The world of human rights is complex and busy. There are thousands of organizations that promote human rights and guard against abuses. There are hundreds of charters, treaties and laws. They refer to each other, asserting their “interrelatedness” and “interconnectedness.” There are universal rights, particular rights, positive rights, negative rights, first, second and third generation rights, all to ensure that we live full and free lives.

Yet there is widespread ignorance about human rights. Many people do not know what they are, how they came about, why they are there, or how to access them. There is also controversy. People with different cultures, traditions and religions interpret human rights differently. Human rights can be used to divide or to heal communities.

The main international body is the United Nations (UN). For those who know how to use it, the UN is a rich source of information, learning and contacts. In Section 1 we explore the world of human rights and the UN.

Guide to Section 1

1. What are human rights? ................................................................. 4
2. Human rights on paper — conventions, covenants and treaties ...................... 11
3. The main human rights treaties ......................................................... 15
4. Getting to know the UN .................................................................. 21
5. A bill of rights for women ................................................................. 31
6. International justice and the rise of the “super court” ............................... 38
7. Human rights in times of war and conflict ............................................ 45
8. Article 19 rights and “sunshine laws” ................................................. 49
Section 1 — Key terms

- **Article** — a clause, or section, or part of a treaty.
- **Bill of rights** — a formal declaration of rights and freedoms.
- **Charter** — a document that forms an organization and defines its guiding practices and principles.
- **Covenant, Convention, Treaty** — words used to refer to formal agreements between states (countries) that are legally binding. “Treaty” will generally be used in this toolkit to refer to such documents.
- **Gender** — socially constructed differences between men and women.
- **Human rights defender** — a term used to describe people who, individually or with others, take action to promote or protect human rights.
- **Impunity** — exemption from punishment. In international human rights law, impunity means the failure to punish perpetrators of human rights abuses and violation. Impunity is a denial of the victim’s right to justice.
- **International human rights law** — the international body of law that is designed to protect and promote human rights.
- **International law** — laws that govern and regulate relationships between states.
- **Multilateral** — between three or more parties. A multilateral treaty is therefore an agreement between three or more states.
- **Norm** — something that is usual, typical, or standard.
- **Nullify** — to nullify a signature is to revoke it, or to “unsign.”
- **Optional protocol** — an addition to a treaty, covenant or convention which a state has the option of signing.
- **Ratify, accept, approve or accede** — these all mean more or less the same thing. A state that ratifies, accepts, approves or accedes to a treaty, covenant or convention agrees to it and becomes a States Party.
- **Rights-based approach** — a way of working that ensures that the given approach is based on human rights and promotes human rights.
- **Sovereignty** — a sovereign state is an independent state with an effective government within a defined territory or geographic area.
- **States party** — once a state signs a treaty, that state agrees to, or is party to, the treaty and is called a States Party.
- **Statute** — a law.
- **Treaty** — another word, more commonly used, for convention or covenant, meaning a formal agreement between states.
- **Treaty-based** — an institution or mechanism established on the basis of an agreement signed by two or more states.
- **UN System** — all the international organizations, treaties and conventions that were created by the UN, and which the UN manages and enforces.
- **Universal** — belonging to, or affecting, all people.
What are human rights?

Human rights are a set of norms, or standards of behavior, that are intended to protect us so that we are able to live full lives, free from fear and abuse.

"Rights inherent to all human beings"

“Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.”

-Definition of the Office of the United Nations High Commissioner for Human Rights (OHCHR)

Human rights are a set of norms, or standards of behavior, that are intended to protect us so that we are able to live full lives, free from fear and abuse. They are rights that belong to all people, just by virtue of being human.

Although the term “human rights” first became widely used in the 17th century in Europe, the rights themselves have their roots in ancient times. Most societies created traditions and responsibilities to protect individuals and build healthy communities by, for example, outlawing crimes like murder, rape and theft. We learn about these from oral and written histories. Some of the earliest written records are in the texts of the world’s major religions — the Muslim Quran, the Christian Bible, the Jewish Torah, the Hindu Vedas. They are also to be found in the essays of the ancient Greek, Arab and Chinese philosophers and the laws of Rome.

The language of human rights in politics came into use later, in documents like the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791), which all speak of human rights. But these were not universal laws. They were national laws, and reflected the politics, cultures and values of their nations at those times. They discriminated against women, against certain religious and ethnic groups, and accepted slavery.

Human rights as we know them today are universal and have their history in many struggles. There were the struggles of the abolitionists in the 18th and 19th centuries to put an end to slavery in the US; the American and European suffragettes’ struggles in the 19th and 20th centuries for women’s equality; the anti-colonial struggles in America in the 18th century and in Asia and Africa in the 19th and 20th centuries; and workers’ ongoing struggles for better wages and health and safety standards in the workplace.

These struggles were often violent, and many people died fighting for their rights. But it took two world wars and mass slaughter

“Freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed.”

Martin Luther King Jr. (1929-1968). Martin Luther King Jr. was a civil rights activist and leader in the African-American civil rights movement.
before human rights as we know them today came into being. The savagery of the First World War (1914-1918), in which over 40 million soldiers and civilians died on both sides, led to the creation of the League of Nations. The League tried to address human and minority rights and to regulate relationships between states to prevent war. However, the League collapsed, largely because of the failure of the major world powers to participate.

The Second World War (1939-1945) included genocide — the murder of six million European Jews and other minority groups, like Roma Gypsies — by Germany’s Nazi regime led by the dictator Adolf Hitler. It also saw mass rapes by invading armies in Europe, China and Southeast Asia; indiscriminate bombings of civilians by German, UK, US and Japanese air forces; and torture and starvation of thousands of prisoners of war.

When the war ended in 1945, the victorious Allied Powers led by the US, the UK and the former Soviet Union brought the international community together to create an organization that would promote peace and human rights. This was the United Nations (UN).

The UN has four main aims:

- To keep peace in the world;
- To develop friendly relations among nations;
- To help nations work together to improve the lives of poor people, to conquer hunger, disease and illiteracy, and to encourage respect for each other’s rights and freedoms;
- To be a center for harmonizing the actions of nations to achieve these goals.

**Human rights and the UN Charter**

The founding document of the United Nations is the UN Charter, which was signed in San Francisco on June 26, 1945. The UN Charter is a multilateral treaty, and is the highest authority in international law. This means that the UN Charter overrides any other treaties or agreements which UN member states sign. This is stated in Article 103, which says:

“In the event of conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.”

— UN Charter, Article 103.

In 1945, 51 states signed the UN Charter. Today, the UN has 193 member states — every country in the world except the Vatican City. All of these states are legally bound by the provisions of the UN Charter and recognize the UN Charter’s authority in international law. Read more about the UN and its member states on page 21.

**Human rights for all**

The UN Charter laid the foundation for the creation of international human rights for all:

- Article 55 says that the UN should promote universal rights for all;
- Article 56 says each member state should help the UN achieve these goals; and
- Article 68 called on the UN’s Economic and Social Council to create a commission to promote human rights.

**Troubled beginnings: the Universal Declaration of Human Rights (UDHR)**

In 1947, in line with Article 68 of the UN Charter, the UN formed the Commission on Human Rights. The first task of the Commission, headed by Eleanor Roosevelt, was to reach agreement on a set of human rights that would be acceptable to all nations.

The drafting process was troubled by many disagreements. The delegates to the Commission represented the various nations of the UN and came from many different backgrounds, languages, religions and cultures. They had widely differing political and economic interests and ideologies. They were government officials and thus represented the policies of their nations.

**Ideological battles**

The main disagreements facing the Commission arose out of different positions taken up by the two big power groups, or “blocs” that dominated the UN. These were the Western bloc, led by the US and the UK, and the Soviet bloc, led by the Soviet Union. The end of the Second World War marked the beginning of the Cold War between capitalist countries, of which the biggest was the US, and socialist countries, represented by the Soviet Union. The two groups took fundamentally different ideological positions.

The three most controversial issues were (i) political and civil rights, (ii) social and economic rights and (iii) the question of enforcement — should human rights be legally binding in international law?

The Soviet bloc was supportive of economic and social human rights. However, because their centralized state structure included domination of minority ethnic groups within the Soviet Union, they were less enthusiastic about political and civil rights.

The Western bloc was more in favor of civil and political rights. However, the positions of the UK and other European states were
compromised because they ruled colonies in which the majority of people were denied basic human rights, including the right to vote. Weakening the US position was the existence of widespread legal discrimination against black Americans, who were also not allowed to vote.

On the question of enforcement, the two blocs agreed: both were strongly opposed to creation of an agency that would ensure that human rights for all were implemented and enforced. The main argument against creation of a binding treaty and enforcement agency was that implementation of human rights was an internal matter for each state. Enforcement would therefore infringe on a state’s sovereignty.

There was a third bloc at the UN, which included developing nations. They were not united, though in general they supported both sets of rights (civil and political as well as social and economic rights) and the creation of an enforcement agency.

**Birth of the Universal Declaration of Human Rights**

To prevent a deadlock, the Commission’s chairperson, Eleanor Roosevelt, proposed the idea of a “declaration” of general human rights principles rather than a treaty that would be binding in international law. Finally, agreement was reached, and on December 10, 1948 the General Assembly adopted and proclaimed the Universal Declaration of Human Rights (UDHR).

In adopting the UDHR, the Assembly called on all member states to publicize the text of the declaration and “to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories.” (The Universal Declaration of Human Rights, History of the Document www.un.org/en/documents/udhr/history.shtml)

The UDHR was the first international recognition that human rights and fundamental freedoms apply to everyone, everywhere. December 10 is celebrated every year, across the world, as International Human Rights Day. In some countries, it is a national holiday.

Many countries have included human rights based on the UDHR in their national constitutions and laws. However, what happens in practice is very different and human rights violations still take place in most parts of the world. The question of enforcement remains controversial, and one of the main criticisms of the UN, especially in relation to human rights, is that it lacks teeth. Over the
years, however, the UN has grown some teeth. [Read more about the UN’s powers of enforcement on page 23.]

**The UDHR**

The UDHR forms the basis of over 60 international treaties, and has been translated into over 330 languages, making it the most translated document in the world.

The UDHR is the global standard for human rights. It has 30 articles that cover a wide range of political, social and economic rights, including the rights to life, liberty and security; to freedom from violence, torture and wrongful imprisonment, and the rights to freedom of movement and freedom of expression.

The UDHR laid the foundation for international human rights law, making it clear that every person has a “birthright” to fundamental human rights and is therefore not subject to the whims of the state. The 30 articles are expressed clearly and simply, and one of the main functions of the declaration is to raise awareness of human rights. Read the full text of the UDHR on page 136.

**Definitions of human rights**

The UN definition:

“Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.”


This is how the Office of the UN High Commissioner for Human Rights (OHCHR) defines human rights. The OHCHR is the agency mandated by the UN to promote and protect human rights. The OHCHR also monitors human rights violations and has powers to recommend enforcement of human rights in countries that are members of the UN.

Here is how Amnesty International describes human rights:

“Human rights are basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status.

Human rights include civil and political rights, such as the right to life, liberty and freedom of expression; and social, cultural and economic rights including the right to participate in culture, the right to food, and the right to work and receive an education. Hu-
Amnesty International is one of the leading civil society organizations that promotes human rights and fights human rights abuses. There are many different ways of defining and describing human rights. Each definition will reflect particular intentions and interests. But most will include, or imply, these four elements:

- **Human rights are universal.** We have human rights simply because we are human.
- **Protection, especially from abuse by those in power.** Human rights ensure that people can live in freedom and security.
- **Equality.** Everyone has them equally. You do not have more human rights than I do. I do not have more than you.
- **Human rights are international** and set standards for the behavior of states, groups and individuals.


Human rights are protected and upheld by international and national laws and treaties.”

Amnesty International is the oldest and largest nongovernmental human rights organization in the world. It was founded in 1961 by Peter Benenson, a British lawyer, to collect information about and publicize the stories of “prisoners of conscience” (a term Benenson coined, meaning people who have been imprisoned on the basis of their opinions, race, religion, ethnicity, or political convictions). He published an “Appeal for Amnesty” on the front page of The Observer, calling on citizens to pressure their governments to release or at least provide these prisoners a fair trial. Newspapers in more than a dozen countries reprinted the article: public response was immediate and fierce, and a global movement was born.

