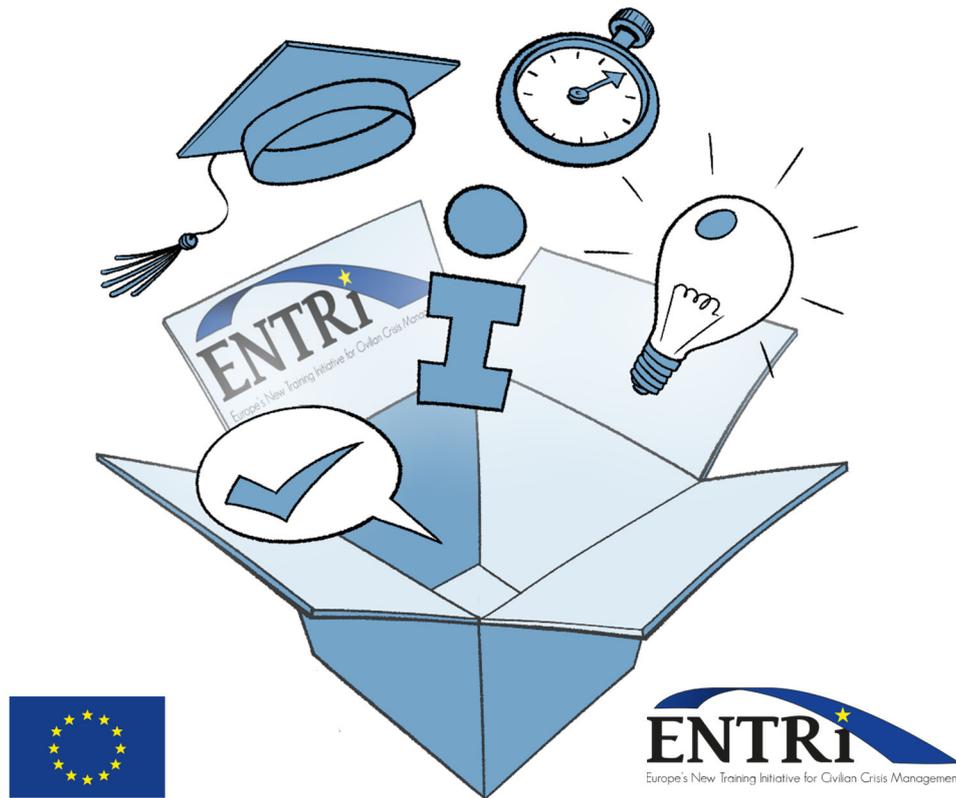


Facilitator's Guide

ENTRi Human Rights Course Package



Authors:

This Human Rights course package, based on the proposal drafted by the Scuola Superiore Sant'Anna, Pisa, has been approved by the ENTRi partners in 2018. This document has been produced with the financial assistance of the European Commission. The views expressed herein should in no way be taken to reflect the official position of the EU.



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Foreword

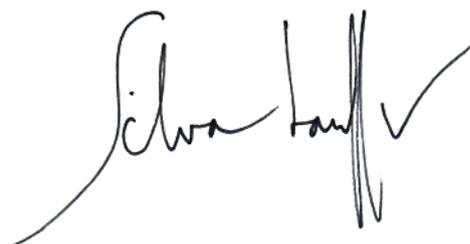
This training package has been developed to provide a sustainable and free resource to trainers and subject matter experts worldwide.

The ENTRi consortium partners that have trained thousands of people over the past decade and more have learnt many lessons. They have taught courses on their own or jointly with other training centres in many parts of the world. By means of this – and other - products, we hope to pass on the impact and spread knowledge to future projects and generations.

By sharing effective training techniques, tested methodologies, critical learning objectives, sample session plans and templates, we aim at saving you precious time and resources.

Since no size fits all, ENTRi training packages have been designed so that you can tailor them to your needs and audiences. However, whenever you use the original material, kindly give credit to ENTRi.

In the name of the ENTRi consortium, I wish you great success with your training and encourage you to share these manuals with whoever could benefit.

A handwritten signature in black ink, appearing to read 'Silva Lauffer', with a stylized flourish at the end.

