

# Human Rights

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As the **Universal Declaration of Human Rights (UDHR)** states, “freedom, justice and peace in the world” are founded on the basis of “the inherent dignity and the equal and inalienable rights of all members of the human family.”<sup>1</sup> At the same time, every man, woman and child has the right to peace and the absence of violence. The violation of human rights and armed conflict are often inextricably linked; systematic abuse of the human rights of particular sectors, communities or groups can result in conflict, and violent conflict in turn results in further violations of human rights. In other words, human rights are inextricably linked to issues of conflict, peace and security.

There can be no form of good governance, justice, rule of law or security without respect for human rights. Yet too often, states forego basic human rights—particularly civil and political rights—in the name of security. It can be a difficult balancing act. Since the “war on terror” was launched, for example, the civil rights of sectors of the **United States (US)** population have been threatened in the name of security for the majority. In many other countries, including **Afghanistan, Colombia, Iraq and Russia**, the fundamental human rights of many communities have been violated.

Upholding human rights can be a challenging goal, particularly in societies with a history of violence or oppression. In such societies, violence, fear and impunity must be replaced by peace, freedom and accountability. This involves transforming the way the government interacts with citizens. Human rights must be integrated into every facet of reconstruction and institution building. This requires a commitment by the government, civil society and the international community to support, implement and enforce human rights standards. This chapter provides an overview of human rights and related law in the context of conflict. It highlights the impact of human rights violations on women and provides examples of efforts to prevent, document and redress human rights violations.

## 1. WHAT ARE HUMAN RIGHTS?

**Human rights** can be defined as the rights of all individuals regardless of sex, race, colour, language, national origin, age, class or religious or political beliefs to certain fundamental freedoms.<sup>2</sup> Human rights are universal, inalienable, indivisible and interrelated.<sup>3</sup> Every state has the obligation to promote universal respect for all human rights without discrimination, regardless of cultural or other differences. Every person not only has rights, but also has the responsibility of respecting the rights of others.

Although modern human rights laws were formulated in the wake of World War II, they have ancient and global origins. The great religious traditions—Buddhism, Christianity, Confucianism, Hinduism, Judaism and Islam—include such universal human rights tenets as the responsibility of human beings towards others and respect for human dignity. Philosophies around the world have long explored the nature of relations between individuals and the moral responsibilities of individuals within society.<sup>4</sup> This prevalence of human rights principles in moral and religious traditions across the world

makes a strong case against those who claim that human rights are a “western concept.”

The first recorded version of a human rights declaration dates back to 570 BC and Cyrus the Great of Persia. His Charter of Freedom of Humankind recognised the right to liberty, security, freedom of movement and residence, right of property, freedom of religion, right to work and the prohibition of slavery.<sup>5</sup> Throughout the centuries, other documents established the rights and responsibilities of citizens of countries, including the Treaty of Westphalia, the Bill of Rights in Britain, the French Declaration of the Rights of Man and Citizens and the US Bill of Rights.

The founding documents for modern international human rights are called **The International Bill of Human Rights** and consists of the **United Nations (UN) Charter**, the **Universal Declaration of Human Rights**, the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**.

The **UN Charter** establishes the legal and conceptual framework for contemporary international human rights law.<sup>6</sup> Article 1 of the UN Charter recognises that one of the UN’s purposes is to promote and encourage respect for human rights and fundamental freedoms. Article 55(c) states that the United Nations shall promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.”<sup>7</sup>

**The Universal Declaration of Human Rights (UDHR)** recognises the universality of human rights; the preamble states that the UDHR is a “common standard of achievement for all peoples and all nations (see appendix for full text).”<sup>8</sup> Although the UDHR is not a treaty, it has become a source of **customary international law**, meaning that states have a sense of legal obligation to observe norms and these norms are reflected in the general practice of states.<sup>9</sup> The UDHR has gained widespread acceptance among states and is considered to be an authoritative interpretation of human rights in the UN Charter.<sup>10</sup> The UDHR articulates political and civil rights as well as economic and social rights and has served as a basis for more than 20 international human rights treaties.<sup>11</sup> The

human rights and fundamental freedoms in the UDHR include:

- right to non-discrimination;
- right to life, liberty and security;
- prohibition of slavery;
- prohibition of torture and cruel, inhuman or degrading treatment or punishment;
- right to equality before the law;
- prohibition of arbitrary arrest, detention or exile;
- right to a fair and public hearing;
- right to privacy;
- freedom of movement and residence;
- right to nationality and citizenship;
- right to marriage and family;
- right to own property;
- freedom of thought, conscience and religion;
- freedom of opinion and expression;
- freedom to peaceful assembly and association;
- right to representative government;
- right to social security;
- right to work;
- right to adequate standard of living;
- right to education; and
- right to participate in cultural life.

The ICCPR and the ICESCR treaties are legally binding. By ratifying them, states are bound to abide by their provisions.<sup>12</sup> These two conventions include more detailed explanations of the rights and freedoms enumerated in the UDHR. The ICCPR covers civil and political rights, sometimes referred to as “**first generation**” rights. The ICESCR specifies social, economic and cultural rights, also referred to as “**second generation**” rights. Although the UN has reaffirmed that all human rights are equal in importance, civil and political rights have received more attention in implementation and enforcement.