Since its founding, Amnesty International has mobilized millions of citizens around the world to advocate for the release of political prisoners, rights of marginalized groups, an end to torture and the death penalty, and protection of human dignity. Its reports on human rights abuses are widely respected and consulted by international bodies, academics, NGOs and journalists.
Three generations of rights
The UDHR creates three generations (categories) of human rights. These are first, second and third generation rights. The generations are grouped in relation to the three slogans of the French Revolution (1789-1799), which led to the creation of a republic in France — liberté, égalité, fraternité (liberty, equality, fraternity).

First generation rights concern liberty and participation in political life. They are fundamentally civil and political in nature. They limit the power of the state over citizens and aim to prevent abuse by those in power. They are set out in Articles 2-21 of the UDHR. First generation rights include:

- Freedom from all forms of discrimination, for example, on the basis of gender and race.
- The right to life, liberty and security.
- Freedom from slavery and forced labor.
- Freedom from torture, cruel, inhuman or degrading treatment and punishment.
- Freedom from arrest without cause or judicial process, detention or exile.
- The right to a fair and public trial.
- The right to privacy.
- Freedom of movement and residence.
- The right to seek asylum from prosecution.
- Freedom of conscience, religion and thought.
- Freedom of opinion and expression.
- Freedom of peaceful assembly and association.
- The right to take part in government and to vote.
- The right to own property and not to be deprived of it arbitrarily.

Second generation rights concern social, economic and cultural equality. They include the equal rights of everyone to education, healthcare, and housing, and to take part in cultural activities. Governments are expected to take affirmative action to achieve these rights. However, not all governments can afford universal education and healthcare, or to house all citizens, so they are incremental. This means that governments must demonstrate that they are taking positive steps to achieve them and enter into agreements with other governments and international organizations that can help them through aid.

Second generation rights are set out in Articles 22-27 of the UDHR and include:

- The right to social security.
- The right to work and to protection against unemployment.
- The right to rest and leisure, including public holidays with pay.
- The right to an adequate standard of living.
- The right to education.
- The right to take part in cultural and scientific activities and protection of one’s scientific and artistic creations.

Third generation rights concern fraternity, meaning brotherhood or solidarity, and are sometimes called “solidarity” rights. They include the right of everyone to a sustainable, clean and healthy environment, to social development and to other collective or group, rather than individual, rights. They are set out in Articles 28 and 29 of the UDHR.

Positive rights, negative rights
Human rights theory distinguishes between negative and positive rights.

A negative right is your right not to be interfered with. For example, the government may not take away your right to freedom of expression, to marry the person of your choice or to have a family. First generation rights are negative rights in that they protect individuals from state interference with their liberties.

A positive right is your right to receive goods or services; for example, welfare support, healthcare or a place to live. Second and third generation rights are positive rights.
Check your understanding
Are the following statements about human rights true, false or a matter of opinion?

1. Children have the same rights as adults.
2. The right to health is more important than the right to education.
3. Countries that have joined the UN should help promote human rights for all people.
4. The Queen of England has more human rights than the President of the US.
5. Human rights are bestowed on citizens when they reach the age of 18.
6. If you kill my child, I have the right to kill yours.
7. Human rights law only applies to governments.
8. First generation rights are more important than second generation rights.
9. The UDHR is legally binding in international law.
10. December 10 is International Human Rights Day.

Learn more about human rights by exploring the OHCHR website at www.ohchr.org.

NOTES

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Human rights on paper

Here we include information about how treaties are written, and the rights and duties of states and individuals in relation to treaties.

Conventions, covenants and treaties

Human rights norms are set out in international conventions, covenants or treaties. These are the formal agreements between states that set standards for the behavior of states (countries represented by governments) and individuals.

The organization responsible for adopting most international human rights treaties is the UN General Assembly. Once a treaty has been drafted, states have the option of agreeing to it. States are not obliged to sign any treaty, but when a state does sign the treaty, it is legally binding on that state.

Most human rights treaties use these key terms to describe human rights:

- **Inherent** — human rights are natural or inborn to all human beings.
- **Universal** — everyone has the same rights.
- **Inalienable** — they cannot be taken away from us, except, in some circumstances, through fair legal processes. For example, the right to freedom may be restricted if a person is found guilty of a crime by a court of law, but imprisonment without trial is a violation of a person’s right to freedom.
- **Indivisible** — one cannot separate one right from another, or prioritize one right over another. For example, the right to a fair trial and the right to education are equal human rights. The right to a fair trial is not more important than the right to education.

**Interrelated** — all rights relate to each other; there are groups (or families) of rights; many treaties have the same rights and common characteristics and principles.

**Interdependent** — all rights depend on each other. For example, the right to vote depends on the right to freedom of movement; the right to life depends on the right to health care; the right to freedom of expression depends on the right of access to information.

International treaties, regional treaties

Conventions and treaties can be global; for example, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an international treaty. Or they can be regional; for example, the African Charter on Human and Peoples’ Rights (also known as the Banjul Charter) is a treaty that promotes and protects human rights and freedoms on the African continent. [Find out more about the main international and regional treaties in Part 3 on page 15]

Rights, duties and responsibilities for individuals and states

Human rights entail duties and obligations for both states and individuals.

**States (governments)** must not interfere with human rights, either of their own citizens or the citizens of other states. They must protect citizens against human rights abuses by other states, or by any other person or people.
Very importantly, human rights treaties say that states are obliged to take positive steps to ensure that all citizens enjoy human rights. This means that, if necessary, they must change their national legal systems to comply with international human rights standards.

**Individuals** — either on their own or in organizations or groups — have obligations to respect the human rights of others, and must not interfere with or violate the rights of others.

**Human rights in international law**

International human rights law is the body of law that protects and promotes human rights. It sets out the obligations of states in regard to human rights. By signing a treaty, the state agrees to be bound by the treaty; that is, the state is legally obliged to respect, protect and fulfill the human rights set forth in the treaty.

All countries in the world, except the Vatican, are member of the United Nations and all have signed or ratified at least one of the main human rights treaties. Eighty percent of states have signed or ratified four or more of the main treaties.

**Human rights in national law**

Once a state has signed an international treaty, the government is obliged to take steps to ensure that the national legal system complies with the standards set out in the treaty.

For example, a state that has signed CEDAW must ensure that none of its national laws discriminates against women. The state must also take positive steps to promote gender equality.

**DUTIES OF STATES**

- “to respect” — to refrain from any measure that may deprive individuals of the enjoyment of human rights.
- “to protect” — to prevent violations of human rights by third parties.
- “to fulfill” — to take steps to ensure that citizens have opportunities to obtain satisfaction of the basic needs recognized in human rights conventions.

**Human rights and power**

Human rights define relationships between individuals and power structures, especially the state.

Human rights set limits on state power; for example, freedom of expression rights set limits on a state’s power to restrict media. [For more about freedom of expression, see page 49]

**How to read a treaty**

Most human rights covenants, conventions or treaties are laid out in the same way. They usually have:

- **A preamble** that explains why the treaty was created and describes its main intentions and points.
- **A set of articles,** which is the list of the rights agreed to in the treaty. Articles are mostly divided into three groups: (i) the list of rights; (ii) a description of how they will be implemented and monitored, and (iii) an explanation of how the treaty will be signed and can be amended.

**Signatories** — each treaty is adopted by the governing body, and then opened for signature. Once enough states have signed, the treaty enters into force.

**Signing up: becoming a state party**

States can sign, ratify or accede to treaties. States that have signed, ratified or acceded to a treaty are referred to as “states parties,” meaning they are “party” to the treaty. In other words, they have agreed to be legally bound by its articles.

**How states agree**

The most usual way for states to become party to a treaty is by signing it.

Most human rights treaties are multilateral treaties (agreements between three or more states) and are open for signature indefinitely. However, some are only open for signature until a certain date. Once the deadline has passed, signature is not possible, and a state may only become a party to it through accession or ratification.
Simple signature: Multilateral treaties usually provide for simple signature, that is, signature that is subject to ratification, acceptance or approval. Simple signature means that the state intends to agree to be bound by the treaty at a later date.

The aim of simple signature is to give the state time to seek approval at the national level, through parliamentary processes or a referendum of citizens, and to pass any laws needed to ensure it is in compliance with the treaty.

In the period between signature and ratification, states must not act in ways that violate the treaty.

Ratification, acceptance, approval or accession
These terms all mean more or less the same thing. They are processes of confirmation and final agreement. The processes follow “simple signature.” Once a state has ratified, accepted or approved the treaty, or informed the UN Secretary-General that it is acceding to the treaty, the treaty is legally binding on that state.

Optional protocols
These are additional legal articles that add to and are relevant to the original treaty. Optional protocols usually address something that is missing in the treaty, or a new concern.

They are “optional” because they are not automatically binding on states that have already ratified the original treaty. Once an optional protocol has been adopted, states may independently agree whether or not to sign.

Usually, only states that have already agreed to be bound by an original treaty are likely to ratify its optional protocols. However, there are exceptions. The Optional Protocols to the Convention on the Rights of the Child (CRC) allow non-states parties to ratify or accede to them. For example, the US has not ratified the CRC but has ratified both of the optional protocols.

Enforcement
Treaties or their subsequent protocols generally establish bodies and procedures to monitor the implementation of and compliance with the treaties and receive and investigate complaints regarding violations. These treaty-based committees are subsidiary organs of the UN General Assembly. Although international bodies often lack the ability to enforce their decisions and recommendations, states will often comply either out of a sense of obligation, as a result of diplomatic efforts, or because of the threat of shame or embarrassment if they do not.

In other cases, complaints may be lodged with a regional or international tribunal, which have jurisdiction over States Parties.

The first recourse for addressing human rights issues is the state’s national legal system, and complaining parties are generally required to exhaust national remedies before turning to international bodies for help. However, in many cases the national response is inadequate and redress impossible. In such cases international human rights bodies offer an important avenue to pursue remedies for human rights violations.
The main human rights treaties

Here we introduce several of the documents that provide the basis for human rights standards worldwide.

The Universal Declaration of Human Rights (UDHR)

As discussed in Part 1, the Universal Declaration of Human Rights (UDHR) was the first universal and fundamental statement of human rights. It forms the basis of over 60 international treaties and is the global standard for human rights. But it is not a treaty; it is a statement of principles and therefore is not legally binding.

The International Bill of Rights

After the adoption of the UDHR in 1948, the Commission on Human Rights turned its attention to drafting agreements on specific political and civil rights, and social and economic rights. They drafted two treaties:

- The International Covenant on Civil and Political Rights (ICCPR), and the
- The International Covenant on Economic, Social and Cultural Rights (ICESCR).

In an era where colonialism, although in decline, was still practiced and where racism and ethnic discrimination were common, the two treaties were politically controversial. It took almost 20 years for UN member states to reach agreement on these rights. The treaties were finally approved in 1966, 18 years after the adoption of the UDHR. It took another 10 years before these two treaties were signed by enough states to ratify them, and they finally came into force in 1976.

The Universal Declaration of Human Rights, with the two conventions — the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights — form the International Bill of Rights.

The International Covenant on Civil and Political Rights

The ICCPR commits states to respect the civil and political rights of all people, including the right to self-determination, to life, freedom of speech, freedom of religion, freedom of assembly, electoral rights and rights to a fair trial. As a covenant (treaty), the ICCPR is legally binding in international law.

These are mainly first generation rights. The treaty is monitored by the Human Rights Committee. For a summary of the main articles of the ICCPR, see page 139.

CONFUSION ALERT!

Treaties and conventions are legally binding to States Parties — that is, states that have agreed to them. The UDHR is not legally binding because it is not a treaty, but a declaration of principles.
The International Covenant on Economic, Social and Cultural Rights
The ICSECR commits states to work toward achieving economic, social and cultural rights for individuals. These rights include labor rights and the right to health care, the right to education, and the right to an adequate standard of living.

These are mainly second generation rights.

The treaty is monitored by the Committee on Economic, Social and Cultural Rights.

For a summary of the main articles of the ICSECR, see page 142.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
The CAT and its Optional Protocol outlaw torture and cruelty throughout the world. As a convention, the CAT is legally binding in international law.

The treaty is monitored by the Committee Against Torture.

For a summary of the main articles of the CAT, see page 144.

