

MODULE 1: BASICS OF HUMAN RIGHTS

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Human rights basics

Introduction

This module introduces the general concepts and characteristics of human rights, exploring both their ethical and historical roots and their modern-day form and implementation. It looks at the legal instruments and terminology in use as well as the organisations and mechanisms that protect and promote human rights.

It highlights several core aspects of human rights, including the basic overarching concept of human dignity and the enumeration of specific rights under this umbrella. It explains states' dual responsibilities to respect and protect human rights: 'respect' represents a negative obligation to refrain from an action that would limit human rights; and 'protect' refers to a positive obligation to take action to ensure the enjoyment of human rights.

The activity is designed to stimulate a general discussion on the role and purpose of human rights in today's societies before, in later modules, homing in on specific police-related aspects of human rights. The discussion questions begin with a non-legalistic approach to human rights. This is followed by questions designed to spur discussions on human dignity and specific rights, the purpose of human rights and the obligations these rights create.

The questions raise fundamental issues on the principles, organisation and function of society and the state and can prompt spirited discussion.

Activity: Understanding the basics of human rights

Purpose:

This activity serves to broaden participants' understanding of the basics of human rights, including key concepts and how they work.

Objectives:

Knowledge

- understand the basic idea and functions of human rights
- understand the key concepts of human rights and corresponding obligations
- gain an introduction into how human rights developed over time
- gain familiarity with the most important international human rights documents and types of protection mechanisms

Attitude

- recognise the basic value of human rights, including their legal and political importance, and that they form the basis for a peaceful society and contribute to a just life for all

Skills

- identify those human rights related to police work

Requirements:

- time: 40–60 minutes
- materials:
 - handout with discussion questions
 - optional: power point presentations and projector
- space: plenary room plus two working group rooms
- group size: maximum 20–25 persons



Activity description: **Understanding the basics of human rights**

- ❶ Introduce the purpose and objectives of this activity.
- ❷ Distribute the Handout – Basic ideas and concepts of human rights.
- ❸ Divide participants into groups of 4-to-6 persons and ask them to discuss one or two statements per group. Groups have 30-to-45 minutes to work, depending on the number of statements to be discussed. Ensure the groups appoint a rapporteur to bring their results back to the plenary.
- ❹ Answer any questions that arise during group work.
- ❺ Have groups present their work in the plenary.
- ❻ Hold a general discussion of results, reflecting on what has been learned.
- ❼ Summarise major points and provide tailor-made input, drawing on information from the Briefing notes as necessary.

Handout – Basic ideas and concepts of human rights

Discussion questions:

1. “Treat others the way you would like to be treated.”

- What is the relationship between the Golden Rule and human rights? Where do you see common ground or discrepancies?
- Do you think human rights are universally applicable?

2. “The idea of human rights is as simple as it is powerful: treating people with dignity.”

John Ruggie, UN Special Rapporteur on Business and Human Rights, UN Guiding Principles on Business and Human Rights

- Do you agree with this statement? Explain your reasons for agreeing or disagreeing.
- Do you know any other short formulas which express the basic idea of human rights?

3. “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.”

United Nations, Universal Declaration of Human Rights, 1948

- Do you agree with this statement? Explain your reasons for agreeing or disagreeing.
- Can you think of any other ‘foundations’ of freedom, justice and peace?

4. “The aim of every political association is the preservation of the natural and inalienable rights of man. These rights are liberty, property, security and resistance to oppression.”

French Declaration of the Rights of Man and of the Citizen, Article 2, 1789

- Is this concept of the aims of the state still relevant today?
- What other state aims can you think of?

5. “There is too much talk about rights nowadays. People have forgotten about the duties they owe to each other and society.”

- Do you agree with this statement? Explain your reasons for agreeing or disagreeing.
- What is the relationship between rights and obligations?



Briefing notes

These Briefing notes provide useful information for completing the handout questions and guiding training discussions on the basics of human rights, structured as follows:

1. What are human rights?
2. What types of human rights are there?
3. What do human rights do?
4. What obligations exist under human rights?
5. Where are human rights embodied in law and how are they monitored?

1. What are human rights?

Universal Declaration of Human Rights Article 1

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

For centuries, the fundamental principles behind human rights have been explored by various philosophies and religions around the world. One of the central philosophical questions behind human rights is:

How should we treat one another?

The Golden Rule is an ancient ethical principle that answers this question and guides people's behaviour: "Treat others the way you would like to be treated". Different formulations of the Golden Rule are found in the world's major religions and ethical systems.

Human rights are, in many ways, the modern, more detailed formulation of the Golden Rule. Human rights principles are built on the idea that all human beings have inherent human dignity. Everyone must therefore refrain from infringing upon that dignity. Everyone must also act to protect the human dignity of others and of themselves. In addition to dignity, human rights also encompass the ideas of freedom, justice, equality and solidarity.