Implementation of each of these conventions is monitored by a UN committee: the ICCPR by the

UN Human Rights Committee and the ICESCR by the UN Committee on Economic, Social and Cultural Rights. The ICCPR has two optional protocols. A protocol supplements a treaty and adds additional procedures or provisions or interprets existing provisions in another treaty.<sup>13</sup> The purpose of the first Optional Protocol to the ICCPR is to establish enforcement mechanisms by allowing individual victims of human rights abuses to communicate directly with the Committee on Human Rights. The ICESCR does not have a similar protocol for enforcement.<sup>14</sup>

Numerous international documents—treaties, declarations, resolutions, recommendations, decisions and actions—have been developed in the years since the **International Bill of Rights** was created, addressing such human rights topics as non-discrimination, self-determination, women’s rights, children’s rights, prohibitions against slavery and forced labour, transitional justice and rule of law, humanitarian law and other rights and freedoms. For example, the **UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** came into force in 1987.

Specialised international agencies of the UN, the **International Labour Organization (ILO)** and other multilateral institutions have contributed to the recognition and respect for human rights. Regional institutions have created their own instruments to guarantee human rights, including the **African Charter of Human and People’s Rights**, **Asian Human Rights Charter**, **European Convention on Human Rights** and the **American Convention on Human Rights**. Individual governments have responded to international human rights obligations and to pressure from multilateral organisations, other governments and non-governmental organisations (NGOs) by formulating legislation, regulations, court decisions and pronouncements addressing human rights. All of these documents and actions have helped define, explain and expand the scope of international human rights standards.

## 2. WHAT ARE WOMEN’S HUMAN RIGHTS?

Women’s experiences of human rights violations are heavily coloured by their sex, gender roles and status

in society. For example, they more often experience cruel, inhuman or degrading treatment through gender-based violence. They are denied economic human rights by the disproportionate impact of economic policies. They are targets of discrimination in laws pertaining to citizenship, family and property.<sup>15</sup> They are denied social rights in the form of restrictive reproductive laws and policies.<sup>16</sup> To elaborate on the **International Bill of Human Rights** instruments, in 1979 the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** was drafted (see appendix for full text). It came into force in 1981. In 1999 the **CEDAW Optional Protocol** came into force. This provides two mechanisms for enforcing the convention. The Protocol permits women to submit claims of discrimination directly to the committee that oversees CEDAW compliance. It allows the committee to initiate its own investigations into violations of women’s rights in countries that are signatories to the Protocol (see introductory chapters for detailed information on CEDAW).<sup>17</sup>

CEDAW has been a touchstone for women’s rights activists worldwide. It inspired numerous related declarations, policies and programmes. The 1995 **Beijing Platform for Action (BPFA)** that emerged from the Fourth World Conference on Women, is another critical and even more comprehensive document. This and other policy documents are not legally binding, but they do supplement existing human rights instruments and set new standards in terms of governments’ and the international community’s commitments to women’s human rights.<sup>18</sup>

### VIOLATIONS AGAINST WOMEN: KEY ISSUES

Human rights violations against women are often rooted in discrimination. Because of their unequal status in many societies, economic and social development, health conditions and criminal activities often have a disproportionate impact on women. Some examples of human rights issues with a particular gender dimension are noted below.

**Violence against women:**<sup>19</sup> “Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>20</sup>

Violence against women is a widespread human rights abuse around the world. Women experience violence during peace and conflict, in the home and in the workplace. Often, governments fail to prevent such violence, crimes are treated as less seriously than other types of violence, and perpetrators are not punished. Women endure mistreatment and discrimination in the law enforcement and judicial systems. Types of violence that affect women disproportionately include domestic violence, sexual assault and harassment, honour killings, harmful traditional practices such as female genital mutilation (FGM) and gender-based crimes during armed conflict, specifically sexual assault and rape.

Women are also particularly vulnerable to trafficking (i.e. transportation of people under false pretences) for forced labour and other illicit purposes. Data published in 2004 reveals that 80 percent of the victims trafficked across international borders are girls and women, and 70 percent of those girls and women are trafficked for sexual exploitation.<sup>21</sup> The disproportionate effects of this type of crime on women are often exacerbated by corruption in the government—officials who facilitate trafficking rings. Often governments react to trafficking problems by instituting laws and policies that punish trafficking victims rather than the criminals who are involved.

Women political prisoners also experience gendered forms of violence and humiliation. Often sexual torture is used. Pregnant women are often threatened with beatings or having their children taken away from them. Even in cases of relatively minor actions, such as public protests, in many instances, women who are arrested can be subjected to virginity tests and penalised for so-called immoral behaviour.

**Health and Reproductive Rights:** Malnutrition, pregnancy complications, inadequate health access and care and increasingly, HIV/AIDS, are all problems that affect women in high numbers around the world. Violence against women, the spread of diseases, including HIV/AIDS, gender discrimination and lack of access to information and health care all make women particularly susceptible to illness and death (see chapters on HIV/AIDS and reproductive health for more information).

Women's health rights are intertwined with various other human rights found in the Universal Declaration on Human Rights and other instruments, including the right to non-discrimination, the right to liberty and security of person, the right to life and survival, the right to be free from inhuman and degrading treatment, the right to privacy, the right to marriage and family and the right to education.

**Educational Rights:** Girls are denied equal access to education in many countries. Of all children worldwide who receive less than four years of education, two-thirds are girls. Of the 60 percent of children worldwide who are not in school, girls are 60 percent. Illiteracy affects girls and women disproportionately—70 percent of the world's illiterate are women, and more than half of the world's women over the age of 15 cannot read or write.<sup>22</sup> Women's lack of education limits their political and economic opportunities.

Women's education rights are linked to other fundamental human rights, including the right to equality, the right to work, the right to an adequate standard of living and freedom of thought, conscience, religion and belief.