Silva Lauffer

Head of the ENTRi Secretariat
Europe's New Training Initiative for Civilian Crisis Management (ENTRi)
Center for International Peace Operations

PREFACE

Rationale

This document is the Facilitator's Guide, to be used when delivering the ENTRi Human Rights Course Package. This package is designed to guide the trainers in the delivery of the Human Rights training. Through this package trainers should be able to plan and deliver inclusive training modules using appropriate resources and teaching methods. They should also be able to identify the characteristics of applicable assessments, give constructive and developmental feedback and be able to implement effective evaluation processes.

Any Human Rights training should be conducted in accordance with the principles of the European Convention on Human Rights (ECHR), using procedures and common terminology while at all times ensuring adherence to best practices pertaining to safety, professionalism, behaviour and diversity.

The overall learning objective of the course is to:

- ★ Provide Human Rights (hereinafter referred to as HR) field officers with the specific competencies and skills they will need to fulfil their tasks as members of international and regional organisations involved in missions with HR components.

Target group

The Human Rights Course Package is addressed to organisations and institutions that want to deliver trainings or train their own personnel, who will be deployed in the field, with human rights protection and promotion tasks.

The primary target audience of the trainings organised based on the course package are HR field officers from international and regional organisations involved in missions with HR components. However, due to the self-standing character of some of the modules that make up the course composing the course, training institutions and trainers can also use individual parts of the course package to shape trainings for a target audience not necessarily involved in carrying out HR tasks but requiring training on human rights related issues. For instance, the target audience could also include mission strategic planners, police officers, SSR experts, DDR experts, rule of law experts and civil affairs officers. In particular, Module 1, 2 and 6 can be used for organising a short introductory training on HR. The suggested number of participants is between 15 and 25.

Using the guide

The course package is structured in such a manner to allow training institutions to use the whole package or only individual modules. The timeframe for the course is 9 days, although the time devoted to each module can be readjusted and the content streamlined to give course organisers the leverage to opt out of some of the exercises or adjust the focus of the course through a geographical scope. Module 3 Part 2 provides a general overview on regional human rights protection systems, and then allows the trainer to decide whether to focus on the full spectrum of regional protection systems or only on a specific region. Hence individual sessions of Module 3

Part 2 can be opted out of, tailoring the session to a specific geographical criterion. The same criterion can be used for Module 2, whereby Session 4 focussing on the EU *acquis* on asylum and migration can be opted out of if the focus is not Europe-based.

Moreover, each module has a self-standing character. Module 0 and the evaluation and closing at the end of the course can also be utilised in cases when only certain modules are used to deliver a short introductory course on human rights, for example to open and close the event.

Such a modular structure will allow a much wider use of the course package, which can be delivered not only to personnel who will carry out overall human rights tasks in a mission, but also to all personnel requiring training exclusively on specific human rights aspects.

The Facilitator's Guide includes a sample agenda for 9-days of training, covering all the modules with specific times in order to help the trainer schedule the training course. Moreover, for each module and every session of a module, there is an indication of how much time is allocated for the delivery. Although this guide suggests how much time is needed for each module to be completed, the numbers provided should be considered approximations. It is expected that those delivering the training will take the needs of their target group and the constraints of time into account and modify the agenda accordingly.

The Human Rights Course Package is built in such a manner as to facilitate maximum possible synergies with other ENTRi Course Packages, in particular with regard to the package on gender mainstreaming. Indeed, gender issues should be addressed in the context of human rights, as women's rights are human rights. Gender issues and human rights should be comprehensively integrated into field-based operations during all their phases, e.g. assessment, analysis, planning, implementation, monitoring and evaluation. The training techniques proposed in the course package combine PowerPoint presentations as a tool to support the trainer, together with interactive group exercises, roleplaying and case studies in order to promote a "learning by doing" approach. To ensure that requisite learning objectives are met and teaching standards are maintained, the Human Rights Course Package should only be delivered by qualified and competent trainers; their teaching experience can be utilised and drawn upon to enhance and aid the learning process.

Besides the Facilitator's Guide, this package provides trainers with a set of PowerPoint presentations for each of the modules, case studies, appendix and a sample of the In-Test and Out-Test, all of which are at the trainers' disposal.

At the end of each module, a list of references and further reading is provided for the trainers, who can recommend or suggest this material to participants based on their existing knowledge of the topics.

Planning a human rights course

A human rights training has been defined as "an organised effort to transfer knowledge and develop skills and attitudes that encourage behaviour to promote and protect human rights".¹ Such a definition summarises the complexity of the process and its ambitious objectives. Indeed, based on such a definition it is possible to identify the main traits that indicate how human rights training should be conducted:

¹ OHCHR, *Human Rights Training: A Manual on Human Rights Training Methodology*, Professional Training Series No.6, New York and Geneva, 2000.