Convention on the Rights of Persons with Disabilities (CRPD)
The CRPD protects the rights and dignity of people living with disabilities. It is legally binding and commits states to ensure that people with disabilities have full human rights and equality under the law.

The treaty is monitored by the Committee on the Rights of Persons with Disabilities.

For a summary of the main articles of the CRPD, see page 146.

Convention on the Rights of the Child (CRC)
The CRC is the most widely signed treaty in the world. It is supported by all member states of the UN General Assembly, except the US and Somalia. The CRC draws on other treaties and brings together children’s rights expressed in the other treaties. It guides the way in which all people and states should view children. The principles in the CRC apply to children and adults. Children are defined as young people up to the age of 18, and the CRC pays special attention to children belonging to minority ethnic groups. The CRC recognizes the family as the primary site of care and responsibility for children. It says states, and those who care for children, must always act in the child’s best interests. As a convention, the CRC is legally binding in international law.

The treaty is monitored by the Committee on the Rights of the Child.

For a summary of the main articles of the CRC, see page 150.
**International Convention on the Elimination of All Forms of Racial Discrimination**

The ICERD defines and condemns racial discrimination. It calls for states to act to ensure the advancement of specific racial or ethnic groups. It outlaws dissemination of ideas based on racial superiority or inspiring racial hatred, and makes them punishable by law.

As a convention, it is legally binding in international law.

The treaty is monitored by the Committee on the Elimination of Racial Discrimination (CERD).

For a summary of ICERD, see page 154.

**Convention on the Elimination of All Forms of Discrimination against Women**

The CEDAW promotes women’s equality and sets out steps that states must take to ensure women’s equality in private and public life. As a convention, CEDAW is legally binding in international law.

The treaty is monitored by the Committee on the Elimination of All Forms of Discrimination Against Women.

For more about CEDAW see Part 5, A Bill of Rights for Women, and for a summary of CEDAW, see page 155.

**International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

This convention is also referred to as the International Migration Convention or the Convention on Migrant Workers (CMW). It protects migrant workers; promotes respect for migrants’ human rights; aims to guarantee that migrants receive equal treatment to citizens under the labor laws of the state where they are working.

As a convention, it is legally binding in international law.

The treaty is monitored by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

For a summary of the Convention on Migrant Workers, see page 157.

**International Convention for the Protection of All Persons from Enforced Disappearance**

The ICPED provides a legally binding instrument to protect individuals against enforced disappearance. It defines enforced disappearance and requires criminalization of the act and prevention and protection of victims. It entered into force on December 10, 2010.

The treaty is monitored by the Committee on Enforced Disappearances (CED).

For summary of the ICPED, see Appendix A10, page 161.

**Non-UN treaties**

There are also several international human rights treaties which did not originate with the UN. The most important are:

**The Rome Statute**

The Rome Statute defines the four most serious crimes against humanity and sets up the International Criminal Court (ICC) to try people who are accused of these crimes. The Rome Statute is binding in international law.

Read more about the Rome Statute, the four gravest crimes and the ICC on page 39.

**The Geneva Conventions**

The Geneva Conventions set standards in international law for humanitarian treatment of civilians during war and conflict. They also recognize the human rights of journalists during war and conflict. The Geneva Conventions and their additional protocols are binding in international law.

See page 45 for a discussion of the Geneva Conventions and a summary of the key articles.

**Regional human rights systems**

The Organisation of African Unity, the Council of Europe and the Organization of American States have all adopted treaties to further human rights in their regions. Countries that have signed these regional treaties are all bound by them.

There is currently no regional human rights convention in Asia.

The three main regional human rights treaties are:

**The American Convention on Human Rights**


The system includes the Inter-American Commission of Human Rights and the Inter-American Court of Human Rights.

The Commission is a permanent body which meets several times a year and monitors observance of the rights contained in the American Convention on Human Rights.

The Court’s job is to interpret the Convention and to adjudicate on cases where violations are claimed. Individuals may not petition the Court directly, as with the European Court, but must first take their cases to the Commission, which decides whether their cases should be heard by the Court.
The US is a signatory of the Convention, but is not a party to the Court. Most Latin American countries are party to the Court. The Court has succeeded in ordering Latin American governments to pay compensation to families that have lost members through human rights violations. It has also persuaded governments to release the victims of unjust trials and prison sentences.

The OAS has also adopted several other treaties related to human rights, including torture, economic, social and cultural rights, the death penalty, violence against women, forced disappearances, disabilities and a declaration on principles concerning freedom of expression.

Read more at www.oas.org (click on “Documents,” then “Treaties and Conventions.”)

**The European Convention on Human Rights (ECHR)**

In 1953, the Council of Europe adopted the European Convention on Human Rights and Fundamental Freedoms. The European Convention on Human Rights provides for the European Court of Human Rights. The Court is in Strasbourg and adjudicates individual cases and issues between states.

All 47 member states of the Council of Europe have signed the Convention and are under the jurisdiction of the European Court of Human Rights.

Individuals who believe their rights are being violated, and who have failed to solve the problem through national courts, may submit their cases to the European Court of Human Rights. If they succeed through the European Court of Human Rights, the national rulings are usually set aside and the European Court’s ruling has the force of law.

For example, the UK government was ordered to pay damages to former army officers who had been discharged for being homosexual. Article 8 of the European Convention on Human Rights allows all citizens the right to a free and private life. The British Armed Forces may no longer fire anyone for being homosexual.

In another example, the European Court upheld the French government’s ban on Muslim girls’ wearing the hijab (headscarf) in schools. The Court’s unanimous ruling was that there had been no violation of Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights, because the ban was intended to uphold the principle of secularism in schools (that schools should not be affiliated to any particular religion) and was not a specific attack on the Muslim religion.

The Council of Europe has also adopted other human rights treaties involving economic, social and cultural rights, torture, national minorities, violence against women, trafficking in human beings and racism and intolerance.

Read more at www.hri.org/docs/ECHR50.html

**The African Charter on Human and Peoples’ Rights**

The Charter was adopted by the Organisation of African Unity (OAU, now the African Union — AU) in 1981 and entered into force on October 21, 1986. October 21 was declared “African Human Rights Day” to celebrate the occasion. The Charter has 53 signatories.

The Charter lists rights and duties covering all walks of life, from family security to African unity. It stresses that civil and political rights cannot be separated from economic, social and cultural rights.

Many clauses refer to national law, and are subsidiary to national law. The Charter has been criticized for this, because in many countries oppressive laws that limit human rights still exist.

The OAU also established the African Commission on Human and People’s Rights. The Commission’s function is to promote the rights outlined in the Charter, ensure their protection and to interpret the Charter.

There previously was no court to hear cases of either states or individuals, and the Commission was criticized for being toothless.

The African Court on Human and Peoples’ Rights began operations in 2006 and has recently begun to hear cases regarding violations of the African Charter on Human and Peoples’ Rights.

The AU has also adopted conventions on the rights of children and the rights of women.

www.achpr.org/english/_info/charter_en.html
Use this space!

List the main treaties your country has signed. If necessary, refer to Appendix C “Has your country signed up?”

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Which of the main treaties has your country not signed? Do you know why not?

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What positive constitutional and legal steps has your government taken to foster gender equality?

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Is your government violating any of the rights in the nine international treaties listed here? Name the rights. Say how they are being violated. What can you do about it in your professional role as a journalist?

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<th>The right</th>
<th>The violation</th>
<th>What to do – story ideas!</th>
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What rights are being violated within your community? Name the rights. What can you do about this in your professional role as a journalist?

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<th>The right</th>
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<th>What to do – story ideas!</th>
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The UN is a rich source of information, learning and contacts. It has agencies focused on many different sectors and issues — like children, women, health, poverty, population, disability and education.

The UN employs thousands of human rights advocates and defenders all over the world, including an international peacekeeping force, the Blue Berets. It has research and statistics departments that churn out papers and numbers about practically every aspect of human life. It has hundreds of offices and employs thousands of people all over the world.

Who leads the UN?
The Secretary-General is the UN’s leader and spokesperson. According to the UN’s founding document, the UN Charter, the Secretary-General is the UN’s “chief administrative officer.”

The current Secretary-General is Ban Ki-moon of South Korea, who was appointed in January 2007. Each Secretary-General serves for five years, but the same person can be reappointed for several terms.

Funding and independence of the UN
The UN is funded by member states and by voluntary contributions. Each member state contributes according to its means, calculated as a percentage of gross national income. This means that the richest states pay the most. At present, the US pays the most, but to ensure that the UN does not become overly dependent on any one state, the maximum a state can contribute is 22% of the UN’s total budget.

Six official languages
The UN has six official languages: Arabic, Chinese, English, French, Russian, and Spanish.
As discussed on page 5, the founding document of the UN is the UN Charter. The UN Charter is a multilateral treaty that serves as the UN’s constitution. It is the highest authority of international law, is legally binding on all parties and overrides any other treaties or agreements that member states sign.

**Member states**

Any sovereign state can join the UN. The first 51 member states joined when they signed the UN Charter in 1945. Since then, membership has steadily increased and today the UN has 193 member states — every country in the world except the Vatican City. The youngest member of the UN is the Republic of South Sudan, which formally separated from Sudan on July 9, 2011 following an internationally monitored referendum held in January 2011. South Sudan was admitted as a new member state of the UN on July 14, 2011.

**Human rights**

Human rights are fundamental to the UN. The UN’s work in human rights is carried out by many bodies and agencies. Some of these are directly concerned with particular human rights, for example, UN Women, which promotes gender equality and women’s empowerment [www.unwomen.org]. Others focus on particular issues, but take a human rights approach, or a rights-based approach, to dealing with these issues, for example the World Health Organization [www.who.int].

**The UN System**

“UN System” is an umbrella term that is used to refer to all the international organizations, treaties and conventions that were created by the UN, and which the UN manages and enforces.

**The main structures in the UN System**

The five main UN bodies are the General Assembly, Security Council, Economic and Social Council, Secretariat and International Court of Justice.

**UN General Assembly**

The UN General Assembly (UNGA) is comprised of the 193 member states of the UN, represented by their delegates. Each member state is regarded as equal in the UN and each state’s vote is of equal value. The General Assembly is the most representative body of the UN and ultimately approves all UN treaties and instruments. It also elects the members of the Security Council, Economic and Social Council, and the Human Rights Council. Additionally it oversees the subsidiary programs of the UN as well as the charter-based committees, treaty-based committees and other committees.

The General Assembly may also adopt resolutions. On most issues, a resolution is adopted if the majority of states vote for it. On important issues, a two-thirds majority is needed for adoption. Important issues include peace and security, election of members to other bodies of the UN System, admission, suspension and expulsion of member states, and the UN budget.

Only General Assembly resolutions related to organizational matters such as budget or subsidiary organs are binding on members. Other resolutions of the General Assembly are non-binding, which means that they are considered as recommendations to member states.

**UN Security Council**

The Security Council’s job is to maintain world peace and security, and so it considers all matters that are likely to affect peace and security. It has the power to impose sanctions (for example, economic sanctions, bans on arms sales, or diplomatic sanctions against states). The Security Council can also authorize military action; for example, it imposed a “no-fly zone” over Libya in 2011. The “no-fly zone” enabled NATO bombers to prevent Colonel Muammar Gaddafi from deploying his air force to attack rebel positions.

The council can also deploy UN peacekeeping troops to areas where there is conflict. Peacekeepers include soldiers, civilian police officers and civilians drawn from many countries. Their role is to protect civilians and monitor the maintenance of peace and compliance with peace agreements. They also help reintegrate former combatants into society. Read more about UN peacekeeping on page 26.

The Security Council has also authorized the establishment of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

There are 15 member states of the Security Council. Of these, five states — China, France, Russia, the UK and US — are permanent members. The permanent members — known as the P5 — each have the power to veto a resolution, that is, to prevent a resolution from being passed by voting against it. The P5 states may also abstain from voting on a resolution, but abstention does not prevent the resolution from being adopted.
The other 10 nonpermanent members of the Security Council are elected by the General Assembly every two years. Decisions of the Security Council related to international peace and security are binding on member states.

**UN Economic and Social Council (ECOSOC)**
ECOSOC is the main forum for discussing international economic and social issues, and for drafting policy recommendations for discussion by the General Assembly and other bodies in the UN System. It also oversees several functional commissions, regional commissions and expert bodies related to economic and social issues.

