes and for guarding military installations.
5. If a police officer resigns during enemy occupation because he is forced to execute illegitimate orders of the occupying power which are contrary to the interests of the civilian population, such as those listed above, and because he sees no other way out, he shall be reintegrated into the police force as soon as the occupation is over without losing any of the rights or benefits he would have enjoyed if he had stayed in the police force.
6. Neither during nor after the occupation may any penal or disciplinary sanction be imposed on a police officer for having executed in good faith an order of an authority regarded as competent, where the execution of such an order was normally the duty of the police force.
7. The occupying power shall not take any disciplinary or judicial action against police officers by reason of the execution, prior to the occupation, of orders given by the competent authorities.