- ★ organised
- ★ sensitising and empowering (knowledge, skills, attitudes)
- ★ focused on the learner
- ★ action-oriented (behaviour to promote and protect)

While the first element refers to the whole process as it relates to the organisation of the training exercise, the other three attributes relate to the overall outcomes of human rights training. The target group, which should be at the centre of the whole training exercise and inspire the preparation and delivery of the training itself, should receive information and acquire knowledge on what human rights are and how relevant they are for the job. The group should be sensitised and empowered to promote and protect human rights in the performance of their professional duties. The training should therefore allow the target group to acquire or reinforce skills so that their functions can be fulfilled in an effective way and with due respect and regard for human rights. Overall, the training should be aimed at improving knowledge, skills and attitudes in order to contribute to an appropriate or more appropriate professional behaviour.

For a practice-oriented, easy to use repository of tools and techniques to support you with the design and delivery of training, please refer to the ENTRi Training of Trainers Facilitator's Guide, available at <http://www.entriforccm.eu/package/train-the-trainer.html>

Course checklist²

Use this checklist to help you make sure that you are completely ready to deliver your training.

Before the training

| What? | Done? |
|--|--------------------------|
| Have you found out how many people are attending, who they are, what their general expectations may be? | <input type="checkbox"/> |
| Have you sent joining instructions to the participants? Including details about: | <input type="checkbox"/> |
| ★ Dates of the training | <input type="checkbox"/> |
| ★ How long the days will last | <input type="checkbox"/> |
| ★ Where the training is and how to get there | <input type="checkbox"/> |
| ★ Accommodations | <input type="checkbox"/> |
| ★ Anything people will need to bring | <input type="checkbox"/> |
| ★ Any important pre-reading materials or similar | <input type="checkbox"/> |
| ★ Any other relevant information | <input type="checkbox"/> |
| Have you sent the pre-training survey to all participants and reviewed the results? | <input type="checkbox"/> |
| Have you made sure you have all the equipment you need? | <input type="checkbox"/> |
| ★ Stationery (pens, Post-its, Blu Tack, etc.) (Remember that dry-wipe pens provided in training rooms are often worn out!) | <input type="checkbox"/> |
| ★ Presentations, lesson plans, hand-outs, etc. on a spare USB stick | <input type="checkbox"/> |
| ★ (in case your laptop dies on Day 1!) | <input type="checkbox"/> |
| ★ Something like a multi-tool or Swiss Army penknife for things that go wrong | <input type="checkbox"/> |
| ★ Bags of chocolates or sweets (to lighten the mood when necessary) | <input type="checkbox"/> |
| ★ Your lesson plan (printed out on coloured paper so that it does not get lost in the training room) | <input type="checkbox"/> |
| ★ Technology needs (laptop, cables, adaptors, speakers) | <input type="checkbox"/> |
| ★ Backup plan in case of electricity outage, e.g. printout of all slides | <input type="checkbox"/> |
| ★ Special course requirements | <input type="checkbox"/> |
| Have you found out what equipment and resources will be provided at your training location? | <input type="checkbox"/> |

² Adapted from ENTRI Training of Trainers Facilitator's Guide, pp. 11-13, available at <http://www.entriforccm.eu/package/train-the-trainer.html>

On your way to the event, will you carry all essential equipment and information with you personally at all times?

Hand-outs to be printed **before** the training

| Title of hand-out | File name | Numbers | Special instructions needed |
|--|--|------------------------|--|
| Presentations for each module/session | *.ppt | 1 for each participant | The presentations for each module are included in the respective module folder. |
| Instructions for case studies scenarios, exercises (as provided for in each training module) | M2Part3Sess4_Appendix I.pdf M5_CASE STUDY 1.pdf M5_CASE STUDY 2.pdf M5_CASE STUDY 3.pdf | 1 for each participant | |
| Training evaluation sheets (please refer to Evaluation on p.184 of the Facilitator's Guide) | | 1 for each participant | The hand-outs are not included in this training package. Please see ENTRi dedicated evaluation toolkit. |
| In-Test | IN test.docx IN test.pdf | 1 for each participant | Give participants numbered cards to identify themselves and remind them to keep the card for the Out-Test. |
| Out-Test | OUT test.docx OUT test.pdf | 1 for each participant | Make sure that all the topics inserted in the questions are covered by the trainer after the delivery. |