**UN Secretariat**
Headed by the Secretary-General, and employing an international staff, the Secretariat provides support services to UN bodies for their meetings; for example, research, information, logistics and other tasks.

**International Court of Justice (ICJ)**
The ICJ is the judicial body of the UN. It is based in The Hague, Netherlands and acts as a world court. Its main function is to hear and rule on legal disputes between states and to provide advisory opinions on questions submitted to it by the organs of the United Nations or specialized agencies authorized to make such requests.

**Human Rights Bodies within the UN System**
The Office of the High Commissioner for Human Rights (OHCHR) is the main UN body dealing with human rights. It offers expertise and support to the different human rights monitoring agencies in the UN System.

The High Commissioner at the time of writing is South African lawyer Navanethem Pillay, whose four-year term began on September 1, 2008.

**Human rights monitoring bodies**
The UN System has two categories of human rights monitoring bodies:

**EXPULSION AND SUSPENSION FROM THE UN**

Article 5 of the UN Charter says that a member state may be suspended or expelled from the UN if the UN Security Council has taken preventive or enforcement action against it. The member may be reinstated on the recommendation of the Security Council.

Article 6 of the UN Charter says that a member of the UN which has persistently violated the principles contained in the Charter may be expelled by the General Assembly on the recommendation of the Security Council.

No member states have been suspended or expelled from the UN under Articles 5 and 6. But in a few cases, states have been suspended or expelled from participating in UN activities by other means:

**TAIWAN**
In 1971, the UN General Assembly adopted Resolution 2758, recognizing the People’s Republic of China instead of the Republic of China (Taiwan) as the legitimate representative of China in the UN. This effectively excluded Taiwan from the UN, but avoided formal expulsion by the Security Council, which would have been subject to veto by the US, which at that time recognized Taiwan.

**SOUTH AFRICA**
In 1974, the Security Council considered a draft resolution recommending the expulsion of South Africa from the UN in compliance with Article 6. At that time, South Africa’s apartheid policies of legally entrenched racial domination of white South Africans over black South Africans violated the UN Charter’s principles of equality and freedom. However, the resolution was vetoed by three permanent members of the Security Council: France, the UK and the US. In response, the General Assembly suspended South Africa from participation in the work of the General Assembly. The suspension lasted for 20 years, until 1994 when South Africa finally held democratic elections.

**LIBYA**
In March 2011, the General Assembly unanimously voted to suspend Libya from the UN Human Rights Council, citing the Gaddafi regime’s use of violence against antigovernment protesters. In a statement, the General Assembly said that Libya had committed “gross and systematic violations of human rights.” The suspension was temporary. In November 2011, the General Assembly voted overwhelmingly to reinstate Libya’s membership on the Human Rights Council after its new government pledged to defend human rights and establish the rule of law.
UN Charter-based bodies and mechanisms, created based on the UN Charter.

UN Treaty-based bodies, created under international human rights treaties and made up of independent experts who monitor states’ compliance with their treaty obligations.

Charter-based bodies and mechanisms

The UN Human Rights Council (UNHRC) is an intergovernmental council made up of 47 states. It strengthens, promotes and protects human rights around the world.

The Universal Periodic Review (UPR) is a cooperative process through which the UNHRC can review human rights situations and records of all member states (193 as of as of this writing). It was initiated in 2006, and by the end of 2011 every member state had been reviewed once (with the exception of South Sudan, which became a member state in July 2011). The review cycle restarts every four years.

It is up to each state to describe the human rights situation in their country. With support from the UNHRC, states conduct reviews and submit reports. The reports must honestly reflect the human rights situation and declare what actions the state has taken to improve human rights within their borders and to fulfill their obligations in relation to the human rights conventions they have signed. Each country is treated equally when under review.

The aim of the UPR is to remind states of their responsibilities and obligations with respect to human rights. Ultimately, the UPR intends to provide information that will enable the UN to address human rights violations across the world.

Complaint Procedures of the Human Rights Council. The UN-HCR has procedures for receiving complaints regarding consistent patterns of gross and reliably attested human rights violations. Under the “1503 Procedure,” as it is known in reference to the resolution under which it was adopted, a complaint is sent to the Office of the High Commissioner for Human Rights (OHCHR), which then passes it on to the Human Rights Council. The Working Group on Communications considers whether the complaint is admissible, and if so it forwards the complaint to the Working Group on Situations. After considering the complaint, the Working Group makes a report and recommendation to the Human Rights Council. The UNHCR then considers the complaint in closed sessions and decides on a course of action.

A complaint may be deemed inadmissible if:

- It has manifestly political motivations and is not consistent with human rights law;
- It does not contain a factual description of the alleged violations, including the rights which are alleged to be violated;
- Its language is abusive;

UN High Commissioner for Human Rights

As of this writing, the UN High Commissioner for Human Rights is Navanethem Pillay, whose four-year term began on September 1, 2008. Pillay is a lawyer and academic from South Africa. During the apartheid era of autocratic, racist, white minority rule in South Africa, Pillay defended many anti-apartheid activists in court.


Confusion Alert!

It is easy to confuse the UN Human Rights Council (UNHRC) with the Commission on Human Rights. The Commission on Human Rights was the original body that drafted the Universal Declaration of Human Rights. It led development and monitoring of human rights until 2006. But it no longer exists. To read more about the Commission and its past role in developing human rights, see page 5 in Part 2.

In 2006, the Commission was replaced by the Human Rights Council. The UN Human Rights Council has a more extensive mandate than the Commission did. Its special expanded functions include monitoring and reviewing states’ performance, hearing complaints against states for violations of human rights and recommending action.

For more about the UN Human Rights Council, see www2.ohchr.org/english/bodies/hrcouncil.

When you are doing background research, watch out! Many websites still refer to the Commission on Human Rights, because the UNHCR is currently undergoing an institution building process in order to incorporate and adapt the Commission’s structures and functions. If you have any doubts, visit the website of the Office of the High Commissioner for Human Rights (www.ohchr.org) and go to the Human Rights Bodies dropdown menu, where you will find up-to-date information.
It is not submitted by the victim or by a person or group with direct knowledge of the violation or with clear evidence.

It is exclusively based on reports disseminated by mass media;

It refers to a situation already being dealt with by the UN or regional bodies; or

Domestic remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.

Special Procedures of the Human Rights Council. From time to time, the UNHCR will research a particular theme, for example, violence against women, freedom of expression, detention without trial or human trafficking. The processes and means through which the UN conducts this research are known as “Special Procedures.”

The term “Special Procedures” is also used to refer to investigations of human rights violations in particular countries. In 2011, there were Special Procedures mandates to investigate eight countries: Burundi, Cambodia, North Korea, Haiti, Myanmar (Burma), Palestine, Somalia and Sudan.

The people who carry out Special Procedures mandates are “mandate holders.” They work as individuals, in which case they are titled Special Rapporteur, or Special Representative of the Secretary-General, or Independent Expert. Alternatively, Special Procedures mandate holders can be a working group, usually comprised of five members — one from each global region.

It is very important for mandate-holders to be independent and impartial. Therefore, they serve in their personal capacity and do not receive any payment for their work.

Mandate holders are experts, usually prominent human rights figures from different fields. They include judges, academics, economists, leaders in the NGO sphere, former senior staff of the UN and lawyers.

When Special Procedures mandate-holders receive information about human rights violations in a particular state, they send letters to the government asking for clarification. They may carry out country visits if the government of the country in question agrees. After country visits, the mandate-holders issue a public report, called a mission report, containing their findings and recommendations.

**Treaty-based bodies**

When states sign treaties, they agree to improve the human rights situations in their countries in order to comply with the treaties.

The main work of the treaty bodies is to review states’ reports about steps they have taken to comply with their obligations. Four committees (CCPR, CERD, CAT and CEDAW) can receive petitions from individuals who claim that their rights under the treaties have been violated. The treaty bodies also interpret and comment on the treaties, and organize discussions on themes.

There are nine human rights treaty bodies, one for each of the main international treaties, which are listed on pages 136 to 162.

The **Human Rights Committee** monitors implementation of the International Covenant on Civil and Political Rights and its optional protocols;

The **Committee on Economic, Social and Cultural Rights (CESCR)** monitors implementation of the International Covenant on Economic, Social and Cultural Rights;

The **Committee on the Elimination of Racial Discrimination (CERD)** monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination;

The **Committee on the Elimination of Discrimination Against Women (CEDAW)** monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its optional protocol;

The **Committee Against Torture (CAT)** monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment;

The **Committee on the Rights of the Child (CRC)** monitors implementation of the Convention on the Rights of the Child and its optional protocols;

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**UPDATE ALERT!**

At the time of writing this toolkit, the UN was reviewing the Special Procedures system. Check the UN website for details.

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**SPOTLIGHT ON “THE DARKEST CORNERS”**

The Universal Periodic Review “has great potential to promote and protect human rights in the darkest corners of the world.” — Ban Ki-moon, UN Secretary-General.
KEEPING THE PEACE IN A VIOLENT WORLD

“Today, we have more than 110,000 men and women deployed in conflict zones around the world. They come from nearly 120 countries — an all-time high, reflecting confidence in United Nations peacekeeping. They come from nations large and small, rich and poor — some of them from countries recently afflicted by war themselves. They bring different cultures and experiences to the job, but they are united in their determination to foster peace. Some are in uniform but many are civilians and their activities go far beyond monitoring. They train police, disarm ex-combatants, support elections and help build state institutions. They build bridges, repair schools, assist flood victims and protect women from sexual violence. They uphold human rights and promote gender equality. Thanks to their efforts, life-saving humanitarian assistance can be delivered and economic development can begin.”

— Ban Ki-moon, Secretary-General of the UN, in a 2008 speech honoring 60 years of UN peacekeeping.
(www.un.org/events/peacekeeping60/sgmessage.shtml)

WHAT IS PEACEKEEPING?
The UN defines peacekeeping as creating the conditions for lasting peace. The principles guiding peacekeepers are:

• Consent of the parties;
• Impartiality;
• Non-use of force except in self-defense and defense of the mandate.

UN peacekeepers wear distinctive blue berets or helmets for easy recognition. The first UN peacekeeping force was deployed to the Middle East in 1948, to monitor the peace brokered between Israel and neighboring Arab states. Since then, there have been 64 missions. Peacekeepers often come under fire and over 2,860 UN peacekeepers from 120 different countries have been killed while on missions.

In 2011, at the time of writing this manual, UN peacekeepers were active in Western Sahara, Sudan, Congo, Liberia, Cote d’Ivoire, Haiti, Kashmir, Afghanistan, East Timor, Cyprus, Middle East, Golan Heights, Lebanon and Kosovo.

Many Blue Berets have been killed during peacekeeping missions. Unfortunately, there have also been reports of Blue Berets committing human rights abuses, which have been investigated and publicized by national and international human rights organizations.

For more about UN peacekeeping operations, see the UN Peacekeeping website: www.un.org/en/peacekeeping.

The Committee on Migrant Workers (CMW) monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

The Committee on the Rights of Persons with Disabilities (CRPD) monitors implementation of the International Convention on the Rights of Persons with Disabilities;

The Committee on Enforced Disappearance (CED) monitors implementation of the International Convention for the Protection of All Persons from Enforced Disappearance.

The treaty bodies are supported by the Human Rights Treaties Branch of the OHCHR, which is based in Geneva.

UN Programs

The UN has several offices and programs, established by the General Assembly, that deal with human rights issues. These include the UN High Commissioner for Refugees (UNHCR), which protects refugees, asylum seekers and stateless persons; the UN Children’s Fund (UNICEF), which protects and advances the rights of children; the UN Development Program (UNDP), which includes work on various areas of development including gender equality; the UN Office on Drugs and Crime (UNODC), which is tasked with combating human trafficking; the UN Population Fund (UNFPA), whose work is based on human rights principles and includes health and gender equality; the World Food Programme (WFP), which fights hunger; and UN Women, which works for gender equality, as discussed below.

Specialized and Other Agencies

In addition to the UN human rights treaties, bodies, procedures and programs, there are also several international organizations whose work relates to human rights. Some, though established by separate agreements and with their own governing bodies, are considered UN specialized agencies. These include the International Labor Organization, the UN Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO) and the Food and Agriculture Organization (FAO).