**Economic and Labour Rights:** Women are 70 percent of the world's poor and own only one percent of the world's wealth. Overall, women have less control than men over resources, including cash, credit, property, land and wealth in societies around the world.<sup>23</sup> Women in many countries around the world are denied legal rights to own, inherit or transfer property, land and wealth. These disparities affect women's full enjoyment of other human rights.

In the workplace, women have fewer job opportunities than men, they are paid less (30–40 percent less), and they work longer hours.<sup>24</sup> Women perform unpaid domestic labour and are relegated to lower-paid sectors of the economy. Women encounter discriminatory laws and practices in the workplace. In addition, they experience a high incidence of sexual harassment and workplace violence. Women in specific sectors, such as migrant work and domestic service, are particularly vulnerable to abuse.<sup>25</sup>

Women often face a double burden of domestic responsibilities in the home combined with employment outside the home. In post conflict

situations, this is compounded because women are often the sole breadwinners and heads of households, and may also be faced with the effects of displacement, destruction and lack of family labour. In addition, as widows, in many societies women are discriminated against and have limited rights to inheritance, property ownership or even custody of their children (see chapter on post conflict reconstruction).

**Parental and Marital Rights:** Lack of equality in marriage, including limited rights to divorce and child custody, not only results in a violation of women's rights, but can also result in violence against women in the home (see chapter on constitutional law for more information).

**Civic and Political Rights:** In many countries, women are denied opportunities for civic and political participation through discriminatory laws, practices and views. In addition, women are faced with poverty, lack of education, endemic violence and other constraints that prevent them from becoming involved in public life. As a result, women are underrepresented in political organisations and parties, elected office and formal government structures. Women face specific challenges in the areas of voter registration and voting, campaigning for political office and representation in legislatures (see chapter on governance).

### 3. ADDRESSING HUMAN RIGHTS DURING CONFLICT: WHAT LAWS EXIST?

Over the centuries and across the world, attempts have been made to limit wartime behaviour and codify military conduct. The concept of war crimes is noted in Hindu codes dating back to 200 BC, while in 1625 the notion of "humanitarian treatment of civilians" was suggested.<sup>26</sup> However, significant development and change can be attributed to Henri Dunant, founder of the International Committee of the Red Cross, who played a critical role in drafting the first Geneva Convention to protect the sick and wounded in wartime. This convention, signed in 1864, was followed by a number of treaties between 1899 and 1925 relating to the use of poisonous gas and the practice of biological warfare. In the following decades, other conventions

emerged, addressing issues ranging from the treatment of prisoners of war in 1929 to four conventions on the protection of civilians and shipwreck victims in 1949. In 1977, two additional protocols to the 1949 conventions extended protection to civilians in civil war as well (see box). Together this body of legislation is known as **International Humanitarian Law (IHL)**.

#### The Geneva Conventions and Protocols

**Convention I** (1949) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

**Convention II** (1949) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked members of the armed forces at Sea.

**Convention III** (1949) relating to the Treatment of Prisoners of War.

**Convention IV** (1949) relating to the Protection of Civilians in Times of War.

**Protocol I** (1977) relating to the Protection of victims of International Armed Conflict extends protection to victims of wars against racist regimes, wars of self-determination and against alien oppression.

**Protocol II** (1977) relating to the Protection of Victims of Non-international Armed Conflict extends protection to victims of internal conflicts in which an armed opposition controls enough territory to enable them to carry out sustained military operations.

The basic protection and prohibitions stated in the four 1949 Conventions and Additional Protocols of 1977 include the following:

- **Distinctions between soldiers and civilians:** Combatants must be clearly distinguished from civilians by wearing uniforms and carrying weapons openly. Exceptions are made for medical and religious personnel, who may wear uniforms. Medical personnel may also carry small arms to use in self-defence against illegal attacks.

- Mercenaries are combatants who are not nationals of any party to the conflict, are often paid more than soldiers and are not protected by the conventions.
  - A civilian shooting a soldier is liable for prosecution, but a soldier shooting another soldier is not.
  - A soldier that violates the rules of separation with civilians and endangers the life of civilians is no longer protected by the conventions.
- **Prisoners of War (POWs):** Prisoners of war must be treated humanely. Specifically they must not be subjected to torture, medical or scientific experiments of any kind. Violence toward or intimidation and public displays of POWs are illegal. POWs must not be used as human shields. They should not be exposed to danger. POWs cannot be punished for acts committed during fighting—unless the opposing side would punish its own soldiers for the same act.<sup>27</sup>
  - **Treatment of journalists:** In the first three conventions, journalists were considered civilian members of the military and were protected as combatants. For example, they did not have to respond to interrogation. Their status changed in the 1977 Protocols, which explicitly recognised them as civilians. As a result, journalists cannot be deliberately targeted, detained, questioned or mistreated any more than other civilians. But it also means that journalists must not wear military uniform or carry weapons.<sup>28</sup>
  - **Treatment of civilians:** The four 1949 Geneva Conventions and the 1977 additional protocols protect civilians in wartime. Specifically:
    - “Civilians are not to be attacked—either directly or indiscriminately in areas where they are present;
    - There is no destruction of property unless justified by military necessity;
    - Individuals and groups must not be deported, regardless of motive;
    - Civilians must not be taken hostages;
    - Civilians must not be subject to outrages on their dignity, and they must not be tortured, enslaved or raped;

- Civilians must not be subject to collective punishment or reprisals;
- Civilians must not receive differential treatment based on race, religion, nationality or political allegiance; and
- Warring parties must not use or develop biological or chemical weapons, and must not allow children under 15 to participate or be recruited into the armed forces.”<sup>29</sup>

Since the 1977 protocols, efforts have been made to raise the minimum legal age to 18 for participation in hostilities and armed forces. This is recommended in the **Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict**. Despite resistance on the part of many states, with the changes in the nature and conduct of war and in response to advocacy efforts of the human rights community, the international legal framework is evolving.