Stationary and special equipment requirements for the programme

| Items? | Available? |
|---|--------------------------|
| Pads of 76 x 127 Post-its, at least 10 | <input type="checkbox"/> |
| Marker pens for each person | <input type="checkbox"/> |
| Marker pens for you as the presenter (range of colours) | <input type="checkbox"/> |
| Dry-wipe pens (for a whiteboard) | <input type="checkbox"/> |
| Flip-chart pads | <input type="checkbox"/> |
| Pack of coloured cards | <input type="checkbox"/> |

When you arrive at the venue

| What? | Done? |
|---|--------------------------|
| Have you checked that you know how to get in and out of the training room(s), including in the event of an emergency? | <input type="checkbox"/> |
| Do you know where emergency exits and toilets are? | <input type="checkbox"/> |
| Do you know what the fire drill or other emergency precautions in the venue are? | <input type="checkbox"/> |
| Is the room arranged in the way that is appropriate for your training event? | <input type="checkbox"/> |
| Do you know how to control the heating and lighting in the room? | <input type="checkbox"/> |
| Do you know how to work the audio-visual equipment that is provided? | <input type="checkbox"/> |
| Do you have at least one flip-chart stand in the room and a number of flip-chart pads, as well as marker pens that actually work? | <input type="checkbox"/> |
| Is the flip-chart stand positioned appropriately in the room (taking into account whether you are left-handed or right-handed)? | <input type="checkbox"/> |

COURSE AGENDA

| DAY 1 | | | | |
|-------------|--|---|---|--|
| Time | Module | Title of the session | Method/Material | Learning objectives |
| 12:50-13:50 | Module 0 OPENING AND INTRODUCTION | Opening and presentation of the module In-Test | Presentations Computer and projector, flip-chart and markers Numbered cards and printed copies of the In-Test | <ul style="list-style-type: none"> ★ Explain why the training is being conducted. ★ List the objectives of the training. |
| 13:50-14:20 | Module 1 INTRODUCTION TO HUMAN RIGHTS LAW | International Human Rights Law: a few introductory remarks | Presentations Computer and projector Flip-chart and markers Printed materials (Art. 2.7 UN Charter; Art. 25 ICCPR, Art. 21 UDHR) | <ul style="list-style-type: none"> ★ Be able to illustrate the main tenets of international human rights and of other areas of International Law aimed at safeguarding basic rights and freedoms. |
| 14:20-15:30 | Module 1 INTRODUCTION TO HUMAN RIGHTS LAW | The nature and hierarchy of international legal sources dealing with human rights | cont. | <ul style="list-style-type: none"> ★ Be able to assess if a convention is relevant and applicable in a given situation. ★ Be able to interpret an international HR Convention. |
| 15:30-15:45 | Coffee break | | | |
| 15:45-16.45 | Module 1 | The nature and hierarchy of international legal sources | cont. | <ul style="list-style-type: none"> ★ Be able to assess if a convention is relevant and applicable in a given situation. |

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|---------------|--|--|---|---|
| | INTRODUCTION TO HUMAN RIGHTS LAW | Dealing with human rights (cont.) | | ★ Be able to interpret an international HR Convention. |
| 16:45-17:15 | Module 1 INTRODUCTION TO HUMAN RIGHTS LAW | International treaties and international mechanisms for protecting human rights | cont. | ★ Name and explain the existing human rights organs, bodies, mechanisms and institutions, both regional and universal, and their competence and powers, as well as their actual engagement in human rights field operations. |
| DAY 2 | | | | |
| 09:00-10:30 | Module 2 INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | Introduction to International Humanitarian Law | Presentations Computer and projector Flip-chart and markers Tape | <ul style="list-style-type: none"> ★ Explain what International Humanitarian Law (IHL) is and how it developed through time. ★ Specify the rationale and the main tenets of International Humanitarian Law. |
| 10:30-10:45 | Coffee break | | | |
| 10:45-12:30 | Module 2 INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | International Humanitarian Law (IHL) and its relationship with International Human Rights Law (IHRL) | cont. | ★ Compare the different nature of IHL and IHRL and how they interact to afford better protection to individuals caught up in conflict. |
| 12:30-13:30 | Lunch | | | |
| 13:30 – 14:00 | Module 2 | Foundations of International Criminal Justice (ICJ) | Presentations | ★ Explain and critically analyse foundations and institutions of International Criminal Justice and International Criminal Law. |