There are also international financial institutions such as the International Monetary Fund (IMF), the World Bank and the World Trade Organization (WTO), which are specialized agencies whose work has significant impact on human rights conditions.
Use this space!

You and the UN
The UN’s agencies and operations reach every part of the world. How close are you to the UN? Have you ever met anyone from the UN? What is the UN presence in your country? Are peacekeepers active? What offices are there? What do they do?

Who is your country’s delegate to the UN? ______________________________________________________
Name: __________________________________________________________________________________
Contact details: ___________________________________________________________________________

Which of the many UN agencies has an office in your country? Write a list, using the table:

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<tr>
<th>Name of the agency/office</th>
<th>What does it do?</th>
<th>Address and website</th>
<th>Name of contact/spokesperson</th>
<th>Position of contact/spokesperson</th>
<th>Phone number and email address</th>
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Universal Periodic Review (UPR)
Has your country been reviewed under the UPR process? Can you find a copy of the report? What does it say?
Or what is the current status of your country’s UPR?
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If your country has undergone a review, what are the main points?
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Negative:
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UPR recommendations:
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Do you have any ideas for stories about the UPR, or coming from the UPR, that you could write? Note your ideas here.

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Are there UN peacekeepers operating in your country? If not, what is the nearest country to you where UN peacekeepers are operating? What are the UN peacekeepers doing in your country, or the country nearest to you? What stories could you write about the UN peacekeepers and their missions?

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Test your knowledge
What are the five main bodies of the UN?

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Where does the ICJ hear its cases?

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What's the difference between the ICJ and the ICC?

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Who leads the UN? (Name and position)
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Where are the main offices of the UN?
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How many members of the UN Security Council are there?
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Which states are permanent members?
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How would you recognize a UN peacekeeper?
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How many member states are there in the UN General Assembly? Is your country a member?
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A bill of rights for women

Women are especially vulnerable to human rights abuses because of their lesser position in many societies, so their rights are protected under a special convention known as CEDAW.

Gender is not just about women, but women are a special focus of human rights work. Due to their position of lesser power in most societies, women are especially vulnerable to human rights abuses. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is a treaty that emphasizes women’s rights.

It was created because in most parts of the world, women and girls are still seen as socially inferior and are assigned to inferior roles in public life, in the family and at work. Women’s access to money, property, healthcare, education and knowledge is not equal to that of men; similarly, girls often do not have the same access to school or freedom as boys.

The results of discrimination: how women’s rights are violated

The rights to life, healthcare and security of person
Every minute, a woman dies in pregnancy or childbirth and another 20-30 women suffer serious injury or disability. Complications during pregnancy or childbirth are the leading cause of death for girls aged 15-19 in developing countries. Almost all of these deaths resulted from preventable or treatable complications.

—UNFPA Factsheet: Motherhood and Human Rights.

The right to education
64% of all illiterate adults (as measured from 1995-2004) were women. Globally, there were 89 women who could read and write for every 100 literate men.

—UNESCO Institute for Statistics, Factsheet, March 2008, No. 1

The right to own property
Existing statutory and customary laws limit women’s access to land and other types of property in most countries in Africa and about half the countries in Asia.


The right to live free from cruel, inhumane and degrading treatment
Violence against women is a universal phenomenon.


The right to health
Women constitute the majority of HIV-positive adults in sub-Saharan Africa, North Africa and the Middle East.


The right to equality with men
Only 13 of the 500 largest corporations in the world have a female Chief Executive Officer.

“All members of the human family”

When the UN was formed in 1945, the idea of equal rights for men and women was quite new in the international community. Only 30 of the 51 original member states of the UN allowed women to vote, and many countries believed that the issue of equality between men and women was a sovereign issue — that is, an issue for each sovereign government to decide, as part of the national laws of that country.

The UDHR was the first internationally agreed document to clearly express the principle of equal rights between men and women.

In the Preamble:
The UDHR stresses that recognition of the rights of “all members of the human family” is the foundation of a free, just and peaceful world.

“. . .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...”

Article 1 of the UDHR says:
All human beings are born free and equal in dignity and rights.

Article 2 of the UDHR says:
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.

Article 16 declares that women and men are equal partners in marriage:

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.

Marriage shall be entered into only with the free and full consent of the intending spouses.

Although it is not a treaty, and therefore not binding in international law, the UDHR was groundbreaking for women, and since 1945 the rights and status of women have changed in country after country.

A Bill of Rights for Women

Human rights for women did not stop with the UDHR. Since 1945 women in the UN and in civil society organizations across the
world, sometimes supported by men, have continued to fight for real equality.

These struggles led to the development of a UN convention specifically focused on gender. This was the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which was adopted by the UN in 1979. (For a summary of the main articles of CEDAW, turn to page 155)

CEDAW is often described as an international “Bill of Rights for women.” It is comprehensive and addresses women’s rights to equality in political, civil, cultural, economic and social life.

**Article 1** of CEDAW defines discrimination against women as any form of discrimination which hinders women’s equal rights and freedom:

“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...”

—CEDAW Article 1

**Gender and sex**

In the 1960s and 1970s, research and intensive debate and discussion by women academics, activists, professionals and workers in the women’s movement led to new ways of understanding the relationship between men and women. It also led to the development of new approaches to eradicating inequality between men and women.

A new theory differentiated between gender and sex.

**Gender** is defined as the way in which we give people different roles, characteristics and status in society, based on their biological sex. **Sex** is the physical biological difference between men and women.

Sex is the basis for gender discrimination. In other words, discrimination arises through the idea that a person’s physical biology (male or female sex) should determine their role in society.

Therefore, to say that a woman may not study to be a doctor represents discrimination on the basis of women’s biological difference from men (sex). Similarly, the idea that mothers are better parents than fathers and therefore should shoulder the responsibility of childcare is discrimination based on sex.

By creating unequal roles and allocating resources unequally on the basis of biological difference, we create unequal societies.

**Gender is a social construction**

Defined in this way, gender is something we have ourselves created. It is seen as a social issue, and referred to as a social construction. Because we have created gender constructions, we can change them. These understandings led to new approaches to addressing the problems of inequality between men and women.

Gender constructions are different in different cultures and religions. For example, in some cultures and religions, women are expected to be virgins when they marry. In others, this is not expected. In some cultures, women may inherit property. In others, they may not.

Gender is constructed differently in different classes and at different times. For example, 100 years ago, there were many working class women employed in textile and garment factories, laundries, as domestic workers and as farm laborers in the US, but it was rare to find any female professionals. Today there are many women working in professional spheres — lawyers, doctors, journalists, architects, etc.

CEDAW embraces these new concepts and understandings.

**The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

- CEDAW recognises the importance of ending discrimination based on sex for women to achieve real equality.
- It highlights culture and tradition as problems, because cultural practices and traditions all over the world define gender roles in ways that reinforce inequality, enshrine practices that restrict women’s lives, and are harmful to women.
CEDAW proposes an agenda for national action to end discrimination. Countries that have ratified or acceded to CEDAW are legally bound to put its provisions into practice. By signing CEDAW, countries commit themselves to take positive steps — including policy and legal steps — to end discrimination and promote women’s equality in political, civil, economic, cultural, and social life, as well as marriage and family relations. Every four years CEDAW states parties must submit national reports on steps they have taken to comply with CEDAW.

CEDAW affirms the reproductive rights of women. These rights recognize the basic rights of all couples and individuals to decide the number, spacing and timing of their children, to have the right information about sex and other means of conception, and the right to high quality sexual and reproductive health services. They also include the right to make decisions about reproduction free of discrimination, coercion and violence. The UN’s World Health Organization (WHO) defines and discusses sexual and reproductive health rights. Read more at www.who.int/topics/reproductive_health/en/

The Committee on the Elimination of Discrimination against Women, which is made up of 23 experts on women’s issues from different UN member states, oversees the implementation of CEDAW. The Committee meets twice a year to review reports on compliance with the Convention’s provisions. States Parties to the convention are required to submit reports to the Committee every four years.

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which entered into force in December of 2000, grants the Committee the authority to consider complaints from individuals. The Committee may also initiate inquiries into situations of grave or systemic violations of women’s rights and formulate general recommendations and suggestions.

The UN’s approach to gender equality

The UN’s approach is also based on the understanding of gender as a social construction.

For example, the World Health Organization (WHO) says:

“Gender refers to the socially constructed roles, behaviour, activities and attributes that a particular society considers appropriate for men and women.

The distinct roles and behaviour may give rise to gender inequalities, i.e. differences between men and women that systematically favour one group. In turn, such inequalities can lead to inequities between men and women in both health status and access to health care.”

Gender equality means equality between men and women. Gender perspective means taking into account the ways in which actions or situations affect men and women differently.

Since 1997, the UN has been working to mainstream gender into all of its work; this means ensuring that gender perspectives and the goal of gender equality are incorporated into all aspects of the organization’s work.

“Since 1997, the UN has been working to mainstream gender into all of its work; this means ensuring that gender perspectives and the goal of gender equality are incorporated into all aspects of the organization’s work.”

UN Women

In July of 2010, the General Assembly created UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women. UN Women is the UN organization dedicated to gender equality and the empowerment of women. UN Women was established to speed up progress on meeting the needs of women worldwide. It unites the previously distinct areas of the UN system that focused exclusively on gender issues.

The main functions of UN Women are to:

- Support intergovernmental bodies in their formulation of policies, global standards and norms
- Help Member States to implement these standards
- Establish effective partnerships with civil society
- Monitor the UN System for its progress on gender equality

UN Women offers program and technical assistance; provides grants; coordinates the UN System in the area of gender and offers information on women’s issues to the UN bodies; engages in capaci-
ity building and training, and holds expert group meetings. Visit www.unwomen.org to learn more about women's human rights and the UN's work.

**Commission on the Status of Women**
The Commission on the Status of Women (CSW) is a functional commission of the Economic and Social Council (ECOSOC) that is dedicated to advancing gender equality. It is a global policy-making body. The CSW meets every year in March at UN headquarters in New York to evaluate progress on gender equality, identify issues and formulate policy. It is attended by member states, UN agencies and ECOSOC-accredited nongovernmental organizations (NGOs) that take part in discussions, panels and roundtables.

**Women, Peace and Security**
Although wars have a devastating effect on all people, women increasingly suffer greater harm in contemporary conflicts. The vast majority of casualties in conflicts are civilians, with most of them being women and children. In recent years women have suffered increasingly atrocious forms of sexual assault, with rape becoming a weapon of war. Women are also greatly affected by disruptions in infrastructure during and after conflicts as they try to support their families. And even post-conflict, women continue to suffer the effects of sexual violence (such as physical and psychological trauma and pregnancies) and are excluded from peace processes.

The International Criminal Tribunals for the Former Yugoslavia and Rwanda both have considered cases of sexual violence during times of conflict and made rulings on rape as a crime against humanity and as a form of genocide. The Rome Statute of the International Criminal Court defines rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization and any other form of sexual violence as crimes against humanity and war crimes.

There is growing recognition of the importance of including women in peace processes. Women comprise 50% of the population and are a critical part of society, and without them real and sustainable peace cannot be achieved.

In October of 2000 the UN Security Council passed Resolution 1325, which formally recognized the situation of women in conflict and called for their participation in post-conflict processes. Subsequent Security Council Resolutions 1820, 1888, 1889 and 1960 have further established norms for protecting and promoting the rights of women during and after conflicts. The resolutions focus on four key goals:

- To strengthen women's participation in decision-making
- To mainstream gender perspectives into peace processes
- To end sexual violence and impunity
- To provide an accountability system

The Security Council Resolutions provide an international framework, with obligations both on the UN System as well as member states, for promoting gender equality in peace and security.
Use this space!

Has your country signed up?
By August 2009, 185 countries had ratified CEDAW. Of these, 65 have entered “reservations” that exempt them from certain legal obligations. Examples of reservations include:

- Domestic and family relations within marriage (Egypt)
- Divorce (Syria)
- Equality of opportunities for women in public office (Israel)
- Elimination of traditional forms of discriminatory practices (Niger and Singapore)

The USA is the largest country and only industrialized democracy that has not ratified CEDAW.