Training tip: Using the Golden Rule

Discussing the Golden Rule in the context of human rights can bring forth sensitive topics and challenging questions, particularly with respect to religious issues. Try to anticipate and prepare for such comments and questions so you can handle them calmly and professionally.

2. What types of human rights are there?

Universal Declaration of Human Rights

Preamble

[...] 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.

Human rights can be expressed through values, laws and policies. Human dignity, freedom, equality and solidarity are concepts that form the foundation of human rights (Article 1 of the Universal Declaration of Human Rights). These concepts find concrete expression in a number of specific human rights enshrined in state constitutions and in regional and international human rights instruments.

Human rights cover many areas of life and are often grouped in the following categories:

Civil and political rights

- right to life
- prohibition of torture
- prohibition of slavery
- right to personal liberty and security
- right to a fair trial
- right to private and family life
- freedom of conscience and religion
- freedom of expression
- freedom of association and assembly
- freedom of movement
- right to vote
- equal access to public service
- right to form a political party
- right to petition
- right to property (also seen in part as an economic and social right)

Economic, social and cultural rights

- right to work and free choice of employment
- right to just and favourable conditions of work
- right to form trade unions
- right to social security
- right to an adequate standard of living
- right to health
- right to education
- right to take part in cultural life and to enjoy the benefits of scientific progress

Solidarity/collective rights

- rights of peoples to self-determination
- rights of minorities and indigenous peoples
- right to development

Equality and non-discrimination

- right to equality and non-discrimination is both a substantive right and a principle according to which all human rights are to be guaranteed without any discrimination.



Training tip: Presenting the entire range of human rights

When discussing the different categories of human rights, it is useful to present the entire range of human rights. By looking at the whole spectrum, participants may be better able to see how certain rights, like economic and social rights, are relevant to them as rights holders. It will also highlight that human rights are a pillar of modern society but that some marginalised groups do not yet enjoy all human rights.

3. What do human rights do?

“The idea of human rights is as simple as it is powerful: treating people with dignity.”

John Ruggie, UN Special Rapporteur on Business and Human Rights, UN Doc A/HRC UN Guiding Principles on Business and Human Rights

“Human rights are those fundamental rights which empower human beings to shape their lives in accordance with liberty, equality and respect for human dignity.”

Manfred Nowak, former UN Special Rapporteur on Torture (2003), Introduction to the International Human Rights Regime, Leiden, Boston, Martinus Nijhoff Publishers, p. 1

Human rights, which entail both rights and obligations, create an environment in which all people can live in dignity. Human rights confer different rights and obligations on individuals and on states.

For individuals, human rights:

- help to create the conditions for the fulfilment of their fundamental needs;
- secure core human values such as life, physical and psychological integrity, freedom, security, dignity and equality against abuse by the state and against abuse by other people;
- protect against and help remedy exclusion and marginalisation through access to social services, such as education and healthcare;
- provide a balancing mechanism and conflict resolution device when legitimate interests clash (the rights and freedom of an individual end where the rights and freedom of another begin);
- help enable people to arrive at concrete legal and moral judgments with regard to difficult real-life situations.

For states, human rights:

- regulate how states and societies interact with people by providing ground rules for how states and societies should function;
- specify the state’s responsibilities to respect and protect individuals;
- help to guide states in creating laws to regulate individual and collective action and establish relevant, impartial judicial organs to decide on (legal) conflicts and execute laws;
- form a basis for freedom, justice and peace in society.

For police officers, human rights:

- help police officers to decide what is permissible or forbidden;
- help shape internal policing organisational structures;
- specify police officers’ duties as representatives of the state, to respect and protect individuals;
- secure core human values for police officers who are also rights holders.

In order for human rights to be fully realised, individuals must respect rights and states have the obligation to both respect and protect rights. The obligations to respect and protect are fundamental to the human rights system.

Training tip: Addressing questions and issues that may arise

- What is dignity?
- Examples of situations where it is easy/not easy to treat someone with dignity
- Factors that enhance or diminish dignity
- Do human rights answer the ancient question of how we should treat one another?
- “Human rights are only a Western idea. Other cultures have other values. We should not impose our concept on other peoples.”
- What are basic human needs?
- What is the function of a state?
- “If a person has not fulfilled his/her duties towards society, why shouldn’t – in return – his/her rights be taken away?”

4. What obligations exist under human rights?

**Charter of Fundamental Rights of the European Union
Article 1**

Human dignity is inviolable. It must be respected and protected.

Individual obligations

Individuals must respect one another’s rights. The freedom and rights of one person end where the freedom and rights of another person begin. All human rights, regardless of category, are indivisible and interdependent, which means that realising one right is an essential condition for, or is instrumental to, realising other rights. This concept is also applicable to state obligations.