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|---------------|--|---|--|---|
| | INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | | Computer and projector, flip-chart and markers | <ul style="list-style-type: none"> ★ Relate International Criminal Justice mechanisms to the protection of human rights. ★ List and critically reflect on recent developments in International Criminal Justice. |
| 14:30-15:15 | Module 2 INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | Foundations of International Criminal Law (ICL) | cont. | ★ cont. |
| 15:15 – 15:30 | Coffee break | | | |
| 15:30 – 17:00 | Module 2 INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | Models of Transitional Justice (TJ) | cont. | <ul style="list-style-type: none"> ★ Summarise and critically examine conceptual foundations, evolution and challenges of Transitional Justice. ★ List various mechanisms of Transitional Justice and relate to transitions in different contexts. ★ Analyse the relationship between human rights and Transitional Justice. |
| DAY 3 | | | | |
| 09:00 -11:00 | Module 2 | International Refugee Law | Presentations | ★ Explain who can qualify as refugee and asylum seeker and what international protection is. |

| | | | | |
|---------------|--|-----------------------------|---|---|
| | INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | | <p>Computer and projector, flip-chart and markers</p> <p>Exercise 1: Passport photo, some coins & bills of different currencies, 2-3 family pictures, old SIM cards, an empty blister pack of Paracetamol or similar, passport/ID cards</p> <p>Exercise 2: Printed copies of the 1951 Geneva Convention</p> | <ul style="list-style-type: none"> ★ Recall the legal contours of the non-refoulement principle. ★ Recall Refugee Status Determination procedures and the substantive rights refugees enjoy under universal and regional legal instruments. ★ List the forms of durable solutions and subsidiary protection. |
| 11:00 – 11:15 | Coffee break | | | |
| 11:15-13:15 | Module 2 INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | International Migration Law | <p>Presentations</p> <p>Computer and projector, flip-chart and markers</p> | <ul style="list-style-type: none"> ★ Recall other categories of displaced persons (migrants, victims of trafficking, etc.) and the legal instruments and mechanisms established for their protection at international level. ★ Assess what the main challenges of international migrants are. |

| | | | | |
|---------------|--|---|---|---|
| 13:15 -14:15 | Lunch | | | |
| 14:15-15:30 | Module 2 INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | Law of Internal Displacement | Presentations Computer and projector, flip-chart and markers Exercise 5-6: Printed copies of the Guiding Principles on Internal Displacement | <ul style="list-style-type: none"> ★ Explain the differences between refugees and Internally Displaced Persons (IDPs), both in legal terms and with respect to the substantial protection granted by International Law. ★ Recall the obligations of the State vis-à-vis IDPs. |
| 15:30 – 15:45 | Coffee break | | | |
| 15:45 – 17:00 | Module 2 INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW | The EU acquis on asylum and migration | Presentations Computer and projector, flip-chart and markers | <ul style="list-style-type: none"> ★ Summarise the evolution and current status of EU policies and regulations regarding migrants and asylum seekers. |
| DAY 4 | | | | |
| 09:00 – 10:30 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF | The United Nations main organs and human rights | Presentations Computer and projector Printed materials (UN Charter) | <ul style="list-style-type: none"> ★ Explain the UN human rights policy framework, including UN reform programmes. ★ Recall the HR roles played by the UN main organs. ★ Explain the mandate of the UNOHCHR and other departments and offices with human rights related functions. |

| | | | | |
|---------------|--|---|---|--|
| | HUMAN RIGHTS IN THE FIELD | | | |
| 10:30 – 10:45 | Coffee break | | | |
| 10:45 – 12:30 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | United Nations human rights mechanisms: treaty-based mechanisms | Presentations Computer and projector Printed materials (main UN human rights treaties) | <ul style="list-style-type: none"> ★ Recall the nature and scope of the promotion and protection of human rights by charter-based and treaty-based bodies. ★ Compare charter-based bodies with treaty-based bodies. ★ Explain the role on human rights issues played by the treaty-based mechanisms. ★ List international treaty-based mechanisms. |
| 12:30 – 13:30 | Lunch | | | |
| 13:30 – 15:00 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | United Nations human rights mechanisms: charter-based bodies and mechanisms (including the UPR) | Presentations Computer and projector | <ul style="list-style-type: none"> ★ List the various mechanisms under the UN special procedures for the promotion and protection of human rights. ★ Explain the UPR mechanism and how it complements the work of treaty bodies. |
| 15:00 -15:30 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | Regional bodies and mechanism for the protection of human rights: EU and Council of Europe | Presentations Computer and projector Printed materials (main EU human rights Conventions) | <ul style="list-style-type: none"> ★ Identify and use the main regional instruments protecting human rights in Europe. ★ List judicial mechanisms and tools aimed at promoting human rights by the Council of Europe, the OSCE and the European Union. |

