

# KEY HUMAN RIGHTS LEGISLATION

UWC COSTA RICA



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# INTRODUCTION

This resource provides a brief overview - and links to further sources of information - for **some** of the key human rights treaties that underpin the current global human rights regime.

It is important to realise that:

- You will need to conduct further research on each of the treaties discussed here. This is meant to be a starting point rather than anything else
- 
- Not all of the treaties can be covered in a resource intended to be as concise as this one. For example, there is no discussion of the Cairo Declaration on Human Rights in Islam (1990). It is up to you - based on your further reading in either Pearson, Kirsch or Heywood to explore additional treaties as relevant.

# UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948)



Click the image to access a copy of the UDHR



Click here to watch a video of people worldwide reading the UDHR in 80 different languages. What is the significance of the fact it is being read out in so many languages?

## THE BASICS

The UDHR was adopted by the UN in 1948 and, in the words of former Secretary General Ban-Ki Moon, is a landmark document in the field of human rights because - for the first time - there was a document that set out the rights and freedoms to which every human being is equally and inalienably entitled.

The Declaration consists of 30 articles setting out an individual's rights although it is very important to remember that the UDHR is not binding on UN member states. However, many of the rights set out in the Declaration have subsequently been incorporated into subsequent treaties, instruments and national constitutions amongst others.

'The Declaration was the first step in the process of formulating the International Bill of Human Rights, which was completed in 1966, and came into force in 1976, after a sufficient number of countries had ratified them' [1]

## THE LEGAL STUFF

If the UDHR is a Declaration rather than a binding treaty, why is it so important?

The United Charter, developed after WWII - and which is binding on all UN member states - "reaffirmed faith in fundamental human rights, and dignity and worth of the human person" and committed all member states to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".

However, when the scale of human rights abuses committed by Nazi Germany in the Holocaust became clearer, the consensus was that the human rights referred to in the UN Charter were not sufficiently defined for this purpose, hence the drafting of the UDHR in order to adequately define them.

We can see then, that the UDHR is a fundamental document that underpins the whole idea behind the UN. Additionally, some scholars have suggested that the UDHR should now be considered part of customary international law and, as such, is an effective method of applying pressure to states that violate the articles in the Declaration.

Whilst the Declaration itself is not legally binding, it forms the basis of both the International Covenant on Civil and Political Rights (1966) and International Covenant on Economic, Social and Cultural Rights (1966) which are legally binding.

Furthermore, we can see that the Declaration is cited widely by both state governments, academics and judicial authorities, as well as individuals worldwide.

### Customary Law

The International Court of Justice Statute defines customary international law "a general practice accepted as law"

This is generally determined through two factors:

- the general practice of states
- what states have accepted as law

## POSITIVE RESPONSES

"...one of the highest expressions of the human conscience of our time" - Pope John Paul II

"[it]...placed human rights at the centre of the framework of principles and obligations shaping relations within the international community" - Marcello Spatafora (Italian UN Representative speaking on behalf of the EU).

## CRITICAL RESPONSES

Representatives from some Muslim countries have criticised the UDHR for being too western-centric. Saudi Arabia, for instance, claimed that the Declaration violated sharia law and therefore abstained from the ratification vote. Additionally, the Iranian government argued that the ' "Declaration was "a secular understanding of the Judeo-Christian tradition", which could not be implemented by Muslims without conflict with Sharia' [2]

However, it is important to note that not all Muslim majority states criticised the Declaration on these grounds. Turkey is a good example, signing the Declaration in 1948.

The Cairo Declaration on Human Rights in Islam (2000) was widely seen as an attempt by many Muslim states to resolve this contradiction.

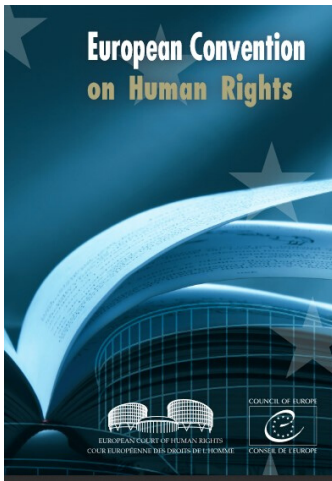
The UDHR can also be criticised on the grounds of it being a very much a product of its time. Some, such as former UN Assistant Secretary General, Sean MacBride, have advocated for the addition of the 'right to refuse to kill' to be included in the Declaration.