State obligations

States are obligated both to refrain from limiting human rights unduly (obligation to respect) and to act to secure human rights (obligation to protect). Human beings are rights holders and the state, including the judiciary, executive and legislative branches, are the corresponding duty bearers. Without the obligations to respect and protect, the rights categorised in this module’s Briefing notes would be meaningless.

All state powers are bound by these two basic obligations:*

- **Obligation to respect:** The state must refrain from illegal and disproportionate actions. Unjustified interferences with human rights constitute human rights violations.
- **Obligation to protect:** The state is obliged to take administrative, legislative and/or judicial action to protect human rights in order to ensure that people can fully enjoy their rights. Failure to take appropriate steps constitutes human rights violations.

*Note: The UN human rights system has elaborated the so-called triad of obligations to respect, protect and fulfil. For simplicity, this system is not used here in the policing context.

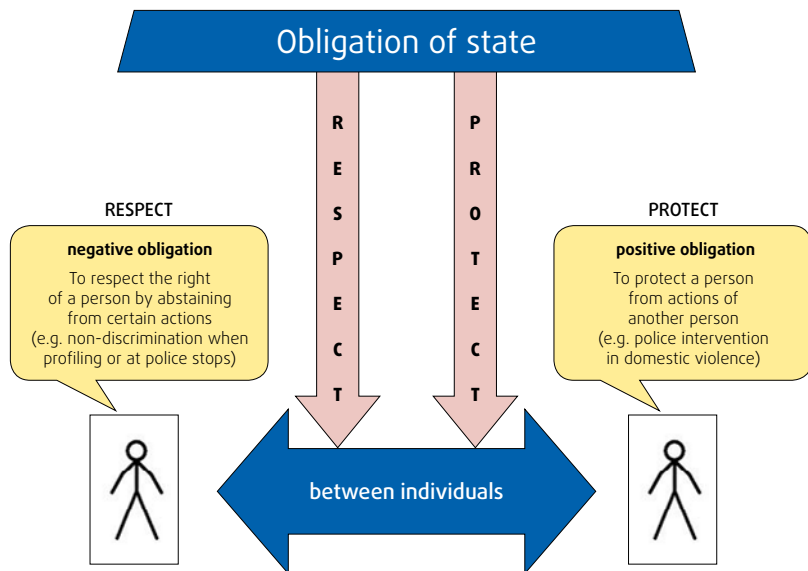
Police obligations

The obligations to respect and to protect human rights also extend to police officers as they are authorities appointed by the state.



Police officers’ obligation to respect

The police have the obligation to respect human rights. This means police officers must not arbitrarily, or without justification, interfere with the human rights of individuals.



Respecting human rights: necessity and proportionality

When a police officer arrests a suspect, he or she interferes with that suspect’s human right to personal liberty and security enshrined in Article 5 of the European Convention on Human Rights (ECHR). The interference with this human right may be justified in order to protect the rights of others or to enforce the law. If the police officer acts, however, without a justifiable legal basis, a legitimate aim or fails to respect the principles of necessity and proportionality, then the police officer is violating the suspect’s human right to liberty under that article.

Table 1.1: Obligation to respect: examples in policing

Human rights and the corresponding obligation to respect	
For the right to...	Police should refrain from...
Life	• using excessive lethal force
Freedom from torture and other ill-treatment	• using force during interviews • using excessive force when countering physical resistance
Personal liberty and security	• arresting or detaining a person without legal grounds
Private life	• entering a private home without proper justification, such as a search warrant
Peaceful assembly	• prohibiting an assembly without proper justification • using excessive force in managing and/or dispersing a demonstration

Source: FRA, 2013

Police officers’ obligation to protect

Police officers also have the obligation to protect human rights, requiring them to take concrete measures at the organisational and operational level to guarantee enjoyment of human rights. This means

an obligation to protect human rights against any threats, including in relations between individuals, the so-called ‘horizontal’ level. In cases of domestic violence, for example, police have the obligation to take concrete measures to protect the right to life and the right to physical integrity and security of the victim. If the police fail to protect an endangered person without proper justification, this failure amounts to a human rights violation. This obligation also requires police to properly investigate any claims that the right to life or the right to physical integrity has been violated, no matter who the perpetrator might be.

Table 1.2: Obligation to protect: examples in policing

Human rights and the corresponding obligation to protect	
For the right to...	Police should...
Life	• take appropriate action in the case of a credible threat to life and physical integrity
Prohibition of torture and other ill-treatment	• take appropriate action in the case of domestic violence
Personal liberty Fair trial	• inform the detainee of the reasons for arrest and charges against her or him
Peaceful assembly	• shape organisational arrangements and take adequate operative measures in order to protect peaceful protestors from attacks by others
Effective remedy	• promptly and impartially investigate allegations of human rights violations

Source: FRA, 2013

Similar to the traditionally stronger focus on civil and political rights, the public is much more aware of the state’s negative obligation to respect human rights – limitation of state action, the control of state powers, non-interference – than the positive obligation to protect.