In addition, the statutes of the International Criminal Court (ICC), and indictments emerging from the international tribunals for **Rwanda** and the former **Yugoslavia** (ICTR and ICTY) have broken new ground in the field of international law as it relates to war and the use of sexual violence. For example, as a result of rulings in cases against key commanders in the **Bosnian** conflict, notions of liability for rape have expanded so that individuals can be held responsible not only for committing the act, but also for planning, abetting or ordering it. They can also be held responsible for knowing that rape is taking place, but failing to stop it (see chapter on transitional justice).

## WOMEN’S HUMAN RIGHTS IN WAR AND CONFLICT

The onslaught of violence and war affects the security and human rights of men and women in society. In most instances, the basic social, economic or political rights of men and women are violated, as schools close, health care services diminish, the economy weakens and jobs are lost and militias and armed forces take over. In addition for men, enforced conscription into fighting forces, imprisonment and death are immediate dangers. Often there are greater restrictions placed on men than women in terms of travel or movement, for example.

For women, the circumstances vary. While they may not be in immediate danger of conscription, they are more vulnerable to attack within their homes and communities—from security forces or criminal gangs and looters. In **Iraq**, girls and working women in particular have been affected as violence on the streets and fear of kidnapping have increased.

Women and girls are often deliberately targeted for sexual abuse as a means of “dishonouring” their community or “demoralising” their male cohorts in liberation or ideological struggles. In **Nepal**, women from areas controlled by Maoists are often targets of abuse by state security forces. In **Iran**, in the immediate years after the 1979 revolution, young women with “leftist” tendencies were raped in jail prior to execution, as it was said that “virgins” go to heaven. Reports of rape and even the deliberate spread of HIV/AIDS as strategies of war have been commonplace in the **Democratic Republic of the Congo (DRC)** and elsewhere in **Africa**.

But the emphasis on sexual violence against women and the depiction of women in conflict situations as passive, vulnerable victims detracts attention from other violations and challenges facing them. For example, in **Bosnia**, in the 1990s, many women did not want to draw attention to their own experiences of rape; instead they wanted to focus on the mass killings of their male relatives and the needs of the children and elderly. The focus on women as rape victims has the danger of stripping away their dignity and sense of agency. Similarly, in **Afghanistan**, while internationally the “burkha” was highlighted as the symbol of women’s subjugation, it was not a priority for Afghan women themselves. They were more concerned about addressing fundamental issues of survival such as access to health care, education, food and ensuring security in the streets.

By definition, refugees and internally displaced women have had their most basic rights to security violated and continue to face a range of other abuses on a daily basis (see chapter on refugees and internally displaced persons). In peace negotiations, women remain marginalised, and their concerns are often ignored or traded off (for more information see chapter on peace negotiations and agreements). Post conflict—a time when there is an opportunity to redress discrimination and initiate programmes and

policies that would uphold women’s rights—they remain either invisible or are addressed in token projects (see chapter on post conflict reconstruction).

#### 4. DEFENDING AND UPHOLDING HUMAN RIGHTS IN CONFLICT: WHAT IS BEING DONE?

Despite the existence of international laws and conventions codifying war, in reality, human rights violations take place regularly, and civilians have been increasingly caught in the crossfire. In World War I, civilian casualties accounted for an estimated 1.5 percent of casualties. In World War II they represented 65 percent, largely as a result of the bombing raids over cities. By the 1990s, civilians made up between 80 to 90 percent of casualties.<sup>30</sup> Violent conflict brings such devastation that survival and the protection of life become the key goals for those who are caught in the violence and for those who choose to help. In **Bosnia** and **Rwanda**, there were countless tales of neighbours hiding neighbours from security forces or mothers shielding their children from massacre. In **Central America** and elsewhere, the church as an institution was critical in protecting civilians. In **South Africa**, the leadership of the liberation movement played a critical role in not only promoting respect for the human rights of all, but also curbing the potential violence and violations that could have occurred.

On a global scale, governmental and non-governmental humanitarian organisations and agencies are at the front lines, providing food, shelter, medical care and some security away from the violence (although as noted above and elsewhere, women experience violence in camps as well). The **International Committee of the Red Cross (ICRC)** was a pioneer in this field, and remains one of the world’s leading movements committed to protecting the lives and dignity of victims of war and internal conflict and giving assistance.<sup>31</sup> In addition, as mandated in the Geneva Conventions, the ICRC is permitted to visit prisoners of war and civilian internees, monitor their treatment in accordance with international humanitarian laws, facilitate communication with their families and have confidential dialogues about their status with the authorities holding them.

In recent years, new initiatives have emerged. For example, **Peace Brigades International (PBI)** sends teams of volunteers into areas suffering from conflict and repression to accompany human rights activists and others threatened by political violence. Given that perpetrators of violence—particularly states—are sensitive to witnesses, PBI's presence can help stem the violations.<sup>32</sup> Similarly the **Non-violent Peaceforce**, composed of organisations and individual members, is dedicated to establishing a trained, civilian, non-violent peace force that is sent to areas of conflict to prevent human rights violations, death and destruction and to promote a space for non-violent interaction.<sup>33</sup> In 2002, some 130 peace force delegates from 47 countries went to **Sri Lanka** to launch their first project.