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|------------------|--|---|--|---|
| 15:30 – 15:45 | Coffee break | | | |
| 15:45 – 17:00 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | Regional bodies and mechanism for the protection of human rights: the European System | cont. | ★ cont. |
| DAY 5 | | | | |
| 09:00 – 11:00 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | Regional bodies and mechanism for the protection of human rights: African Union | Presentations Computer and projector Printed materials (main AU human rights Conventions) | <ul style="list-style-type: none"> ★ Explain the legal framework protecting human rights in the African region. ★ Recall the institutions aimed at the promotion and protection of human rights in Africa. |
| 11:00 – 11:15 | Coffee break | | | |
| 11:15 – 13:00 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | Regional bodies and mechanism for the protection of human rights: Organisation of American States (OAS) and Inter-American System | Presentations Computer and projector Printed materials (main OAS conventions) | <ul style="list-style-type: none"> ★ Explain the legal framework protecting human rights in the Americas. ★ Recall the institutions and mechanisms aimed at the promotion and protection of human rights in the Americas. |

| | | | | |
|------------------|--|--|--|---|
| 13:00 – 14:00 | Lunch | | | |
| 14:00 – 14:40 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | Regional bodies and mechanism for the protection of human rights: Association of Southeast Asian Nations (ASEAN), Arab Charter on Human Rights and the League of Arab States | Presentations Computer and projector | <ul style="list-style-type: none"> ★ Assess the reasons behind the lack of a structural system covering Asia as a whole to protect and promote human rights; ★ Recall the recent trends and developments in Southeast Asia as well as national human rights institutions. |
| 14:40 -15:30 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | Human Rights Field Operations: United Nations system | Presentations Computer and projector | <ul style="list-style-type: none"> ★ Explain the development, characteristics and typologies of human rights field presences. ★ List the main role and functions of human rights field presences. ★ Recall current mandates of human rights field operations and be able to discuss achievements and challenges. |
| 15:30 – 15:45 | Coffee break | | | |
| 15:45 – 16:30 | Module 3 POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD | Human Rights Field Operation: United Nations system | cont. | ★ cont. |
| DAY 6 | | | | |

| | | | | |
|---------------|---|--|---|---|
| 09:00 – 11:15 | Module 4 HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | Human rights monitoring | Presentations Computer and projector | <ul style="list-style-type: none"> ★ Explain the nature and objectives of human rights monitoring. ★ Compare the different types of human rights monitoring and related terminology (e.g. observation, fact-finding, investigations). ★ Recall the basic principles of human rights monitoring and their operational implications (do no harm, respect the mandate, credibility, confidentiality, etc.). |
| 11:15 – 11:30 | Coffee break | | | |
| 11:30 – 13:30 | Module 4 HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | HRFO: partners and stakeholders | cont. | <ul style="list-style-type: none"> ★ Make contact with all actors involved in HR protection on the ground, including local authorities and civil society. ★ List the role of the different actors and of possible communication and cooperation mechanisms. ★ Recall the mandate of other agencies and organisations (including international NGOs) active in HR protection and promotion. |
| 13:30 – 14:45 | Lunch | | | |
| 14:45 – 16:00 | Module 4 HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | Acquiring and handling information | cont. | <ul style="list-style-type: none"> ★ Explain the dynamics of the information gathering process. ★ Be able to select and identify information sources. ★ Identify the information and data required to accurately document cases. |
| 16:00 – 16:15 | Coffee break | | | |
| 16:15 -17:30 | Module 4 HUMAN RIGHTS MONITORING, | Acquiring and handling information (cont.) | cont. | <ul style="list-style-type: none"> ★ List the techniques and existing constraints regarding the investigation of HR and IHL violations. ★ Recall inquiry standards, including on protection of evidence. |