Additionally, the Declaration makes no mention of LGBTQ+ rights which may be considered problematic in the twenty first century world.

The American Anthropological Association have argued that the Declaration 'defines universal rights from a Western paradigm which is unfair to countries outside of that scope. They further argued that the West's history of colonialism and evangelism made them a problematic moral representative for the rest of the world' [3]. This is key to the debate between universal and relativist positions. As the AAA state, 'The individual realizes his personality through his culture, hence respect for individual differences entails a respect for cultural differences'.

[2][https://en.wikipedia.org/wiki/Universal\\_Declaration\\_of\\_Human\\_Rights](https://en.wikipedia.org/wiki/Universal_Declaration_of_Human_Rights)  
[3][https://en.wikipedia.org/wiki/Universal\\_Declaration\\_of\\_Human\\_Rights](https://en.wikipedia.org/wiki/Universal_Declaration_of_Human_Rights)

# EUROPEAN CONVENTION ON HUMAN RIGHTS (1950)



*Click the image to access a copy of the ECHR*



*Video produced by the European Court of Human Rights discussing the rights laid out in the ECHR*

## The Basics

The European Convention on Human Rights is significant as the first regional agreement on human rights. It was drafted in 1950 by the Council of Europe, entering into force in 1953. All Council members are party to the convention.

### Council of Europe

The Council of Europe is an international organisation whose stated aim is to uphold human rights, democracy and the rule of law in Europe.

- Founded in 1949
- 47 member states, with a population of approximately 820 million
- Annual budget of approximately 500 million euros

The organisation is distinct from the 28-nation European Union (EU), although it is sometimes confused with it

The Convention guarantees specific rights and freedoms and prohibits unfair and harmful practices.

- the right to life (Article 2)
- freedom from torture (Article 3)
- freedom from slavery (Article 4)
- the right to liberty (Article 5)
- the right to a fair trial (Article 6)
- the right not to be punished for something that wasn't against the law at the time (Article 7)
- the right to respect for family and private life (Article 8)
- freedom of thought, conscience and religion (Article 9)
- freedom of expression (Article 10)
- freedom of assembly (Article 11)
- the right to marry and start a family (Article 12)
- the right not to be discriminated against in respect of these rights (Article 14)
- the right to protection of property (Protocol 1, Article 1)
- the right to education (Protocol 1, Article 2)
- the right to participate in free elections (Protocol 1, Article 3)
- the abolition of the death penalty (Protocol 13)



## **Enforcement and Implementation**

The European Court of Human Rights (ECtHR) was set up by the Convention and is based in Strasbourg.

The role of the court is to hear applications alleging that a contracting state has breached one or more of the human rights provisions concerning civil and political rights set out in the convention and its protocols. An application can be lodged by an individual, a group of individuals, or one or more of the other contracting states. Aside from judgments, the court can also issue advisory opinions. [4]

[4] [https://en.wikipedia.org/wiki/European\\_Court\\_of\\_Human\\_Rights](https://en.wikipedia.org/wiki/European_Court_of_Human_Rights)

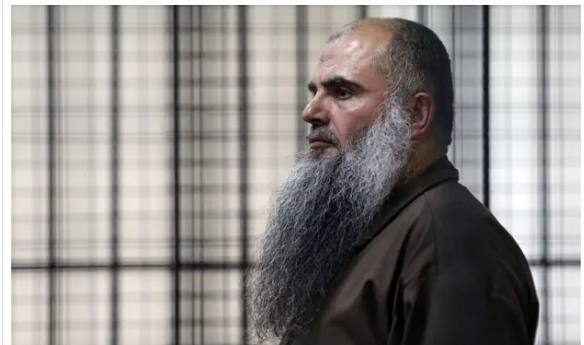
## Criticisms

The European Court of Human Rights - as the body charged with interpreting the Convention - has been criticised for interfering too much with the sovereignty of member states. An interesting example can be seen in 2005 when the Court ruled in *Hirst v United Kingdom* that the UK should liberalise voting rights for serving prisoners. You can read more about the case - along with other examples - by clicking on the link to the Guardian below.