But the protection of social, economic, cultural or political human rights becomes either a secondary goal or impossible in times of conflict for the victims and for international actors. For example, despite the outcry against the humanitarian crisis in **Darfur, Sudan**, in 2004, the international community has not been able to stem the flow of people being forced out of their homes and villages. In the **Palestinian** territories, despite the Geneva Conventions stating that the destruction of property is illegal, thousands of homes and olive groves have been razed to the ground by occupying Israeli forces.

In the face of such overwhelming obstacles, activists often resort to documenting the abuses they witness and reporting on them. As international organisations such as **Amnesty International (AI)** or **Human Rights Watch (HRW)** state, they “investigate, and expose human rights violations and hold abusers accountable.”<sup>34</sup> By shedding light on the abusive practices of governments or those in power, they seek to hold them accountable to the international policy community and the public. This continuous monitoring and public reporting can be effective. For example, in 2004, reports by international organisations including the ICRC and HRW about abuses by US military personnel against civilians in detention in **Afghanistan** and **Iraq**, prompted public enquiries, punishment for some of the perpetrators and changes in practice towards other prisoners.

**Journalists and the media** also play a critical role. For example, reports from a United Kingdom (UK)-based newspaper prompted investigations into allegations of

abuse against local women and young girls by UN peacekeepers in the **DRC**. In 1994, a New York-based newspaper was the first to report on the “rape camps” in **Bosnia**. These reports played a significant role in persuading the UN system to establish war crimes tribunals.<sup>35</sup>

**Local groups** including NGOs are also key actors. Often they have access to areas in conflict and through their networks and ties with communities are able to gather information without putting their contacts in danger. They are also often trusted more locally and are thus able to elicit more information. In **South Asia**, for example, the South Asia Forum for Human Rights brings together human rights and peace activists in public dialogues. The organisation works with local media to build their capacities in reporting on the war and issues of human rights abuse. They also conduct “peace audits” to monitor governments’ commitments to peace processes. A different approach was taken by the women of Las Madres de la Plaza de Mayo in **Argentina**. Throughout the worst years of the military dictatorship in the 1970s and 1980s, they held vigils and peaceful protests, carrying poster-size portraits of their missing children and relatives, which exposed the rampant human rights abuses of the regime.

Many groups advocate for justice, redress and an end to impunity for crimes committed during war. Lawyers often form associations to advocate for human rights legislation. They also can become champions of human rights in court, taking on critical cases. For example, the 2003 Nobel Laureate, Shirin Ebadi, is renowned for not only fighting for women’s and children’s legal rights, but also seeking to frame these rights in the context of Islamic law.

The documentation of abuses serves as the basis for their claims (see chapter on transitional justice). In addition, in **Bosnia**, for example, local women’s organisations provided counselling to victims and assisted their preparations for appearances as witnesses at the international tribunal.<sup>36</sup>

In many instances, organisations also develop human rights training programmes targeting key governmental security and legal personnel. This has a dual purpose. On the one hand they raise awareness and understanding of human rights law among entities that

are often accused of abusing rights. On the other hand, training sessions can provide a venue for interactions that lead to increased governmental/civil society cooperation on the development of policies, legislation and increased support for human rights principles.

## 5. ADDRESSING CLAIMS AND ENFORCING LAWS: WHAT MECHANISMS EXIST?

### INTERNATIONAL LEVEL

Internationally, and within the UN system, a number of mechanisms exist through which NGOs and other groups or individuals can report human rights violations. Key institutions at the international level include:

**UN Commission on Human Rights:** This commission consists of 53 member states elected by the **UN Economic and Social Council (ECOSOC)**. It conducts fact-finding studies and discussions about human rights issues in countries that come to its attention, without requiring the approval of the related government. Under a specific procedure created by ECOSOC, the Commission can consider cases of massive violations of human rights that are brought to attention by individuals or groups. If the Commission decides to consider the case, the accused government is invited to participate in the proceedings. The proceedings are otherwise confidential, and there is no communication with the author of the complaint.

**UN Human Rights Committee:** This committee of 18 independent experts was established to monitor implementation of the **ICCPR**. The Committee examines progress reports from states, considers state complaints against other states and addresses individual complaints by victims. The Committee can consider individual complaints against states that have ratified the **ICCPR** and the first Protocol to the **ICCPR**. The Committee makes factual and legal findings and produces non-binding recommendations.

**UN Committee on Economic, Social and Cultural Rights:** This Committee receives formal NGO submissions and oral statements and organises discussions with experts relating to human rights embodied in the **ICESCR**. The Committee does not accept individual complaints.

**UN Commission on the Status of Women:** The purpose of this Commission is to promote implementation of the principle of equal rights. The Commission prepares recommendations and reports to **ECOSOC** on promoting women's rights in political, economic, civil, social and educational fields.

**UN Committee on the Elimination of All Forms of Discrimination Against Women:** This UN Committee reports on and monitors the implementation of **CEDAW**. Signatory governments are required to submit reports on their progress. NGOs can communicate with the Committee and can submit "shadow reports" on countries' compliance with **CEDAW**. Under the **CEDAW** Optional Protocol, the Committee can accept individual complaints, but enforcement is weak.

**UN Committee Against Torture:** This UN Committee accepts individual complaints and communications under certain circumstances. It issues general comments on themes relating to the right to be free from torture and cruel, inhuman and degrading treatment and punishment.