Has your country signed CEDAW? If your country has registered reservations, what are they?
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International human rights standards have led to many other changes and today the national constitutions of many countries grant women equal rights with men — to education, health care, property ownership, choice of religion and freedom from abuse.

But discrimination today remains widespread. What has your country done to comply with its international obligations under CEDAW? List some of the constitutional guarantees of women’s rights and some of the laws that represent positive steps towards women’s equality.
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Backround research exercise: Why has the USA not ratified CEDAW?
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Source of the information:

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How credible is your source?

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Check your understanding:

Gender and sex: what’s the difference?

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We have mentioned the ICJ — the International Court of Justice (see page 23). The ICJ is the UN body which is responsible for adjudicating disputes between states. Examples include border disputes; maritime disputes (states’ rights to defense and fishing in different parts of the ocean), and some extradition hearings. It also renders advisory opinions to UN bodies and other authorized agencies.

Here we are concerned with the courts that deal with the most serious human rights violations, like crimes against humanity and genocide.

The first of these courts was set up after the Second World War, when the US, UK, France and the Soviet Union instituted the Nuremberg trials — the trials of Nazis involved in the war and in the Holocaust, in which six million Jews were murdered. An International Military Tribunal for the Far East was also established in Tokyo for the purpose of punishing the leading Second World War criminals.

The Nuremberg trials came to an end in 1946. For over 50 years during the Cold War, there was peace between European states. But in the 1990s the collapse of the former Soviet Union (USSR) and the breakup of Yugoslavia led to the creation of 20 new states. New wars erupted between ethnic groups in the new states and between the states that were created out of Yugoslavia.

Violence in Serbia, Bosnia and Croatia was especially savage, and included mass rapes, concentration camps and genocide. These wars led to renewed consideration of an international justice body.

The ICTY is based in The Hague, Netherlands. It is responsible for trying people from all ethnic groups accused of committing atrocities during the wars that followed the breakup of Yugoslavia.

The ICTY has charged 161 people, including the former Yugoslav president, Slobodan Milošević. Over 130 of those accused have appeared before the court, and — at the time of writing this toolkit — 40 had been found guilty.

Slobodan Milošević was accused of over 60 counts of genocide, crimes against humanity and war crimes committed in Croatia, Bosnia and Herzegovina and Kosovo between 1991 and 1999. These crimes affected hundreds of thousands of victims throughout the former Yugoslavia. His indictment and trial lasted several years and, in a dramatic turn of events, he died of a heart attack.
in the ICTY detention center located in The Hague, Netherlands, shortly before his defense case was completed.

**The International Criminal Tribunal for Rwanda**

In 1994, the genocide in Rwanda prompted the UN Security Council to establish another tribunal, the International Criminal Tribunal for Rwanda (ICTR), to try people responsible for the slaughter of 900,000 Tutsis and moderate Hutus.

The ICTR has its headquarters in Arusha, Tanzania. The court has charged 59 people, including cabinet ministers, army leadership, politicians and journalists. (See textbox on page 66 for more information about the role of the media in the Rwandan genocide.) It has dealt with 26 cases and several people have been found guilty of genocide.

**Other special courts**

Internal conflict, oppression and mass murder in other countries have also led to creation of special courts. These courts are mixed tribunals that combine international agencies and national government structures, and are part of the countries’ transition to democracy and peace.

Special courts have been set up in Sierra Leone, Kosovo, Cambodia, Timor-Leste, Bosnia-Herzegovina and Lebanon.

**The International Criminal Court**

The International Criminal Court (ICC) — sometimes referred to in the media as the “super court” — is the first permanent treaty-based court. The ICC’s headquarters are in The Netherlands. It is an independent international organization and is not part of the UN. However, it does have formal relations with the UN and the UN Security Council plays a large role in that it may refer cases to the ICC and initiate investigations. Otherwise, it is the prosecutor of the ICC that initiates investigations.

The ICC does not replace the ICTY and ICTR, which will continue until their trials have been completed, but it is responsible for investigating and trying all cases of crimes against humanity committed since 2002.

**The Rome Statute and the four gravest crimes**

The treaty that created the ICC is the Rome Statute, which came into force on July 1, 2002. The aim of the Rome Statute was to end impunity to ensure prosecution and punishment) for the perpetrators of the most serious crimes within the international community. It applies to individuals rather than states.

The Rome Statute defines four crimes, regarded as the gravest crimes. These four crimes are genocide, war crimes, crimes against humanity and crimes of aggression.

The ICC does not have powers over the whole world. It only has jurisdiction over crimes committed by citizens of countries that have signed the Rome Statute. It may not try people responsible for crimes committed before it came into force on July 1, 2002. As of February 1, 2012, 120 countries have signed the Rome Statute. The ICC tries individuals. When the ICC institutes proceedings, the countries must cooperate with the court and surrender suspects.

**A court of last resort**

The ICC is a court of last resort. Its jurisdiction is complementary to that of national courts. This means that the ICC will not act if the country where the crime was committed takes action against perpetrators. But if the government refuses to act, or if it reacts too slowly, or if the proceedings are biased in ways that protect perpetrators, the ICC will step in.

Most of the court’s funding comes from member states. But the court can also receive voluntary additional funding from member states, or from business, foundations and individuals.

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"But if the government refuses to act, or if it reacts too slowly, or if the proceedings are biased in ways that protect perpetrators, the ICC will step in."
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**The four crimes**

**Genocide:** The deliberate destruction of an ethnic, racial, religious or national group. Examples include the murder of six million Jews by the Nazi regime of Germany (1933-1945); the Rwanda genocide of 1994, and the Srebrenica genocide of July 1995 in which 8,000 Bosnian Muslim men and boys were massacred by members of the Bosnian Serb army and buried in mass graves.

**Crimes against humanity:** Crimes that are perpetrated by state or nonstate actors, or that result from government policy, or that are tolerated or condoned by government or others in authority, in peacetime or in conflict. They are not single events, but are systematic and widespread, and include murder, torture, rape and other sexual violence and political, racial and religious persecution.
War crimes: Crimes committed in wartime that violate the rules of war. These include murder; the ill-treatment or deportation of civilians to labor camps; killing and ill-treatment of prisoners of war; the destruction of cities, towns and villages and any other acts of destruction not arising out of military necessity or to protect civilians.

Crimes of aggression: When the Rome Statute was adopted in 2002, the signatories agreed that the ICC would not try crimes of aggression until they agreed on a definition and processes of justice for these crimes. In June 2010, the Review Conference of the Rome Statute amended the Statute to a definition of a crime of aggression. The crime was defined as the “the planning, preparation, initiation or execution by a person in a leadership position of an act of aggression.” They defined an act of aggression as the use of armed force by one state against another state without the justification of self-defense or authorization by the Security Council of the United Nations. Under the Kampala agreement, the ICC may not try cases involving crimes of aggression until 2017, when states activate the agreement.

Controversy
The ICC is extremely controversial, and advocacy for and against the court is ongoing.

The most powerful country that is not a signatory is the US. In 2000, US President Bill Clinton signed the Rome Statute. However, this decision was reversed by President George W. Bush, who “nullified” (or “unsigned”) in May 2002. The reason generally given for nullification is that the US constitution, which sets out the US judicial system, prevents US membership.

However, US politicians have also expressed concern that opponents of the US in the international community will use the ICC for “malicious” or political prosecutions of US citizens involved in military operations, for example, in Iraq and Afghanistan, and in peacekeeping missions.

Since President Barack Obama came to power in 2008, the US has entered a policy of constructive engagement with the court, and has participated in some ICC meetings. However, the US is still not a member.

The only two other states that nullified their signatures are Israel and Sudan.

Israel expressed concern that the court would invent new crimes. A particular concern for Israel was that the court might include as a war crime the creation of settlements for civilians of an occupying power in occupied territory.

In 2009, the ICC issued an arrest warrant against Sudan’s President Omar al-Bashir for crimes against humanity arising out of the murder of about 300,000 people in the Darfur region of Sudan since
2003. As the ICC does not have its own police force, it relies on the Sudanese government to hand the president over for trial.

The arrest warrant has caused controversy and some African countries, including Senegal, Djibouti and Comoros, have called on African ICC members to withdraw from the court in protest. Their argument is that the court targets Africa.

Three other powerful states that have not signed are:

China, which argues that the existence of the ICC undermines the sovereignty of states. Other concerns for China are the definition of war crimes as including internal conflict, and that the court has jurisdiction over crimes against humanity committed in peacetime.

India also objects to the broad definition of crimes against humanity and the definition of internal conflicts as war crimes.

Pakistan feels the Rome Statute should provide for reservations by countries that do not agree to all its terms. Another concern for Pakistan is that the ICC can prosecute heads of state.

**Cases and trials**

At the time of writing this toolkit, the ICC was involved in the following cases:

**Uganda** — cases against four members of the Lord’s Resistance Army. Arrest warrants had been issued, but none of the four had yet been captured.

**Democratic Republic of Congo (DRC)** — cases against five men involved in crimes including enlisting underage children to fight, and rape. Four of the five were in custody; the other was still at large.

**Sudan (Darfur)** — four cases against individuals for crimes committed in Darfur. One suspect had appeared voluntarily before the court; the remaining suspects were still at large.

**Sudan (Darfur)** — the ICC has indicted the Sudanese president, Omar al-Bashir, on charges of genocide in Darfur, but he has refused to recognize the court. He remains in office as president of Sudan.

**Central African Republic** — a former politician in the Democratic Republic of Congo (DRC) and alleged leader of an armed force, Jean-Pierre Bemba Gombo is being tried for war crimes and crimes against humanity.

**Kenya** — the ICC was investigating cases against six Kenyan leaders for alleged crimes committed during the electoral violence in 2007-2008.

**Libya** — the UN Security Council referred the situation in Libya to the ICC for investigation. The ICC has opened an investigation into crimes against humanity committed by the Gaddafi regime. The court has subsequently terminated the case against Gaddafi due to his death; cases against his son and former intelligence chief are still pending.

For more about the ICC, see the ICC website: [www.icc-cpi.int/Menus/ICC?lan=en-GB](http://www.icc-cpi.int/Menus/ICC?lan=en-GB)

The ICC’s media relations section provides news and information to journalists. Visit [www.icc-cpi.int/nr/exeres/13cd3142-7459-48f0-b26a-da45723f8482.htm](http://www.icc-cpi.int/nr/exeres/13cd3142-7459-48f0-b26a-da45723f8482.htm)
Interview with Nzau Musau, Political Writer, “The Star,” Nairobi, Kenya

ICC and human rights reporting

Background
Violence erupted after the 2007 presidential elections in Kenya. In just two months of bloody conflict, over 1,100 people were murdered; 3,500 were injured; hundreds of women were raped; 600,000 people were forcibly displaced, and over 100,000 properties were destroyed. Thousands of Kenyans are still living as internally displaced persons, unable to return home.

This interview with journalist Nzau Musau took place on December 16, 2010, the day after ICC Prosecutor Luis Moreno-Ocampo asked ICC judges to issue summonses for six Kenyan citizens to face trials for crimes allegedly committed during the post-election violence in Kenya. At the time of writing this toolkit, the six had appeared before the court for a formal hearing of the charges against them, but a trial had not yet been confirmed.

What do you think is the main human rights issue in Kenya?
At the moment, I think it is the violations that occurred over the post-election violence of 2008. There were displacements, and people are still in the [internally displaced persons’] camps to date; people are still seeking justice for what happened to them. There has never been a mechanism in Kenya to address the issues that arose from the violence — the displacements, the rapes, the assaults, the killings and loss of property.

The violations were very gross. They were covered all over the media; local and international. Everybody knows what happened here. So the main issue now is addressing those violations without a competent tribunal, with a wanting judiciary and a Truth Commission1 which is equally bedevilled by serious credibility problems.

What do you think will be the benefit for Kenyan society for addressing those issues?
The main benefit lies in the country taking off in an impunity-free direction. If you look at the history of this country, it is replete with very gross human rights violations. But people have slumped to a position of taking them as normal occurrences. When journalists write about those issues — even myself — they sound like fairly normal occurrences, like things which are not gross.

But in reality they are gross human rights violations. If we address these issues now, with our new Constitution,2 there is a strong chance of making sure that anyone who violates the human rights of the people will account for their actions. And then people will fear to do wrong; people will be more conscious of human rights, and the country will take a modern approach to these issues. People will then enjoy their place in the state.