The Court has also been criticised for overstepping its original purpose. Bertrand Mathieu, a French specialist in constitutional law, argues that the ECtHR rulings are descending into illegitimacy because they unreasonably interfere in the field of politics, which is contrary to the principle that in a democracy it is up to the national legislators to define the general public interest, not to supranational judges [5]

### The European court of human rights' judgments that transformed British law

From curbing the British army's use of torture in Ireland to ending bans on homosexuality, the court has shaped UK law



▲ The radical Muslim cleric Abu Qatada, whose deportation was blocked by the ECHR until Jordan agreed not to use evidence obtained by torture. Photograph: Jordan Pix/Getty

It is also possible to criticise the ECtHR in terms of cultural relativism and argue that the Court is endangering the cultural rights of individual countries and their populations, though an interpretation of the notion of human rights which is in accordance to the court's judges' personal views, but which refuses to acknowledge the local conceptions of human rights, specific to the context of each country and its culture [6]

[5] [https://en.wikipedia.org/wiki/European\\_Court\\_of\\_Human\\_Rights](https://en.wikipedia.org/wiki/European_Court_of_Human_Rights)

[6] Lemmens, Koen (7 June 2016). "Criticising the European Court of Human Rights or Misunderstanding the Dynamics of Human Rights Protection?"



# INTERNATIONAL COVENANTS ON ECONOMIC AND SOCIAL RIGHTS; AND CIVIL AND POLITICAL RIGHTS (1966)

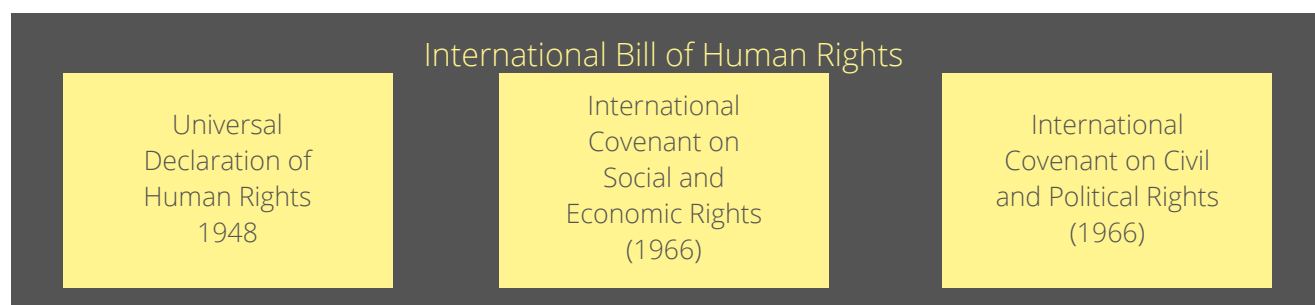
Together with the Universal Declaration of Human Rights, these two treaties - the ICESR and the ICCPR - form what is known as the International Bill of Human Rights, the foundation of our modern understanding of human rights in the international system.

## WHY two Covenants?

Initially, there was disagreement over the exact form the Bill of Rights should take and it was decided that there would be two documents. The first, in the form of a declaration, would set out general principles and aspirations. This became the UDHR. The second document would be a convention that defined specific rights and their limitations.

However, due to disagreements between governments regarding the relative importance of negative civil and political rights as opposed to positive economic and social rights, it was decided to split the convention into two covenants. One would contain civil and political rights and the other would contain economic and social rights.

The drafts of both were presented to the UN for discussion in 1954 and finally adopted in 1966.