### REGIONAL LEVEL

Regional mechanisms for reporting human rights violations include:

**The Inter-American Commission on Human Rights:** The Commission is part of the **Organization of American States (OAS)** and was created by the **American Convention on Human Rights**. It receives individual, group and NGO petitions, observes human rights situations, publishes reports, conducts on-site visits, organises conferences and meetings and recommends various measures to governments. The procedure for submitting an individual complaint is as follows: the state that is the subject of the complaint must be a member of the **OAS**. The petitioner must have exhausted all domestic remedies. The petitioner must submit the complaint within six months after the final decision in the country. The Commission issues a report with conclusions and recommendations and has the option of referring the case to the **Inter-American Court of Human Rights**.

**The Inter-American Commission of Women (CIM):** This commission is the advisory body to the **OAS** in all matters relevant to women in the Western

## Accessing and Using International and Regional Mechanisms

To use the international and regional institutions effectively, it is essential for civil society groups to understand how they work and what can be done to strengthen their capacities to promote and protect women's human rights. Questions to ask before embarking on any communication with these bodies include:

- What is the mandate of the committee and procedure for reporting?
- Is it available to individuals and/or states?
- What do activists need to do to use the procedure?
- How does it work?
- What are the remedies available?
- What are the advantages and disadvantages of using the mechanism?

At all levels—local, national, regional, international—advocacy for human rights, including women's rights, involves coalition building, education and publicity. It is useful to identify advocacy groups that engage with the committees on a regular basis to seek advice on how to raise awareness and support for the issues among officials. Publicity of women's human rights situations, specific cases of violations and reform efforts help advocates expand support and inform the public on women's human rights issues.

Hemisphere and reports to the governments and offers recommendations. Cases can be submitted directly to the CIM.

**The African Commission on Human and People's Rights:** The Commission considers complaints by individuals and groups against states as well as complaints by one state against another. The Commission can only issue recommendations to governments, not binding decisions.

**The European Court of Human Rights:** The process for submitting a complaint is as follows: an individual can file a case, the Court determines if it is admissible, the Court seeks a settlement; if no settlement is reached, the Court makes a decision on the merits of the case. The Court allows human rights advocates to initiate cases, inform the Court and play a role in settlements.

**The European Committee for the Prevention of Torture:** Any citizen (not limited to victims) of the Council of Europe can invoke the **Convention on Torture**.

Recent justice mechanisms established in post conflict situations including the **International Criminal Tribunal for the former Yugoslavia (ICTY)** and the **International Criminal Tribunal for Rwanda (ICTR)**—

and the mixed international and national mechanisms created in places such as **East Timor, Sierra Leone, Cambodia and Iraq**—have been important in bringing accountability to major perpetrators of war crimes, crimes against humanity and genocide. The **International Criminal Court (ICC)**, which came into effect in 2002 as a permanent international judicial mechanism for addressing these types of crimes committed by individuals, is also a milestone. But these mechanisms cannot and do not provide redress for all victims. Nor do they appear to prevent other atrocities (see chapter on transitional justice).

As a 2004 Human Rights Watch World Report notes, there is still a lack of political will and systematic follow up to hold violators accountable. Consequently, there remains “an extraordinary and awful gap between existing international legal standards and practice.”<sup>37</sup>

## 6. PROMOTING A CULTURE OF HUMAN RIGHTS: WHAT OPPORTUNITIES EXIST IN POST CONFLICT SOCIETIES?

In societies where the abuse of human rights—be it political persecution or general oppression of the public

or particular sectors—has been normal practice, change takes time. In many instances, there is no understanding or acceptance that certain practices are abusive. This is particularly true when it relates to violations against women—whether domestic violence or public harassment. Creating change and building the foundations of understanding and respect for human rights is a long and multifaceted process. It requires political leadership, strong legislation and effective enforcement mechanisms, together with extensive education and public awareness-raising in community and religious institutions, schools, the workplace, as well as through the media.

While the challenges are great, in the aftermath of war and conflict, societies and political leaders often have the opportunity not only to reflect on the devastation caused by war and human rights violations, but may be committed to pursuing policies and values that would prevent the resurgence of atrocities. Civil society groups too are often mobilised and committed to righting past wrongs. International attention and financial and technical support are also available to initiate changes ranging from the adoption of new policies, legislation and programmes that promote human rights ideals to the establishment of mechanisms to monitor adherence.

At the national level, state institutions with the mandates, capabilities and willingness to ensure respect for human rights can be created. Legislative and judicial systems can be designed and given the task of protecting human rights and women's rights.

A fundamental requirement for the protection of human rights is **judicial independence**. The judiciary must be mandated and equipped to provide legal redress for victims of women's human rights abuses.<sup>38</sup> Judicial mechanisms can be used to enforce women's human rights. For example, international human rights standards can be brought into the courts through individual cases—litigation is a valuable tool to force changes to the legal system. In addition, civil society can advocate for the establishment of human rights commissions or offices to monitor implementation of human rights and women's rights.