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1 The reference is to the Truth, Justice and Reconciliation Commission which is investigating human rights violations, corruption, and economic crimes dating back to Kenyan independence in 1963. The Commission was appointed and began public hearings in January 2010 and is expected to publish a report in 2012.

2 Kenyans voted for a new national Constitution in August 2010.
Are these the kinds of stories you are writing about?
Yes, these are the stories that I write about. Every day I seek opportunities to bring them out. Even if there is no event to give me that chance, I seek opportunities to bring them out in my reporting.
It is in my best interests and that of my country that I write about them. As journalists, I feel that we must promote human rights and make people aware of their responsibilities, so that ours is the sort of journalism that has an impact on society, and is not just writing stories to sell the paper.

“"As journalists, I feel that we must promote human rights and make people aware of their responsibilities, so that ours is the sort of journalism that has an impact on society, and is not just writing stories to sell the paper.""}

When you write these stories, do you use the term “human rights”?
Yes, I use it, but I go to specifics as well. For example, I will not simply say that human rights violations occurred over the post-election violence. I will instead say that crimes against humanity were committed in the country. I will further go on to list exactly what these crimes are; that is, mass rapes, displacement, mass killings, things like that. I try to break it down because “human rights” sounds like a very big phrase. After I break it down, I can then continue to broadly refer to them as human rights violations, as indeed they are.
The history of human rights violations in this country is such that these issues were not addressed for many years. It got to a point where they were not considered violations anymore. People and readers got used to the term “human rights” and it lost its meaning.
“Human rights” is a term that is associated with civil society, with people pressurizing the government, and it sounds like a very far-fetched idea. But it is actually something we relate to every day. We violate the rights of others at our own level, as ordinary people, let alone the government. But this is lost to us because of the very “high idea” of the term.

Can you give me an example?
If you say, for example, that gays have no rights and they should be arrested, looked down upon or denied opportunities because they are gays, you are actually violating human rights. The human rights of gays will be lost if we do not break the term down to say exactly what these rights are, and who they cover, which laws promote these rights and who should enforce them.
For example, our new Constitution has some aspects that address the issue of gays and lesbians. If I am writing about this, I will go directly to the part of our Constitution, the Bill of Rights which grants “everybody” equal status before the law and grants them fundamental freedoms and rights on the basis of their simply being “persons.” In other words, I go to the specifics of saying exactly what is wrong with looking down upon gays and lesbians, in terms of our own Constitution. Besides our Constitution and our statutes, I will also check international laws, any conventions that may bar that kind of treatment.
The post-election violence in Kenya was widely portrayed in the media, including the international media, as ethnic or tribal violence. Do you agree with that?
To some extent, I would agree, because most of the violence had a very ethnic dimension to it. Of course, it was politically motivated violence in the sense that one party lost the election and the other was convinced very much that they had won the election. The biggest problem — and this is where I support what came out in the media — is that we have a very weak political culture in this country, very weak political parties, which are essentially just
shells. People use them to get power, they have no ideology, they mean nothing.

That is why we have so many political parties — 47 for now. You ask them what they stand for, it is nothing, most don’t even know. Because of that, politicians rely on tribes, not on political parties. Essentially, those parties are a band of ethnic groups. The more you can get the better. Of course, you must have solid backing from your own ethnic group before you go on a mission to other tribes. So I agree it was ethnic violence, but politically motivated. As a result, communities rose against each other so they could punish those they thought were not supporting their candidate.

In your work as a journalist, are you tackling the issue of ethnicity?

One of the things I feel strongly about is the issue of political parties in Kenya. As long as we have democracy we must have political parties; they are the main vehicles to get to power. Our problem has been legal. Recently we passed a Political Parties Act to try to regulate political activities, but the Act has so many weaknesses, it was not consultative enough, and politicians were not keen to make it watertight so that we would have a strong political culture. So we find there is not much regard for parties, and people do not connect the negative ethnicity that we have in our country with our political parties. You would expect a Political Parties Act to have safeguards against ethnic political parties, but really there are not enough safeguards. There are some checks and balances, but it is not enough to rein in negative ethnicity through political parties. I am talking about negative ethnicity — I mean the political aspect of it. So yes, I try through my political reporting to look at ethnicity from the point of political parties.

Do all your colleagues agree with your political position?

The good thing is that we have a political desk meeting every day at 8.30 a.m. and then at 9 a.m. we have the general news meeting with all the departments. But the political desk is the driving force of the paper because we have a lot of politics on our front pages. So we are the core team. In those two meetings, we argue our positions.

How open are your news editor and your subeditors, your editor, to the positions that you take up?

One benefit of the newspaper that I work for is that it is a very small organization. It is not convoluted with editors who sit high up. It is an open newsroom whereby we are in touch. And we attend these meetings, all of us. It is a very free environment. They know my positions, and they also know the right person to appoint to cover a particular issue. I would say it is an open environment.
Human rights in times of war and conflict

“In the vicious civil conflicts and undeclared cross-border battles that are increasingly the norm for full-blown shooting wars, few combatants are aware that the Geneva Conventions afford special protections to journalists.”

— William A. Orme Jr. ¹

The Geneva Conventions

The Geneva Conventions set standards in international law for humanitarian treatment of wounded soldiers, prisoners of war and civilians during war and conflict and military occupation. They also recognize the human rights of journalists.

The Geneva Conventions comprise four treaties and three additional protocols, which together make up international humanitarian law.

The first three treaties were adopted between 1864 and 1931. They deal with the humane treatment of wounded and sick soldiers, sailors and prisoners of war. The fourth treaty was drafted after the Second World War. It confirms and expands the three previous treaties and includes the protection of civilians. In 1977 two additional protocols were adopted, increasing protections and in 2005, a third protocol was added establishing an additional protective sign for medical services. (For more about Protective Signs, see page 48).

The four conventions and their protocols are legally binding. Members of the armed forces who violate the rights in the conventions can be found guilty of war crimes.

Summary of the main articles

The Fourth Geneva Convention applies to the protection of civilians, including journalists.

Fourth Convention, Article 3

Article 3, which is common to all four conventions, covers the rights of civilians in enemy or occupied territory in non-international conflict. It states that all civilians must be treated humanely, without discrimination as to “race, colour, religion, faith, sex, birth or wealth, or any other similar criteria.”

It outlaws the following acts against civilians:

- Any form of violence, including murder, mutilation, cruel treatment and torture;
- Taking of hostages;
- Humiliating and degrading treatment;
- Being sentenced or executed without trial by a recognized court.

Article 3 also states that the “wounded and sick shall be collected and cared for.”

Article 4

Defines who is protected by the convention. Only those who find themselves in occupied territory or are taken prisoner by a country of which they are not nationals (a foreign country or invading country) are protected.

Citizens of countries not bound by the convention are excluded — that is, they are not protected. Citizens of a neutral or allied state are also excluded if the state has normal diplomatic relations with the occupying power.

Article 27
Describes rights of civilians:
“Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall, at all times, be humanely treated, and shall be protected, especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.”

Protocol 2
Refers to non-international conflicts and extends the Geneva Conventions to include large-scale civil conflicts between the armed forces of a state and dissident armed forces or other organized armed groups in its territory. It excludes internal disturbances, such as riots that are isolated and sporadic, which are not categorized as armed conflicts.

Article 4 of Protocol 2
Describes how humane treatment must be extended to civilians:
Civilians (including fighters or soldiers who have put down their arms), whether they are prisoners or not, are entitled to “respect for their person, honour and convictions and religious practices” and must always be treated humanely, without discrimination.

The Protocol specifically lists and prohibits the following violations of civilian rights:
- Violence to the life, health and physical or mental well-being of the person;
- Murder and cruel treatment such as torture, mutilation or any corporal punishment;
- Collective punishments;
- Taking of hostages;
- Acts of terrorism;
- Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- Slavery and the slave trade in all their forms;

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.”

Origins of the Geneva Conventions
The Geneva Conventions originated with a Swiss businessman, Jean Henri Dunant, who saw the carnage caused by the Battle of Solferino in 1859. The battle, in which the French and Sardinian armies fought the Austrians, took place just outside the town of Solferino in northern Italy and involved over 300,000 soldiers. It was won by the French and Sardinians. When the gunfire stopped, some 38,000 people lay dead or wounded on the battlefield. Doctors had been captured during the battle and no one seemed to be helping wounded soldiers. Horrified at the suffering, Dunant organized local townspeople and villagers to help the soldiers, no matter which side they had fought on.

He returned to Geneva and wrote a book about what he had seen. He also led a successful advocacy campaign for establishment of a permanent body to care for those wounded in war, and for establishment of a treaty to guarantee neutrality of the body.

His ideas led to the creation of the International Committee of the Red Cross in 1863 and later, to the creation of the first Geneva Convention. Dunant received the first Nobel Peace Prize in 1901. He died in 1910.
Pillage;
- Threats to commit any of listed violations.

In 1993, the UN Security Council ruled that the Geneva Conventions had passed into the body of customary international law, making them binding on everyone — signatories and non-signatories to the Conventions — whenever they engage in armed conflicts.

**The rights of journalists**
The Geneva Convention categorizes journalists who are attached to armies as non-uniformed participants in the war. What this means is that under international humanitarian law, journalists who are accredited by and travel with (are “embedded” in) an army are legally part of the military force.

If captured by the enemy, they will be treated as prisoners of war.

**As prisoners of war:**
- Journalists have the right not to respond to interrogation (to remain silent)
- Their notes, film and equipment may be legally confiscated
- They may not be treated as spies unless there is evidence to prove that they are spies.

Journalists who are not part of the military, but are independent, are protected in the Protocol 1 of the Geneva Convention, adopted in 1977. Article 79 of Protocol 1 says that journalists who are independent of the armed forces must be protected as civilians.

**Summary of Article 79:**
- Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians...
- They may obtain an identity card similar to the one issued by the government of their country to confirm their status as journalists, but this is not compulsory.

Like all civilians, journalists are not subject to military discipline and must not be made targets for attack or suffer reprisals carried out by any side in the conflict. However, they will lose their civilian status if they take any action which suggests or shows they support one of the sides in the conflict; for example, carrying a gun, giving information or any other help for one side or the other.

**GENEVA CONVENTIONS, PROTOCOL 1, ARTICLE 79:**
“Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians... [and] shall be protected as such under the Conventions in this Protocol, provided they take no action adversely affecting their status as civilians...”

**JOURNALISTS IN CONFLICT**
“This vague civilian status is unsatisfactory and there needs to be a specific crime to deter attacks on journalists and human rights monitors or fact finders, for the simple reason that in conflict zones they are not perceived as innocent civilians but as enemies, real or potential, of those whose criminal acts they may expose.”
— Geoffrey Robertson QC, “Human Rights Fact Finding: Some Legal and Ethical Dilemmas”

— William A. Orme Jr. in “Crimes of War: What the Public Should Know.”

“Never pretend to be what you are not or deny being what you are unless your life depends on it. Carry a camera, but never a gun. And keep that dog-eared copy of the Geneva Conventions in your breast pocket until after the shooting stops.”

— William A. Orme Jr. in “Crimes of War: What the Public Should Know.”
Protocol 3 protective signs

Protective signs are symbols on uniforms, vehicles and buildings that are used during armed conflict to draw attention to the fact that they are protected under international humanitarian law. In general, people or objects carrying protective signs may not be shot at or attacked. The form, shape and color of the signs are defined by the rules of international humanitarian law.

Use of protective signs is restricted to armed conflicts. The misuse of protective signs is a violation of international humanitarian law.

Notes

Source: www.en.wikipedia.org/wiki/Protective_sign
What the treaties say

The main rights directly affecting media are the rights to freedom of expression, opinion and information. These rights are expressed in the UDHR and in the ICCPR. They are referred to as “Article 19 rights” because they are expressed in Article 19 of both the UDHR and the ICCPR.

UDHR, 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.”

ICCPR, 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.”

Article 19 rights are, like all other rights, universal, inherent and inalienable [see page 3 for the meanings of these terms.]

Understanding Article 19 Rights

1) “Everyone shall have the right...”
The right to freedom of expression belongs to everyone; no distinctions are permitted on the basis of a person’s level of education, or race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status.