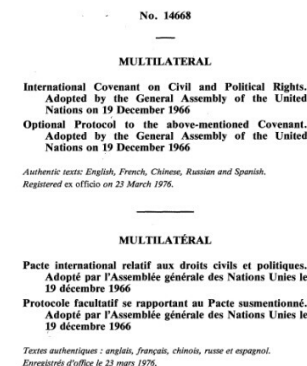


# INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966)

## Six parts

The ICCPR is made up of a preamble and 53 articles which are grouped into six different parts:

- Part 1: Recognizes the right of people to self-determination
- Part 2: Obligates parties to legislate, if necessary, to give effect to the rights in the ICCPR
- Part 3: This section lists the rights themselves
- Part 4: Related to the Human Rights Committee and the way in which the Covenant will be monitored and implemented
- Part 5: Clarifies that the Covenant shall not be interpreted as interfering with the operation of the United Nations or "the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources"
- Part 6: Governs ratification, entry into force, and amendment of the Covenant.



*Click the image to access a copy of the ICCPR*

## The Rights:

- physical integrity, in the form of the right to life and freedom from torture and slavery (Articles 6, 7, and 8)
- liberty and security of the person, in the form of freedom from arbitrary arrest and detention and the right to habeas corpus (Articles 9 – 11)
- procedural fairness in law, in the form of rights to due process, a fair and impartial trial, the presumption of innocence, and recognition as a person before the law (Articles 14, 15, and 16)

- individual liberty, in the form of the freedoms of movement, thought, conscience and religion, speech, association and assembly, family rights, the right to a nationality, and the right to privacy (Articles 12, 13, 17 – 24)
- prohibition of any propaganda for war as well as any advocacy of national or religious hatred that constitutes incitement to discrimination, hostility or violence by law (Article 20)
- political participation, including the right to the right to vote (Article 25)
- Non-discrimination, minority rights and equality before the law (Articles 26 and 27)

## **The Optional Protocols**

The two optional protocols are basically extensions to the Covenant that states can choose whether or not to accept.

- In the First Optional Protocol, in simple terms, states agree to recognise the competence of the UN Human Rights Committee to consider complaints from individuals who claim that their rights under the Covenant have been violated.
- The Second Optional Protocol abolishes the death penalty; however, countries were permitted to make a reservation allowing for use of death penalty for the most serious crimes of a military nature, committed during wartime. As of September 2019, the Second Optional Protocol had 87 parties [7]

## **Reservations**

Some states have made reservations or interpretive declarations to their application of the Covenant. For example:

- Bahamas, due to problems with implementation, reserves the right not to compensate for miscarriages of justice
- The Gambia, as per its constitution, will provide free legal assistance for accused persons charged with capital offences only

[7] [https://en.wikipedia.org/wiki/International\\_Covenant\\_on\\_Civil\\_and\\_Political\\_Rights](https://en.wikipedia.org/wiki/International_Covenant_on_Civil_and_Political_Rights)

## Monitoring of the Covenant

The UN Human Rights Committee is the body created by the ICCPR (1966) in order to consider the reports each signatory state submits every five years in order to report on their compliance with the treaty. It is made up of 18 experts.

It is important not to confuse the UN Human Rights Committee with the UN Human Rights Council. The key differences are:

- The UN Human Rights Committee a UN expert body - made up of 18 experts - while the UN Human Rights Council is a political body made up of states.
- The UN Human Rights Committee is concerned only with matters relating to the International Covenant on Civil and Political Rights while the UN Human Rights Council is concerned with the entire spectrum of human rights concerns.



*Click on the link above to find out more about the work of the UN Human Rights Committee*



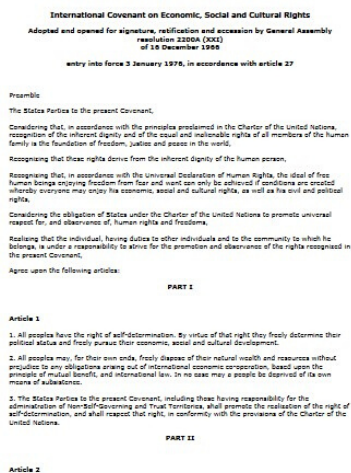
*Click on the video to watch a brief summary of the work of the UN Human Rights Committee*

# INTERNATIONAL COVENANT ON ECONOMIC AND SOCIAL RIGHTS (1966)

## Five parts:

The Covenant is made up of a preamble and 53 articles divided into 5 parts:

- Part 1: Recognizes the right of all peoples to self-determination, including the right to "freely determine their political status", pursue their economic, social and cultural goals, and manage and dispose of their own resources
- Part 2: Establishes the principle of progressive realization
- Part 3: Lists the rights themselves
- Part 4: Governs the monitoring and implementation of the Covenant
- Part 5: Governs ratification and amendment of the Covenant



[Click here to access a copy of the Covenant](#)

## Principle of Progressive Realization

In Article 2 of the Covenant, it states that states have a duty to... *'take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures'*

Basically, the principle of progressive realization is the acknowledgment that it may be difficult, in practice, to achieve some of the rights in the short term. This may be due to resource constraints in poorer states, among other reasons.

However, the principle of progressive realization requires states to work towards the rights as best they can in the circumstances.

## **The Rights**

The key rights articulated in the Covenant are:

- Work, under "just and favorable conditions", with the right to form and join trade unions (Articles 6, 7, and 8)
- Social security, including social insurance (Article 9)
- Family life, including paid parental leave and the protection of children (Article 10)
- An adequate standard of living, including adequate food, clothing and housing, and the "continuous improvement of living conditions" (Article 11)
- Health, specifically "the highest attainable standard of physical and mental health" (Article 12)
- Education, including free universal primary education, generally available secondary education and equally accessible higher education. This should be directed to "the full development of the human personality and the sense of its dignity", and enable all persons to participate effectively in society (Articles 13 and 14)
- Participation in cultural life (Article 15).

## **Reservations**

Some states have made reservations or interpretive declarations to their application of the Covenant. For example:

- China restricts labor rights in Article 8 in a manner consistent with its constitution and domestic law
- Egypt accepts the Covenant only to the extent it does not conflict with Islamic Sharia law
- Japan reserved the right not to be bound to progressively introduce free secondary and higher education, the right to strike for public servant and the remuneration on public holidays

## Monitoring of the Covenant

The Committee on Economic, Social and Cultural Rights is a body of human rights experts tasked with monitoring the implementation of the Covenant.

It consists of 18 independent human rights experts, elected for four-year terms, with half the members elected every two years

All states parties are required to submit regular reports to the Committee outlining the legislative, judicial, policy and other measures they have taken to implement the rights affirmed in the Covenant. The first report is due within two years of ratifying the Covenant; thereafter reports are due every five years

The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations" [8]



*Click on the link above to find out more about the work of the Committee on Economic, Social and Cultural Rights*

[8] [https://en.wikipedia.org/wiki/International\\_Covenant\\_on\\_Economic,\\_Social\\_and\\_Cultural\\_Rights](https://en.wikipedia.org/wiki/International_Covenant_on_Economic,_Social_and_Cultural_Rights)

# CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT (1984)

## 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.

*Click on the image to read a copy of the UN Convention on Torture*

The Convention against Torture and other Cruel, Inhuman and Degrading Treatment is generally referred to as the Convention Against Torture (CAT 1984).

It requires states to take effective measures to prevent torture in any territory under their jurisdiction, and forbids states to transport people to any country where there is reason to believe they will be tortured.

The Convention is made up of a preamble and 33 articles, divided into three parts.

**Part 1:** Contains a definition of torture (Article 1), and commits parties to taking effective measures to prevent any act of torture in any territory under their jurisdiction (Article 2). These include:

- Ensuring that torture is a criminal offense under a party's municipal law (Article 4)
- Establishing jurisdiction over acts of torture committed by or against a party's nationals (Article 5)
- Ensuring that torture is an extraditable offense (Article 8)
- Establishing universal jurisdiction to try cases of torture where an alleged torturer cannot be extradited (Article 5)
- Parties must promptly investigate any allegation of torture (Articles 12 and 13)
- Victims of torture, or their dependents in case victims died as a result of torture, must have an enforceable right to compensation (Article 14).