5. Where are human rights embodied in law and how are they monitored?

“National Human Rights Institutions (NHRIs) play an important role in the human rights architecture at the national level, through, for example, monitoring compliance, conducting research, initiating preventive measures and awareness-raising.”

FRA (2010), National Human Rights Institutions in the EU Member States: Strengthening the fundamental rights architecture in the EU I, Luxembourg, Publications Office of the European Union (Publications Office), p. 7

“NHRIs also operate as hubs within countries, by linking actors, such as government agencies with civil society. By making these connections, NHRIs contribute to narrowing the ‘implementation gap’ between international standards and concrete measures. NHRIs also help to ensure that the indivisibility and interdependence of the full spectrum of human rights is given effect.”

FRA (2010), National Human Rights Institutions in the EU Member States: Strengthening the fundamental rights architecture in the EU I, Publications Office, p. 8

Law plays a fundamental role in human rights. Human rights were first laid down at the national level, and since World War II, human rights have systematically been included in international law. International human rights treaties typically contain an article that stipulates the obligations of states with regard to human rights. The case law of international human rights bodies, including the European



Court of Human Rights (ECtHR), has helped define these rights more concretely. Through development at the United Nations (UN) and at regional levels, there is now a comprehensive set of international human rights standards applicable to many areas of life.

Human rights standards at the regional European level are particularly relevant for this training module. These standards include both UN and European treaties, which coexist and are equally applicable to those European states that have ratified them. According to a well-established principle of international law, where several norms are applicable to the same situation, the norms most favourable to the individual are applied.

Here are two lists of some international treaties and other human rights instruments that contain human rights standards. The first is of general relevance and the second of more specific relevance to policing:

Relevant international human rights instruments – general

- Universal Declaration of Human Rights (1948)
- International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- UN Convention on the Elimination of All Forms of Discrimination against Women (1979)
- UN Convention on the Rights of the Child (1989)
- UN Convention on the Rights of Persons with Disabilities (2006)
- European Convention on Human Rights (1950)
- European Social Charter (1961)
- Charter of Fundamental Rights of the European Union (2000)

Relevant international human rights instruments – police-specific

- UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2002)
- International Convention for the Protection of All Persons from Enforced Disappearance (2006)
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987)
- UN Code of Conduct for Law Enforcement Officials (1979)
- UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)
- UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)
- Council of Europe Declaration on the Police (1979)
- Council of Europe European Code of Police Ethics (2001)

Human rights mechanisms

There are mechanisms in place at the national, European and international levels that help to monitor and regulate human rights.

Human rights protection begins at the national level. It is only when national systems fail to work properly or to remedy human rights violations that international mechanisms for human rights protection kick in.

There are also several international mechanisms for the promotion and protection of human rights. These mechanisms have an increasing influence on laws and practices within states. Their jurisprudence and recommendations have led, in many European countries, to legal and institutional reforms, including reforms within the police.

There are also global level mechanisms like the Universal Periodic Review, under which the UN Human Rights Council assesses the human rights adherence of each UN member state every four years.

The following lists human rights mechanisms at national, European and international levels, including police-related bodies:

National-level human rights mechanisms

- Police, for their specific role, see Module 2
- Courts, including constitutional courts
- Ombudspersons or National Human Rights Commissions
- Parliament, including parliamentary bodies specifically tasked with monitoring human rights
- Monitoring mechanisms of detention places, including National Preventive Mechanisms under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- National equality and non-discrimination bodies
- Non-governmental organisations
- Media
- Trade unions
- Professional groups

European-level human rights mechanisms

- Court of Justice of the European Union (CJEU)
- European Court of Human Rights (ECtHR)
- Council of Europe European Committee for the Prevention of Torture
- European Commission against Racism and Intolerance (ECRI)
- Non-governmental organisations

International-level human rights mechanisms

- UN Human Rights Committee
- UN Human Rights Council
- Committee against Torture
- Sub-Committee on Prevention of Torture
- National Preventive Mechanisms
- Committee on the Elimination of Racial Discrimination
- Committee on the Elimination of Discrimination against Women
- Non-governmental organisations

Police-related bodies in Europe

- European Judicial Cooperation Unit (Eurojust)
- European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)
- European Police College (Cepol)
- European Police Office (Europol)



Supplementary material

This section explores the philosophical roots and development of human rights, before providing more information on current human rights mechanisms. It begins by expanding on the discussion of the Golden Rule in this Module's Briefing notes, adding a description of the evolution of human rights from their origins in the European Enlightenment through to more modern developments. It follows up with a discussion of one of the more controversial of human rights topics, their universality, and provides the trainer with evidence and arguments that support the concept of universality.