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| | FACT-FINDING AND REPORTING | | | ★ Recall basic forensic elements and terminology. |
| DAY 7 | | | | |
| 09:00 – 11:15 | Module 4 HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | Interviewing techniques | cont. | <ul style="list-style-type: none"> ★ Be able to conduct an effective interview. ★ Be able to assess the specific difficulties and problems likely to arise when interviewing groups or individuals with special characteristics (e.g. victims of torture, women, refugees and IDPs, children, government officials, suspected perpetrator). ★ Recall the need to preserve confidentiality and security of information, and basic methods to protect witnesses and sources. |
| 11:15 – 11:30 | Coffee break | | | |
| 11:30 – 13:30 | Module 4 HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | Protection of sources and witnesses | cont. | <ul style="list-style-type: none"> ★ Analyse and assess protection risks that victims, witnesses and sources cooperating with investigations may face. ★ Identify measures that can be taken to address protection concerns. |
| 13:30 – 14:30 | Lunch | | | |
| 14:30 – 15:30 | Module 4 HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | Analysing and verifying information of HR and IHL violations | cont. | <ul style="list-style-type: none"> ★ Explain the importance of methods to ensure accuracy and appropriate quantity of information. ★ List techniques to corroborate consistency of information. ★ List indicators that signal the probable occurrence of HRs violations. ★ Explain the legal framework (international and national) and the responsibilities for investigation activities. |

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| 15:30 – 15:45 | Coffee break | | | |
| 15:45 – 17:15 | Module 4 HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | Reporting | cont. | <ul style="list-style-type: none"> ★ Be able to produce various types of human rights reports in different formats. ★ Explain the role of public reporting. ★ Apply the appropriate reporting standard to the specific situation, organise and present different types of reports (if time allows). |
| DAY 8 | | | | |
| 09:00 – 10:30 | Module 5 HUMAN RIGHTS AND THE RULE OF LAW | The rule of law and its principles: a historical approach | Presentations Computer and projector | <ul style="list-style-type: none"> ★ Explain what the rule of law is and have a historical overview of its development. ★ Recall the sources of international law that express the principles of the rule of law. |
| 10:30 – 10:45 | Coffee break | | | |
| 10:45 – 12:00 | Module 5 HUMAN RIGHTS AND THE RULE OF LAW | Strengthening the rule of law | Presentations Computer and projector Printed materials | <ul style="list-style-type: none"> ★ Compare various approaches in strengthening the rule of law. ★ List organisations that promote the rule of law. |
| 12:00 – 13:00 | Lunch | | | |
| 13:00 – 14:30 | Module 6 THE HUMAN RIGHTS BASED APPROACH | The Human Rights-Based Approach (HRBA) | Presentations Computer and projector Flip-chart and markers Printed materials | <ul style="list-style-type: none"> ★ Explain what human rights mainstreaming and the Human Rights-Based Approach are. ★ Mainstream HR within a specific programme. ★ Compare the different tools and resources used to implement HRBA. |

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| 14:45 – 16:45 | Module 6 THE HUMAN RIGHTS BASED APPROACH | cont. | Presentations Computer and projector Flip-chart and markers Printed materials | ★ cont. |
| DAY 9 | | | | |
| 09:00 – 11:15 | Module 7 HUMAN RIGHTS CAPACITY BUILDING AND HUMAN RIGHTS EDUCATION | Human rights capacity building | Presentations Computer and projector Printed materials (UN Charter) | Describe human rights capacity building as a process for instilling beneficiaries with technical knowledge and practical skills. <ul style="list-style-type: none"> Explain the scope and methods of building national human rights capacities on human rights, including legal and institutional reforms. |
| 11:15 – 11:30 | Coffee break | | | |
| 11:30 -13:15 | Module 7 HUMAN RIGHTS CAPACITY BUILDING AND HUMAN RIGHTS EDUCATION | Human rights capacity building (cont.) | cont. | cont. |
| 13:15 – 14.30 | Lunch | | | |
| 14:30 -17:00 (including break) | Module 7 HUMAN RIGHTS CAPACITY BUILDING AND | HR promotion & education | Presentations Computer and projector, flip-chart, | ★ Explain human rights education and awareness raising as tools to empower rights-holders and to strengthen government and other national institutions. Recall the basic tenets of human rights advocacy. |

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| | HUMAN RIGHTS EDUCATION | | markers and coloured cards | |
| 17:00 – open end | | Out-Test Evaluation Closing ceremony | Printed copies of the Out-Test Flip-chart, markers, evaluation sheets Certificates of attendance | |

MODULE 0 - OPENING AND INTRODUCTION

Aims and objectives

The aim of this module is to introduce participants to the training and how it will be conducted, and to familiarise them with its structure and its objectives. It will also give participants the possibility to get to know each other through an icebreaker, to set up ground rules with the facilitator of the training and to introduce the 'parking lot'.