- Parties must also ban the use of evidence produced by torture in their courts (Article 15)
- Parties are barred from deporting, extraditing, or refouling people where there are substantial grounds for believing they will be tortured (Article 3). [9]

**Part 2:** Governs reporting, monitoring and implementation of the CAT

**Part 3:** Governs ratification and amendments to the Convention

## Definition of Torture

Article 1 of the CAT defines torture as follows:

*For the purpose 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.*

## Monitoring of the Convention

The Committee against Torture (CAT) is a body of human rights experts that monitors implementation of the Convention by State parties. The Committee is one of eight UN-linked human rights treaty bodies. All state parties are obliged under the Convention to submit regular reports to the CAT on how rights are being implemented.



*Click on the image to find out more about the work of the Committee against Torture*

[9] [https://en.wikipedia.org/wiki/United\\_Nations\\_Convention\\_against\\_Torture](https://en.wikipedia.org/wiki/United_Nations_Convention_against_Torture)

# AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (1966)

Also known as the Banjul Charter, the ACHPR is intended to promote and protect human rights and basic freedoms in the African continent.

The origins of the Charter lie in a resolution adopted by the Organisation for African Unity (OAU) - since superseded by the African Union (AU) - in 1979 which called for the development of a continent-wide human rights instrument similar to those in operation in Europe and the Americas (the ECHR and ACHR, respectively).

The Charter came into effect in 1986.

Oversight and interpretation of the Charter is the task of the African Commission on Human and Peoples' Rights, which was set up in November 2, 1987 in Addis Ababa, Ethiopia and is now headquartered in Banjul, Gambia.

## AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

African Charter on Human and Peoples' Rights  
Adopted in Nairobi June 27, 1981  
Entered into Force October 21, 1986

### Preamble

The African States members of the Organization of African Unity, parties to the present Convention entitled 'African Charter on Human and Peoples' Rights';

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights;

Considering the Charter of the Organization of African Unity, which stipulates that 'freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples';

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to co-ordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote International cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilisation which should inspire and characterise their reflection on the concept of human and peoples' rights;

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings, which justifies their national and international protection and on the other hand that the reality and respect of peoples' rights should necessarily guarantee human rights;

Considering that the enjoyment of rights and freedom also implies the performance of duties on the part of everyone;

Convinced that it is henceforth essential to

pay a particular attention to the rights to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

Creating of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, colour, sex, language, religion or political opinions;

Reaffirming their adherence to the principle of human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

Firmly convinced of their duty to promote and protect human and peoples' rights and freedoms taking into account the importance traditionally attached to these rights and freedom in Africa;

Have agreed as follows:

### Part I. Rights and Duties

#### Chapter I. Human and Peoples' Rights

##### Article 1

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

## Why is it important?

The reason the ACHPR is interesting from the perspective of Global Politics is because of the ways in which it differs from other human rights instruments such as the ECHR (1950).

In terms of civil and political rights, the Charter recognizes most of what are considered universally accepted rights. These include:

- The right to freedom from discrimination (Article 2 and 18)
- The right to equality (Article 3)

*Click on the image to read a copy of the Banjul Charter*

- The right to life and personal integrity (Article 4)
- The right to dignity (Article 5)
- The right to freedom from slavery (Article 5)
- The right to freedom from cruel, inhuman or degrading treatment or punishment (Article 5)
- Rights to due process concerning arrest and detention (Article 6)
- The right to a fair trial (Article 7 and 25), freedom of religion (Article 8)
- Freedom of information and expression (Article 9)
- Freedom of association (Article 10)
- Freedom to assembly (Article 11)
- Freedom of movement (Article 12 )
- Freedom to political participation (Article 13)
- The right to property (Article 14).

However, the Charter has been criticised for the absence of some generally accepted rights. For example, there is no mention of a right to privacy or a right against forced or compulsory labour.

Economic, social and cultural rights are also recognized in the Charter. These include:

- The right to work (Article 15)
- The right to health (Article 16)
- The right to education (Article 17).

## Third Generation Rights

Where the Charter is different to other similar instruments is in its emphasis of third generation collective rights. For example, "peoples" have the right to

- equality (Article 19)
- self-determination (Article 20)
- to freely dispose of their wealth and natural resources (Article 21)
- the right to development (Article 22)
- the right to peace and security (Article 23)
- "a generally satisfactory environment" (Article 24).