The second part is devoted to practical information. It provides details on current human rights mechanisms, both at European and international levels. It also describes key non-governmental organisation actors and police-related bodies in Europe.

The Golden rule and the evolution of human rights

The Golden Rule is present across many different cultural contexts:

- "Refrain from doing what we blame in others." (Thales of Miletus)
- "Do nothing to others which, if done to you, would cause you pain: this is the sum of duty." (Hinduism)
- "What is hateful to you, do not to your fellow man. That is the entire law; all the rest is commentary." (Judaism)
- "Do unto others as you would have them do unto you." (Christianity)
- "No one of you is a believer until he desires for his brother that which he desires for himself." (Islam)
- "Hurt not others in ways that you yourself would find hurtful." (Buddhism).
- "What you do not want done to yourself, do not do to others." (Confucius)
- "Act only according to that maxim whereby you can, at the same time, will that it should become a universal law." (Immanuel Kant)

The European Enlightenment and human rights

Drawing on ancient Greek philosophy, European Enlightenment philosophers examined the absolute freedom of human beings in a 'state of nature'. How then should any state institution legitimately require them to behave in a certain way? This tension between (state) coercion and (human) freedom concerned many thinkers during the European Enlightenment. In the words of scholar John Locke (1632–1749): "Without the constraining power of government we would find the exercise of our sovereignty 'uncertain,' because of the absence of guarantees that others will always respect the moral boundaries required by our status as rational, independent, and therefore sovereign creatures." But Locke believed that there was an obvious way in which we can secure our fundamental interests, and that is to cede some of our powers to people whom we

specifically charge with protecting these interests and vesting them with the authority to ensure we are protected. “The authority that we vest in such representatives will be legitimate only so long as they continue to act in good faith and on our behalf.”² This social contract theory provides the moral basis of the modern liberal state, including a state institution with powers vested in police. Locke also outlined what is needed for achieving the “preservation of life, liberty and property”: a legislature, a judiciary and an executive branch. Later, Charles de Montesquieu (1689–1755) elaborated the basic concept of the separation of state powers and Jean-Jacques Rousseau (1712–1778) stressed the democratic element of states. This helped lay the theoretical foundations of the modern state and inspired a revolutionary process, first in the United States (1776) and in France (1779), followed by most European countries.

This process has continued in modern times. Human rights developed as part of political ethics, with discussions centring on the legitimacy of the state and its use of power, including physical force, to restrict individual freedom.

Social movements took up related ethical and political claims, inspiring revolutionaries to overthrow absolutist and repressive regimes. After successful revolutions, human rights were integrated into national law, mainly in state constitutions. This process of codification gave strength and legitimacy to the ethical claims and to the state’s use of physical force.

The women’s rights movement is an obvious example of this development. Starting with Mary Wollstonecraft’s *A vindication of the rights of women* (1792) and French revolutionary Olympe de Gouge’s *Declaration on the rights of women and of the female citizen* (1793), it has a long and on-going history of translating ethical/political claims into law and its practice.

Another example is anti-discrimination and lesbian, gay, bisexual and transgender people (LGBT) movements, which have pushed for the state to adopt measures to protect the rights of vulnerable or marginalised persons within society, taking up issues such as same-sex marriage or discrimination in access to employment and/or housing.

Particularly in light of this evolution, it is important to remember that knowledge of the law alone is not sufficient to implement human rights. Sustainable achievement of human rights requires an appropriate moral attitude that relies not only on external sanctions but also on inner conviction.

Factors other than social or revolutionary movements have also played a role in shaping human rights as they exist today. International human rights courts’ judgments since the 1980s, for example, provide guidance on how human rights laws should be applied. Court decisions have addressed many human rights, for example, in relation to: the right to life (death threats by unknown persons); freedom from torture and other ill-treatment (parents’ violence against children); or the right to freedom of assembly (protection of demonstrations against counter-demonstrations).

The human rights challenges stemming from civil wars, particularly those in former Yugoslavia, have also thrown into sharp relief the dangers of excessive state action and the civilian abuses of one group against another, in which police often stood by without taking action.

2. Kleinig, J. (2008), *Ethics and criminal justice: an introduction*, New York, Cambridge University Press, p. 10.



The Council of Europe was at the forefront of promoting an understanding of human rights in the policing context through a series of initiatives in the 1990s. These included a seminar in 1995 on 'Human rights and the Police' and the subsequent establishment of a programme called 'Police and human rights 1997–2000'.