Training programmes can be developed to ensure that staff understand and accept human rights and women's rights principles. In addition, other

mechanisms can be established to monitor human rights and provide redress for victims of violations. In some countries, **human rights commissions** are addressing the issues.<sup>39</sup> They can be given a broad mandate to review law and practice, educate people about the importance of human rights, advise governments, litigate human rights issues by supporting individual applicants, take cases to court and intervene in cases.<sup>40</sup> In **South Africa**, a Human Rights Commission was established in accordance with the 1996 constitution. Its objectives include awareness-raising and providing human rights education, making recommendations to the state regarding the implementation of human rights laws, undertaking studies regarding human rights issues and violations for parliament and investigating complaints and seeking redress in cases where human rights have been violated.<sup>41</sup>

Such mechanisms must come together with not only extensive public understanding of basic human rights, but also changes in social and cultural attitudes. One of the greatest challenges is to nurture and establish a culture of governmental and state accountability regarding respect for human rights

NGOs and other civil society organisations, such as trade unions or professional associations, play a key role in advocating for, and monitoring adherence to, international human rights standards and women's rights. For example, Amnesty International has run human rights awareness training programmes in **Somaliland** and elsewhere for civil society and government representatives. The aim was to build knowledge of general human rights issues—from political and civil rights to cultural and development-related rights—in different fields and activities.<sup>42</sup>

The Institute of War and Peace Reporting (IWPR) focuses on intensive trainings for journalists in conflict-affected societies to raise standards of journalism as well as awareness of human rights. In the South and North **Caucuses**, IWPR has worked with journalists, not only building their capacities, but also improving communication across a region that is rife with misunderstanding and distrust.<sup>43</sup> In Central Asia, Freedom House—an international NGO promoting political and economic freedom—is supporting and strengthening the work of human rights defenders in **Uzbekistan, Tajikistan, Kyrgyzstan**

and **Kazakhstan**. In Algeria, the organisation is supporting human rights groups working on issues relating to people still missing and “disappeared” in the aftermath of Algeria’s bloody civil war.

Human rights education is another means of gradually building understanding and support for human rights. The Human Rights Education Association (HREA) operates internationally, training activists, assisting in the development of curricula and teaching materials, supporting institutional development and strengthening networks of human rights activists.

For example in **Croatia**, HREA helped develop human rights teaching materials aimed at elementary and secondary schools. Human rights education can also be integrated into cultural events, theatre and media. For example, in 2004 in the UK and US, the “documentary theatre” piece “Guantanamo, Honour Bound to Defend Freedom” was performed, drawing on spoken evidence from the US base where hundreds of detainees in the “war on terror” are kept.<sup>44</sup> It is a powerful means of bringing wider public attention to the experiences of individuals caught in the system. Across **Africa**, particularly in war-torn countries, local and traditional theatre is used to convey messages of human rights. In **South Africa**, for example, a travelling theatre company performs short plays in secondary schools depicting social pressures that force teenagers into having unsafe sex. Through interaction with students the performance conveys messages of HIV prevention, as well as self-dignity and notions of reproductive rights (see chapter on HIV/AIDS).<sup>45</sup>

### FOCUSING ON WOMEN’S HUMAN RIGHTS

Human rights advocates use constitutional guarantees and international laws, norms and mechanisms to hold governments accountable for respecting human rights, to broaden the conception of human rights and to improve monitoring and enforcement of human rights standards.<sup>46</sup> Women’s human rights advocacy uses similar strategies to improve respect for women’s human rights. Advocacy may focus on laws and policies that affect women, on national, regional and international institutions that are involved in enforcing human rights and on prevalent attitudes in society.<sup>47</sup> Women’s rights advocacy involves a number of steps:

- identifying the issues through research, fact finding and consultation;
- addressing the rights and needs through practical programmes and projects;
- gaining acceptance of the right in the law through political action, awareness-raising and education; and
- enforcing rights through monitoring and litigation.<sup>48</sup>

The global Women’s Initiative for Gender Justice (formerly the Gender Justice Caucus) operates through a network of groups and individuals committed to strengthening women’s human rights and building capacities among women and institutions to use international mechanisms ranging from the ICC to CEDAW and others. Founded in 1997, the group has also been effective at raising awareness and support for women’s human rights among mainstream human rights organisations, government and UN personnel.<sup>49</sup>

Other international women’s NGOs such as *Madre*, which are active in conflict-affected areas, address human rights issues through support of grassroots organisations and the implementation of practical programmes. *Madre* addresses “sustainable development; community improvement and women’s health; violence and war; discrimination and racism; self-determination and collective rights; women’s leadership development; and human rights education.”<sup>50</sup> Similarly the UK-based NGO *Womankind Worldwide* educates women on human rights issues through practical programmes within their “four literacies” model:<sup>51</sup>

- body literacy—building women’s knowledge of their physical and mental health needs, addressing taboos and making decisions based on facts not fears;
- civil literacy—deepening understanding and knowledge of political and civil rights and promoting participation in decision-making;
- word literacy—supporting women’s education, encouraging reading, writing and creativity; and
- money literacy—building numeric skills and understanding of basic economics and encouraging entrepreneurship.

Women's Learning Partnership for Rights, Development and Peace (WLP) also works globally and in partnership with local organisations. Its primary focus is to build women's leadership capacities and to bridge the digital divide by providing women with alternative means of communication and interaction. Across Asia, Africa and the Middle East, WLP has worked with national partners to promote understanding of women's human rights and develop strategies to overcome discrimination and address gender-based violence.

At the national level, too, women's rights advocates focus on legislative, policy and programmatic issues. In **South Africa**, for example, during the transition from apartheid to democracy, over 90 organisations from across the political spectrum came together to form the Women's National Coalition. Over two years, they consulted some three million women and emerged with a twelve-point Women's Charter. By virtue of being extensive, the process proved that women's rights advocates had a strong national constituency whose demands had to be addressed. The Charter was drawn on during the drafting of the constitution.