2) “...to seek, receive and impart...”
To impart is the right to tell others what you think or know, whether in a private meeting or through mass communication. To seek and receive entitles us to access as wide a range of information, viewpoints and ideas of others as possible. This includes obtaining and reading newspapers, listening to broadcasts, surfing the Internet, participating in public debates as a listener, and undertaking journalistic or academic research. It also includes the right to access records held by public authorities, obliging governments to publish important information and respond to requests from individuals to access their records.

3) “...information and ideas of any kind...”
The right to freedom of expression applies not only to information and ideas considered to be useful or correct, but to any kind of fact or opinion that can be communicated, including news and information, advertising, art, etc. It also includes controversial, false or even shocking material, and the ideas of minority groups. The fact that an idea is disliked or thought to be incorrect does not justify stopping a person from expressing it.
4) “...regardless of frontiers...”
The right to freedom of expression is not limited by national boundaries; states must allow their citizens to seek, receive and impart information to and from other countries.

5) “...through any media...”
People should be permitted to express themselves through any media, whether modern or traditional. This includes newspapers, magazines, books, pamphlets, radio, television, the Internet, works of art, public meetings and any other form of media.

**Sunshine laws**
Secrecy leads to rumor, a culture of conspiracy and corruption. Information is needed to hold governments to account.

One proactive measure that many states have taken in fulfillment of their Article 19 obligations is to introduce freedom of information laws. Freedom of information laws are sometimes called “sunshine laws,” referring to the quotation above by Justice Louis Brandeis. Journalists — like everyone else — can use these laws. Sunshine laws apply to all institutions — government and the private sector. They address government transparency as well as private sector issues. For instance, without access to information from businesses and corporations about their operations, production processes, environmental impact, profits, costs, prices and many other issues, consumers and workers are open to exploitation and abuse.

Article 19 rights are recognized as the most important rights. Where Article 19 Rights are strong, other rights and freedoms will be protected:

> “... the right to freedom of opinion and expression should...be understood to be an essential instrument for the promotion and protection of other human rights. It is an important tool for combating impunity and corruption, as well.”
> —Frank La Rue, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.¹

**Article 19 rights in the newsroom**
Article 19 rights defenders argue that Article 19 rights give journalists a special role in society, because through their work journalists ensure that the general public can achieve their rights to freedom of expression and information. Without good journalism, the general public would not be able to enjoy their Article 19 rights. This argument has often been used in courts to defend journalists and media freedoms.

Journalists should therefore be able to practice freely; that is, to make decisions and choices about what stories to cover and follow, what audiences to reach, whom to interview and what facts, sounds and pictures to include, without pressure or fear.

**Limitations on freedom of expression**
Both the UDHR and the ICCPR put limits on freedom of expression and information.

Article 19 of the ICCPR emphasizes that the right of freedom of opinion and expression “...carries with it special duties and responsibilities. It may therefore be subject to certain restrictions.”

Article 29 of the UDHR says that everyone has “duties to the community.” All rights, including the right to freedom of expression, are limited by these duties.

The aim of these clauses is to ensure that people exercising the right of freedom of expression do not infringe on any other rights, for example, the right to privacy, the right to live free from racism, the right to good reputation and freedom from crimes like libel or defamation. They also imply a duty to give information that is factual and accurate.

The UDHR (Article 29) and the ICCPR (Article 19) say that limitations may only be imposed by law. Laws limiting freedom of expression should only be intended to ensure that people’s rights are respected, and for the protection of national security or of public order, public health or morals.

For ICCPR States Parties, Article 19 is legally binding. In other words, a state that suppresses freedom of expression for any other reason, or whose laws go beyond the limitations set out in Article 19, is violating the rights of its people.


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**CONFUSION ALERT!**

Article 19 does not say that people have a right to media. Media are only a tool through which the basic human rights of freedom of opinion, expression and information can be achieved.

Nor does it give journalists any special rights. Journalists depend on human rights to do their job, but there are no special rights for journalists. Journalists have the same rights to freedom of expression, opinion and information as all other citizens.
The UN Human Rights Council (UNHRC) also lists “permissible” limitations on freedom of expression.

According to the UNHRC, states may limit freedom of expression if the limitations:

- Protect people against inaccurate and offensive statements
- Protect privacy under certain circumstances
- Allow the state to protect its security
- Prevent “hate” journalism — especially where it promotes racism, ethnic or religious hatred
- Prevent propaganda for war.  

**Limitations on freedom of information**

Ideally, good access to information laws should enable all information held by any public body to be disclosed. However, international standards agree that governments may refuse to disclose information when they can show that disclosure would cause harm, and that this harm would be greater than the benefit of disclosure. Many governments limit freedom of information laws by arguing that disclosure of information would threaten state security.

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**Article 19 rights in the UN System**

The main UN bodies concerned with Article 19 rights are:

- The Human Rights Committee, which oversees states’ compliance with the ICCPR.
- The Human Rights Council, which sponsors the work of a Special Rapporteur on freedom of opinion and expression. Special Rapporteurs are independent experts mandated to research particular human rights issues or themes as part of the Special Procedures of the UN.
- UNESCO (United Nations Educational, Scientific and Cultural Organization). UNESCO is part of the UN system, and has a special focus on freedom of information and communication and communication for development.

“...without freedom of information, freedom of expression often remains meaningless.”

Ten threats to freedom of expression across the world

The UN and international and national civil society media monitors believe there have been vast improvements with respect to media freedom and freedom of expression in most countries. But they also say there is a long way to go.

After reviewing constitutions and national laws of states across the region, UN rapporteurs and media monitors from Africa, US, Latin America and Europe listed 10 threats to freedom of expression in the next decade:

1. Government control, especially:
   - Political influence or control over public media.
   - Registration requirements for the print media or to use or access the Internet.
   - Direct government control over licensing and regulation of broadcasters.
   - Abuse of state advertising or other state powers to influence editorial policy.
   - Ownership or control of the media by political leaders or parties.
   - Politically motivated legal cases being brought against independent media.
   - Keeping antiquated legal rules — such as sedition (treason) laws or rules against publishing false news — which penalize criticism of government.

2. Criminal defamation — laws making it a crime to defame, insult, slander or libel someone or something are still in place in most countries, including:
   - Laws that do not require the accuser to prove lies or malice.
   - Laws which penalize true statements.
   - Protection of the reputation of public bodies, of state symbols or flags, or the state itself.
   - Protection of beliefs, schools of thought, ideologies, religions, religious symbols or ideas.
   - Unduly harsh punishment, including imprisonment, fines and loss of civil rights, including the right to practice journalism.

3. Violence against Journalists — there were more politically motivated killings of journalists in 2009 than in any other year in the past decade. Threats include:
   - Failure by states to allocate resources to preventing and investigating attacks.
   - Lack of recognition that special measures are needed to address attacks against journalists.

4. Limits on the Right to Information — major threats are:
   - The majority of states have still not adopted laws guaranteeing the right to information.
   - Laws in many states are weak.
   - The challenge of implementing the right to information in practice (delays in response time; ignoring requests for information).
   - Lack of openness around elections.

5. Discrimination in the enjoyment of the right to freedom of expression — women, minorities, refugees, indigenous peoples and sexual minorities — continue to struggle to have their voices heard.
   - Obstacles to establishment of media by and for disadvantaged groups.
   - Misuse of hate speech laws to prevent disadvantaged groups from debating their problems and concerns.
   - Few members of disadvantaged groups are employed in mainstream media.
   - Inadequate coverage of issues of relevance to disadvantaged groups.
   - Stereotypes and derogatory information about disadvantaged groups being disseminated in society.

6. Commercial Pressures
   - Growing concentration of ownership of the media, with implications for content diversity.
   - Fracturing of the advertising market, and other commercial pressures, leading to cost-cutting measures such as less local content, cheap, shallow entertainment and a decrease in investigative journalism.
   - The digital switchover may favor existing broadcasters to the detriment of greater diversity and access.
7. **Support for Public Service and Community Broadcasters** — threats include:
   - Frequent challenges to public funding support for public broadcasters.
   - Lack of a clear public service mandate for public broadcasters.
   - Lack of legal recognition of the community broadcasting sector in licensing systems, and failure to reserve frequencies for community broadcasters and set up funding support agencies.

8. **Security and Freedom of Expression** — increase in the use of national security as a reason for restricting freedom of expression, especially since the attacks of September 2001 (on the World Trade Center) and the international “war on terror”:
   - Vague and/or overbroad definitions of key terms such as security and terrorism.
   - Abuse of vague terms to limit critical or offensive speech which do not constitute incitement to violence.
   - Pressures on the media not to report on terrorism, on the grounds that this may promote the objectives of terrorists.
   - Expanded use of surveillance techniques and reduced oversight of surveillance operations, which exert a chilling effect on freedom of expression and undermine the right of journalists to protect their confidential sources.

9. **Freedom of Expression on the Internet** — some governments control the Internet, for example:
   - Fragmentation of the Internet through the imposition of firewalls and filters, as well as through registration requirements.
   - State interventions, such as blocking of websites and Web domains which give access to user-generated content or social networking.
   - Some corporations fail to make a sufficient effort to respect the rights of access the Internet without interference, for example on political grounds.

10. **Access to Information and Communication Technologies**
   - Pricing structures make the Internet too expensive for the poor.
   - Infrastructure and connectivity do not reach many places.
   - Limited support for community-based ICT centers.
   - Inadequate training and education particularly among poor, rural and elderly populations.


To see the full text of the Declaration, visit www.article19.org/pdfs/standards/tenth-anniversary-joint-declaration-ten-key-challenges-to-freedom-of-express.pdf
Use this space!

Does your national constitution guarantee freedom of expression? What does it say?
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What are the freedom of expression and information laws in your country?
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Describe the ways in which the laws:
(1) Guarantee freedom of expression and right of access to information
________________________________________________________________________________________________________
________________________________________________________________________________________________________
________________________________________________________________________________________________________

(2) Limit freedom of expression and right of access to information
________________________________________________________________________________________________________
________________________________________________________________________________________________________
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In your opinion, are your country’s laws effective in guaranteeing freedom of expression and access to information?
________________________________________________________________________________________________________
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________________________________________________________________________________________________________
There are many human rights organizations, journalists’ associations, unions and individual human rights lawyers who specialize in protecting Article 19 rights and defending journalists. If you feel your rights to freedom of expression and information are being violated, who would you turn to in your country for support and advice?

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PHOTO CREDITS: Unless otherwise noted, all photos are drawn from Internews’ own image archives.

Cover:
Pg. 2: Using a satellite phone in Benghazi, Libya
Pg. 3: Calling a local radio station in Korogosho slum, Kenya
Pg. 4: Factory in Jaffna, Sri Lanka that employs war widows and young girls
Pg. 6: Nepal (Credit: Mukunda Bogati)
Pg. 8: Woman displaced by 2010 floods, Pakistan
Pg. 11: Internews trainee in Luxor, Egypt
Pg. 13: Interviewing communities along the Nile, Egypt
Pg. 15: Interviewing governor of Jurm, Afghanistan
Pg. 16: Punjab, Pakistan
Pg. 21: UNOPS community mobiliser handing out cholera prevention materials in City Soleil, Haiti
Pg. 31: Voluntary HIV counseling and testing clinic, Ethiopia
Pg. 32: Interviewing IDP women in Pakistan’s Khyber Pakhtunkhwa Province
Pg. 35: Kauda, Sudan
Pg. 38: The International Criminal Court building; (Credit: Alkan de Beaumont Chaqlar, Flickr)
Pg. 38: Slobodan Milosevic (Credit: a-birdie, Flickr)
Pg. 40: Student trainee during Internews seminar; Kyrgyzstan, 2010
Pg. 42: Nzau Musau, The Star; Nairobi, Kenya
Pg. 43: Graffiti after post-election violence in Kenya (Credit: The Advocacy Project/Kristina Rosinsky, Flickr)
Pg. 44: Children of Kibera, Kenya, 2007 (Credit: subcomandanta, Flickr)
Pg. 45: Filming TV program near Lake Issyk-Kul, Kyrgyzstan, 2004
Pg. 47: Reporter from Baladna TV; Qalqilya, West Bank
Pg. 49: Public discussion following documentary film screening in Rwanda
Pg. 51: United Arab Emirates
Pg. 53: Afghan Youth Festival, Afghanistan