Human rights 'generations'

Human rights have evolved over time to become a comprehensive set of rights covering a range of areas. Reflecting this historical evolution, human rights are often categorised in 'three generations':

- first generation: civil and political rights;
- second generation: economic, social and cultural rights;
- third generation: solidarity and collective rights.

Looking at certain human rights instruments established and developed at both the European and international levels helps illustrate the three generations of human rights:

- The European Convention on Human Rights of 1950, the oldest and most widely known human rights treaty in Europe, contains only civil and political rights (first generation), whereas its younger sister, the European Social Charter of 1961, contains economic and social rights (second generation).
- The two main UN human rights treaties make this division explicit: the International Covenant on Civil and Political Rights (first generation) and the International Covenant on Economic, Social and Cultural Rights (second generation).
- The Charter of Fundamental Rights of the European Union is the first legally binding instrument to explicitly contain all dimensions of human rights, which reflects its relative youth as a legal instrument.

Certain principles and protections have over time been woven into the fabric of these three generations of human rights. They include the principle of indivisibility and the interdependence of democracy, economic development, protection of women's, children's and minority rights. Together, the three generations of rights embody a holistic approach to human rights.³

Universalism v. cultural relativism

"Some foreigners do not share our values, not even the values of human rights. Look how they treat women", or "Let's be honest. Human rights originate in the West, other cultures do not have them".

Statements such as these come up regularly in police training. They are related to the issue of human rights' universality, which has been one of the most hotly debated questions in the field of human rights.

The following points have proven useful in these discussions:

- "The universal nature of these rights is beyond doubt," said the UN member states present at the Second UN World Conference on Human Rights in 1993. This affirmation of universality came after long debates, in particular between western and Asian governments. But the same document added: *"While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."*

Vienna Declaration and Programme of Action, 1993, paragraph 5

3. United Nations (UN), General Assembly (1993), *Vienna Declaration and Programme of Action*, UN Doc. A/CONF.157/23, 12 July 1993.

China's Sui dynasty abolished torture in the 6th century for almost the same reasons as in Europe during the era of enlightenment – more than a thousand years later.

Hersch, J. (ed.) (1969), *Birthright of man: a selection of texts*, Paris, UNESCO

Akbar, the Muslim Mogul of India from 1556–1605, introduced secular ideas and freedom of religion during his rule. He supported religious tolerance and made it a duty to make sure that “no man should be interfered with on account of religion and anyone could go over to any religion that pleases him”.

Sen, A. (2006), *Identity and Violence: The Illusion of Destiny*, New York, London, Norton & Company, p. 64

- What does this mean? It means that universal rights must be interpreted and applied in a specific historical and cultural context. A similar approach can be found at the European level. The ECtHR, in applying the ECHR to concrete cases, leaves states what it calls a certain “margin of appreciation” to apply human rights according to their specific circumstances.
- The **Golden Rule**, which exists in some form or another across different cultural settings, provides a strong basis for the assumption of universality of some basic values and ethical claims.
- **Human rights values are found in different cultural settings.** Increasingly, historical and anthropological research testifies to this. In 1969, UNESCO published a collection of documents from across the world on human rights thinking, edited by the philosopher Jeanne Hersch, entitled: *Birthright of man*.⁴

Human rights actors and mechanisms

Non-governmental organisations

Non-governmental organisations, such as Amnesty International, play a fundamental role in protecting and promoting human rights. Their activism has contributed immensely to increased awareness and better reporting of human rights violations and to reform processes.

European human rights mechanisms

Court of Justice of the European Union (CJEU)

The status of the CJEU has changed considerably since the 2009 entry into force of the Treaty of Lisbon, which made the Charter of Fundamental Rights of the European Union legally binding for the EU and for EU Member States when implementing EU law. The CJEU, which is responsible for judgments on compliance with EU law, can now also look at adherence with the Charter of Fundamental Rights once Member States’ domestic legal remedies have been exhausted. The Council of the EU has established a working group on Fundamental Rights and Free Movement of Persons, which is working, among other tasks, on the EU’s accession to the ECHR.

European Court of Human Rights (ECtHR)

The European Court of Human Rights, the oldest and most influential international human rights mechanism in Europe, is tasked with supervising the implementation of the ECHR. Those who believe a state party to the ECHR has violated their human rights can lodge a complaint with the court, which was set up in Strasbourg in 1959 and started operating full-time in 1998. Although many applications are found inadmissible, the court deals with a large volume of cases. In 2010, 61,300 such applications were allocated to be heard. Also that year, the ECtHR delivered 2,607 judgments, finding a violation in about half. Some 200,000 applications are currently pending.⁵

States can also bring cases against other states. The ECtHR’s decisions are binding on the state, and its case law has strongly influenced European law and practice. The courts’ rulings have had the most effect on police law and practice, and more generally, on the administration of justice. The court has made a significant contribution to a contemporary understanding of human rights; the court’s rulings are the first port of call if one wishes to learn how a particular human rights provision is interpreted in the European context. The case studies in this manual are therefore drawn from the ECtHR’s practice.