In **Afghanistan**, in spite of the security risks, the Afghan Women's Network mobilised support across ethnic lines and among rural and urban communities in 2003 to draft a 16-point Women's Bill of Rights. The bill addresses a wide range of issues affecting women from their lack of political participation to their demands for equal rights in inheritance and the right to seek divorce.<sup>52</sup> While attaining all of these rights may be a long-term goal and ideal, articulating and presenting them as the result of an extensive consultation helps to raise awareness and discussion about the issues and to have at least some key points incorporated into legislation. This in turn provides a legal framework upon which future advocacy efforts can be built.

Often in grassroots communities, women are unaware of their human rights and do not understand how human rights are directly relevant to their lives. NGOs can combine practical assistance with human rights training and awareness. For example in **Colombia**, the NGO Limpal assists internally displaced women by running income-generating projects, providing education on women's constitutional rights and advocating on behalf of the internally displaced. In **Rwanda**, women's groups such as Benimpuhwe have built homes for female-headed households, launched

projects to provide communities with accessible potable water and initiated training programmes in agriculture for women. Through these practical efforts the organisation has reached grassroots groups and raised awareness about a range of human rights issues, including health, nutrition and reproductive rights.

Effective advocacy for women's human rights at the local level also requires an understanding of local laws and practices as they affect women, so that context-specific approaches can be developed.<sup>53</sup> For example, NGOs in **Egypt** found that it was more effective to educate local communities about the harmful effects of FGM than to teach the International Bill on Human Rights in the abstract.<sup>54</sup> Elsewhere, NGOs have targeted community members (usually respected elder women) who perform FGM, informed them of the long-term damage that is caused, and enlisted them in advocacy efforts.

The struggle to attain equal rights at the risk of cultural and political backlash is a common challenge for women's rights advocates worldwide. Groups have taken different approaches. For example, across the Arab world, with support from the United Nations Development Fund for Women (UNIFEM), women's groups have engaged religious leaders in the debate on CEDAW and its compatibility with Islamic Sharia law. The goal of such efforts is to gain acceptance of the principles enshrined in CEDAW within the local cultural and political arena. In this way resistance to its ratification is limited, and at the point of implementation, advocates can draw on a wider base for support. Ultimately, the struggle for women's human rights cannot be undertaken either in a vacuum, removed from society at large or merely at the margins. Raising awareness among and mobilising women is one important step. Building support among men and leaders is another.

## 7. TAKING STRATEGIC ACTION: WHAT CAN WOMEN PEACEBUILDERS DO?

1. Design and initiate training and education programmes in human rights and gender equality for all branches of government and ministries, departments and offices, including members of the military establishment, the security forces, the police and the judiciary.

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- Expand education and training on women’s human rights into other sectors where women experience discrimination.
  - Teach women’s human rights to civil society organisations and to community and religious leaders.
2. Build support among local leaders, parliamentarians and government officials to integrate human rights protections for women into all policies and legislation.
  3. Advocate for the ratification of regional and international human rights instruments, including CEDAW.
  4. Press for investigations and prosecutions in cases of human rights abuses.
    - Engage in dialogue with government representatives about specific human rights issues and cases.
    - Form alliances with human rights organisations and other civil society groups at the international, regional and national levels to pool resources and reach a wider audience with your message.
  5. Propose new laws or amendments to existing laws to eliminate discrimination against women.
    - Support judicial independence and legal authority to consider human rights violations against women.
    - Use the domestic court system, regional and international commissions and courts and other available mechanisms to adjudicate individual cases of human rights violations against women.
  6. Analyse government actions regarding women’s human rights and highlight areas where improvement is needed.
    - Track human rights practices over time.
    - Gather evidence of gross violations of human rights.
  7. Provide information to human rights commissions or offices in your country and to regional and international bodies about government progress in supporting women’s human rights.
  8. Utilise various forms of media—print, radio and television—to inform the public in your country about women’s human rights issues and cases.
  9. Initiate letter-writing campaigns and circulate petitions.

## WHERE CAN YOU FIND MORE INFORMATION?

Amnesty International, Women's Human Rights, <[www.amnestyusa.org/women](http://www.amnestyusa.org/women)>.  
 Freedom House, <<http://www.freedomhouse.org>>.  
 Human Rights Education Association (HREA), <<http://www.hrea.org/programmes.html>>.  
 Human Rights Watch, Women's Human Rights, <<http://hrw.org/women.html>>.  
 Institute of War and Peace Reporting, <[http://www.iwpr.net/training\\_index1.html](http://www.iwpr.net/training_index1.html)>.  
 People's Movement for Human Rights Education (PDHRE), The Human Right of Education, <[www.pdhre.org/rights/education.html](http://www.pdhre.org/rights/education.html)>.  
 UN Commission on Human Rights, <<http://www.unhchr.ch/html/menu2/2/chr.htm>>.  
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## ACRONYMS

AI	Amnesty International
BPFA	Beijing Platform for Action
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIM	Inter-American Commission of Women of the Organization of American States
DRC	Democratic Republic of the Congo
ECOSOC	United Nations Economic and Social Council
FGM	Female Genital Mutilation
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HREA	Human Rights Education Association
HRW	Human Rights Watch
ICC	International Criminal Court
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
IWPR	Institute of War and Peace Reporting
IHL	International Humanitarian Law
ILO	International Labour Organization
NGO	Non-Governmental Organisation
OAS	Organization of American States
PBI	Peace Brigades International
POW	Prisoners of War
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNIFEM	United Nations Development Fund for Women
US	United States
WLP	Women's Learning Partnership for Rights, Development and Peace

## ENDNOTES

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