## People vs Peoples

In Global Politics, 'Peoples' refers to a distinct group - often a cultural or ethnic minority such as the Inuit of Northern Canada.

We tend to use 'peoples' when we refer to the collective rights certain groups possess by virtue of membership of that group.

## Not just rights

As well as awarding rights to both individuals and to peoples, the Charter also sets out, explicitly, the responsibilities and duties that are incumbent on them in Article 29:

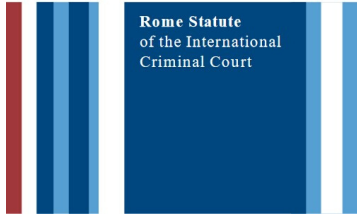
- The duty to preserve the harmonious development of the family.
- To serve the national community by placing both physical and intellectual abilities at its service.
- Not to compromise the security of the State.
- To preserve and strengthen social and national solidarity.
- To preserve and strengthen national independence and the territorial integrity of one's country and to contribute to its defence.
- To work to the best of one's abilities and competence and to pay taxes in the interest of society.
- To preserve and strengthen positive African cultural values and in general to contribute to the promotion of the moral well-being of society.
- To contribute to the best of one's abilities to the promotion and achievement of African unity.

The monitoring and implementation of the Charter is the responsibility of the African Court of Human and Peoples Rights and you can find out more about the work of the court in the documentary below.



# ROME STATUTE (1998)

Cour  
Pénale  
Internationale  
Criminal  
Court



*Click on the image to download  
a copy of the Rome Statute*

The Rome Statute (1998) is the treaty that established the International Criminal Court (ICC).

Currently 123 states are party to the Statute which established four core international crimes:

- Genocide
- Crimes against humanity
- War crimes
- Aggression

The Rome Statute came about as a result of years of negotiation in the UN over how best to prosecute individuals for crimes such as genocide. A five-week diplomatic conference was convened in Rome in June 1998 "to finalize and adopt a convention on the establishment of an international criminal court".

On 17 July 1998, the Rome Statute was adopted by a vote of 120 to 7, with 21 countries abstaining.

## Who voted against?

It was agreed, prior to the vote, that there would be no official record kept of the way each delegation voted so it is not certain who the seven states were who voted against. We know that China, Israel and the USA were three of the seven because they publicly confirmed this. In Israel's case this was in opposition to the inclusion in the list of a war crimes of "the action of transferring population into occupied territory".

Indonesia, Iraq, Libya, Qatar, Russia, Saudi Arabia, Sudan, and Yemen have been identified by various observers and commentators as possible sources for the other four negative votes, with Iraq, Libya, Qatar, and Yemen being the four most commonly identified [10]

[10] [https://en.wikipedia.org/wiki/Rome\\_Statute\\_of\\_the\\_International\\_Criminal\\_Court](https://en.wikipedia.org/wiki/Rome_Statute_of_the_International_Criminal_Court)

## **Which states are party to the Statute?**

- As of November 2019, 123 states are parties to the Statute of the Court, including all the countries of South America, nearly all of Europe, most of Oceania and roughly half of Africa.
- Burundi and the Philippines were member states, but later withdrew effective 27 October 2017 and 17 March 2019, respectively.
- A further 31 countries have signed but not ratified the Rome Statute. The law of treaties obliges these states to refrain from "acts which would defeat the object and purpose" of the treaty until they declare they do not intend to become a party to the treaty.
- Four signatory states—Israel, Sudan, the United States and Russia—have informed the UN Secretary General that they no longer intend to become states parties and, as such, have no legal obligations arising from their signature of the Statute
- Forty-one additional states have neither signed nor acceded to the Rome Statute. Some of them, including China and India, are critical of the Court.
- Ukraine, a non-ratifying signatory, has accepted the Court's jurisdiction for a period starting in 2013