4. Hersch, J. (ed.) (1969), *Birthright of man: a selection of texts*, Paris, UNESCO.

5. For more information on statistical data, see the ECtHR webpage: www.echr.coe.int/ECHR/EN/Header/Reports+and+Statistics/Statistics/Statistical+data/.



For more information, see: www.echr.coe.int/echr/homepage_EN.

Court cases can be found at: www.echr.coe.int/ECHR/EN/hudoc.

Council of Europe, European Committee for the Prevention of Torture (CPT)

The task of the CPT, which was set up under the European Convention for the Prevention of Torture, is to visit European places of detention and assess how persons deprived of their liberty are treated. These places include prisons, juvenile detention centres, police stations, holding centres for immigration detainees, psychiatric hospitals and social care homes. CPT delegations have unlimited access to places of detention, and the right to move around them freely, without restriction. They hold private interviews with persons deprived of their liberty and are authorised to communicate freely with anyone who can provide information. After the visit, the CPT draws up a report on its findings and issues recommendations to the authorities with a view to strengthening the protection of detainees against torture and other forms of ill-treatment. Its reports are, with the consent of the state concerned, published. The CPT has greatly contributed to increasing awareness of human rights problems in places of detention and has led to reforms in many countries.

For more information, including its reports, see: <http://www.cpt.coe.int/en/>.

Council of Europe, European Commission against Racism and Intolerance (ECRI)

ECRI monitors, from a perspective of human rights protection, problems of: racism, discrimination on grounds of ethnic origin, citizenship, colour, religion and language, as well as xenophobia, antisemitism and intolerance. Established by a decision in 1993 and composed of independent experts, its mandate covers: country-by-country monitoring; general policy recommendations; and information and communication activities with civil society. ECRI prepares reports and issues recommendations to Council of Europe member states. ECRI has dealt with the field of policing in the context of country monitoring and in General Policy Recommendation No. 11.

For more information, see: www.coe.int/t/dghl/monitoring/ecri/default_en.asp.

International human rights mechanisms

UN Human Rights Committee

The Human Rights Committee is a UN body of independent experts which monitors the implementation of the International Covenant on Civil and Political Rights (ICCPR). Its main task is to examine state parties' reports that they are obliged to submit on a regular basis on the implementation of rights. In its concluding observations, the committee addresses its concerns and recommendations to the state party. It also considers individual complaints of alleged state violations of the ICCPR and issues (non-binding) decisions. As is the case with the ECtHR in Europe, the Human Rights Committee is a main source for learning what UN human rights provisions mean in concrete terms. In addition to concrete cases, the committee also issues its interpretation of the content of human rights provisions, in the form of General Comments.

For more information, see: www2.ohchr.org/english/bodies/hrc/.

UN Human Rights Council

The UN Human Rights Council is a UN Charter-based body responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of gross and systematic human rights violations. The Council is made up of 47 UN member states which are elected by the UN General Assembly every three years. The Human Rights Council carries out the Universal Periodic Review, which serves to assess the human rights situation in all UN member states in four-year cycles. The UN Special Procedures (special rapporteurs, special representatives, independent experts and working groups) also operate under the Human Rights Council, and are tasked with monitoring, examining and publicly reporting on thematic issues or human rights situations in specific countries.

For more information, see: www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx.

Committee against Torture

The Committee against Torture is a UN body of independent experts which monitors the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Its functions are similar to those of the Human Rights Council. In addition, it has a mandate to examine country situations in-depth, through its inquiry procedure. Its practice, including case law, is important for understanding what exactly torture and other ill-treatment mean.

For more information, see: www2.ohchr.org/english/bodies/cat/index.htm.

Sub-Committee on the Prevention of Torture

The Sub-Committee on the Prevention of Torture (SPT) was set up by the Optional Protocol to the UN Convention against Torture (OPCAT). Its tasks are similar to those of the CPT: to visit European places of detention to assess how persons deprived of their liberty are treated and to draw up reports and make recommendations to states on how to improve protection against torture.

National Preventive Mechanisms

OPCAT obliges states to establish National Preventive Mechanisms, a major added value compared to the CPT. As the name suggests, they are set up at the national level and have basically the same task as the SPT. In the concrete field of policing, the National Preventive Mechanisms are the most relevant monitoring institution.

For more information regarding the OPCAT, see: www2.ohchr.org/english/bodies/cat/opcat/index.htm.

Association for the prevention of torture, available at: www.ap.t.ch/en/.
FRA (2010), *National Human Rights Institutions in the EU Member States: Strengthening the fundamental rights architecture in the EU I*, Publications Office, available at: http://fra.europa.eu/sites/default/files/fra_uploads/816-NHRI_en.pdf.

Committee on the Elimination of Racial Discrimination

The Committee on the Elimination of Racial Discrimination is the UN body of independent experts which monitors implementation of the Convention on the Elimination of all Forms of Racial Discrimination. Its functions are similar to those of the Human Rights Council.

For more information, see: www2.ohchr.org/english/bodies/cerd/index.htm.



Committee on the Elimination of Discrimination against Women

The Committee on the Elimination of Discrimination against Women is the UN body of independent experts which monitors implementation of the Convention on the Elimination of All Forms of Discrimination Against Women. Its functions are similar to those of the Human Rights Council. Within its inquiry procedure, it also has a mandate to provide in-depth country examinations.

For more information, see: www2.ohchr.org/english/bodies/cedaw/.

Further reading

UN, Office of the United Nations High Commissioner for Human Rights (OHCHR) (2002), *Human Rights and Law Enforcement: A Trainer's Guide on Human Rights for the Police*, New York and Geneva, United Nations, pp. 25–35, available at: www.ohchr.org/Documents/Publications/training5Add2en.pdf.

Police-related bodies in Europe

European Police Office (Europol)

Europol⁶ assists national law enforcement authorities in the EU-27 in combating serious forms of organised crime while seeking to ensure respect for human rights. Europol holds expert training courses for police officers, for example on trafficking, cybercrime, combating the sexual exploitation of children on the internet, all of which have significant human rights dimensions. Europol's main mandate is to introduce standards in investigations and to foster the operational cooperation of national law enforcement agencies.

European Police College (Cepol)

Cepol⁷ aims to encourage cross-border cooperation in the fight against crime, public security and law and order by bringing together senior police officers from across European police forces to network, organising training activities and through research findings. Cepol is the EU agency mandated to work specifically on police training. The annual work programme 2011⁸ refers to training on ethics, the Stockholm Programme⁹ and the five-year EU guidelines for Member States on justice and home affairs, as focus areas for training activities. Cepol develops common core curricula of an advisory nature to EU Member States. It is currently developing further curricula on trafficking in human beings, domestic violence and ethics.

European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)

Frontex¹⁰ is the EU's specialist independent agency tasked with coordinating Member States' operational cooperation in the field of border security. Frontex complements the national border management systems of the EU Member States and coordinates joint operations between EU Member States and other partners with the aim of strengthening external border security. Frontex designs these joint operations based on risk analysis drawn from the intelligence it collects. Like Cepol, Frontex's mandate also requires it to establish common core curricula and common training standards for border guards. Frontex conducts research on technical and non-technical (such as ethics) border-related issues. Frontex also has an expanding role in the coordination of joint return operations, both of a voluntary and forced nature.

6. For more information on Europol, see: www.europol.europa.eu/.

7. Council of the European Union (2005), Council Decision of 20 September 2005 (2005/681/JHA) on establishing the European Police College (Cepol) and repealing Decision 2000/820/JHA, OJ 2005 L 256.

8. For more information on Cepol, see: www.cepol.europa.eu/.

9. European Council (2010), The Stockholm Programme – an open and secure Europe serving and protecting citizens, OJ 2010 C115.

10. Regulation (EU) No. 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No. 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ 2004 L 349. For more information on Frontex, see: www.frontex.europa.eu/.

European Union's Judicial Cooperation Unit (Eurojust)

The EU's judicial cooperation body, Eurojust,¹¹ aims to help provide safety within the area of freedom, justice and security, especially in relation to cross-border and organised crime. Eurojust provides training for judges.

Further reading

The Danish Institute for Human Rights, 'Are human rights universal?', online article, available at: www.humanrights.dk/human+rights/history+and+documents/are+human+rights+universal-c7-.

European Training and Research Centre for Human Rights and Democracy Graz (2013), 'Introduction to the system of human rights' in: Bendek, W. (ed.), *Understanding Human Rights – Manual on Human Rights Education*, 3rd edition, pp. 29–36, available at: www.etc-graz.at/typo3/index.php?id=818.

United Nations (UN), OHCHR (1997), *Human Rights and Law Enforcement: A Trainer's Guide on Human Rights for the Police*, in *Professional training series no. 5*, United Nations High Commissioner for Human Rights, New York and Geneva, United Nations, pp. 13–28, including model slides, available at: <http://www.unrol.org/doc.aspx?d=2571>.

Organization for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights (ODIHR) (2012), *Guidelines on Human Rights Education for Law Enforcement Officials*, Warsaw, OSCE/ODIHR, available at: www.osce.org/odihr/93968.

11. For more information on Eurojust, see: www.eurojust.europa.eu/.