## **Criticisms of the ICC**

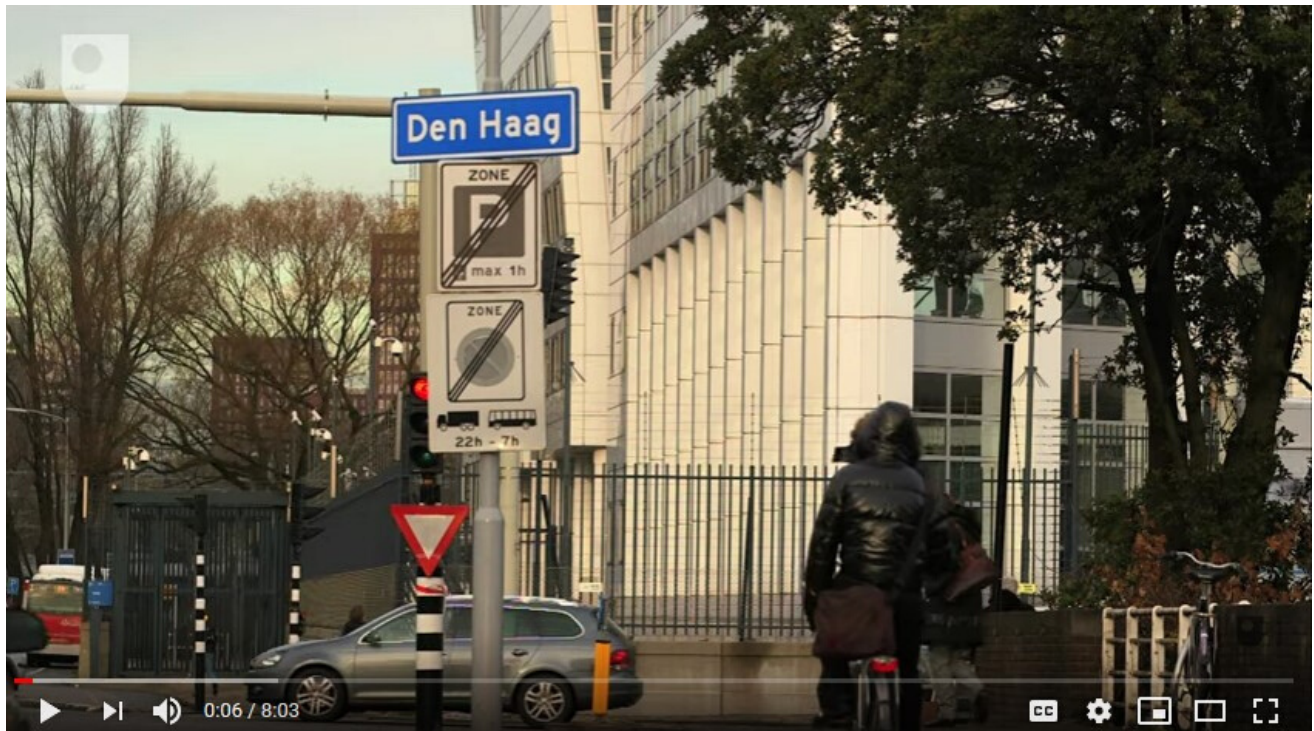
the ICC has been criticised by several states - particularly Africa states - for being a tool of Western Imperialism. It has been alleged that the ICC is only interested in prosecuting leaders from small, weak, non-western states and is willing to ignore crimes committed by leaders of more powerful states.

Additionally, the ICC has been accused of a disproportionate focus on Africa, despite its claims to have a global mandate. Until 2016, all of the nine cases investigated by the ICC were in Africa. This has also lead to the highlighting of one of the key weaknesses of the ICC - the fact that it is only as strong as the will of it's member states.

After the indictment of Sudanese president Omar al-Bashar, he travelled to Kenya, South Africa, China, Nigeria, Saudi Arabia, United Arab Emirates, Egypt, Ethiopia, Qatar and several other countries despite an outstanding ICC warrant for his arrest but was not arrested. Indeed, he was greeted as an honoured guest and given the red carpet treatment.



## The ICC: Video Resources



*Inside the International Criminal Court*



*Does the International Criminal Court have an Impossible Missions?*