Time: 60 minutes

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

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You will need: Module 0 PowerPoint presentation slides, flip-chart and markers, computer, paper, numbered cards, printed copies of the In-Test.

Learning objectives

Participants will be able to:

- ★ explain why the training is being conducted;
- ★ list the objectives of the training.

DAY 1 - MODULE 0

| Time | Title of the session | Method/Material | Learning objectives |
|------------|---|--|---|
| 60 minutes | Opening and presentation of the module In-Test | Presentations Computer and projector, flip-chart and markers Numbered cards Printed copies of the In-Test | <ul style="list-style-type: none">★ Explain why the training is being conducted.★ List the objectives of the training. |

| Duration | Activity | Resources/comments |
|--|---|---|
| Session 1: Opening remarks | | |
| 10 minutes | <p>Display Slide 2</p> <p>The director of the organisation delivering the training or the director of the training opens the training, welcoming the participants and addressing the reasons behind the initiative. The opening speech has to be tailored to the modules that will be delivered. Some possible messages to be conveyed during the opening ceremony are the following:</p> <ul style="list-style-type: none"> ★ The increasing role of a human rights component in civilian crisis management and peace operations ★ Human rights as a cornerstone of EU foreign policy and EU development cooperation ★ Enlarging the target group to those who do not carry out human rights tasks in a mission but require training on human rights aspects as well | <p>PowerPoint presentation slides</p> <p>MO</p> |
| Session 2: Introductory exercise – icebreaker | | |
| 20 - 30 minutes (depending on the icebreaker and the number of participants) | <p>Slide 3</p> <p>Participants might not all know each other. Depending on available space and the age of the participants, some icebreakers could be conducted. Regardless of the chosen icebreaker, ask participants to state their expectations of the training.</p> <p>Everyone introduces him/herself by name, and role in the organisation.</p> <p>Divide the participants into pairs and ask them to find 10 things they have in common.</p> <p>Announce 'You've been exiled to a deserted island for a year. In addition to the essentials, you may take 3 items you can carry with you – but not a boat to leave the island! What would you take and why?'</p> <p>Before training starts, ask the participants to bring an object that represents him/herself. Ask them to show it and explain why they chose it.</p> <p>More icebreakers can be found in the ENTRi Training of Trainers Participants' Manual, pp. 35-37, which is available at: http://www.entriforccm.eu/package/train-the-trainer.html</p> | |

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| | <p><u>Note:</u> It can be useful for the final evaluation if the facilitator writes the expectations raised by the participants on a flip-chart.</p> | |
| <h3>Session 3: Review of objectives, agenda and logistical information</h3> | | |
| 10 minutes | <p>The facilitator reviews the objectives of the training through a PowerPoint (PPT) presentation (Slide 4) or on a flip-chart. If the latter is used, s/he should have prepared the flip-chart in advance. Each module has its own specific objectives.</p> <p>Through a PPT presentation or on a flip-chart, the facilitator goes through the agenda (Slide 5) with the participants, who have received a printed copy beforehand. If the facilitator needs to monitor participant attendance, have them sign a register.</p> <p>The facilitator goes through the evaluation (Slide 6) and closing ceremony (Slide 7), explaining what is required (depending on the organisation's needs) to receive the certificate of attendance, and what participants can expect to gain by the end of the training.</p> <p>The facilitator provides all the practical and logistical materials and information for the training: facilities, classroom, coffee breaks, lunch, accommodation, didactic material and contact information (Slide 8-9)</p> | |
| <h3>Session 4: Set the ground rules</h3> | | |
| 5 minutes | <p>The facilitator asks participants if they would like to suggest any ground rules and writes these on a flip-chart. Participants discuss and agree on the ground rules and post the ground rules on the wall of the training room.</p> <p><u>Note:</u> Ground rules should include: turn off mobile phones; be on time; be respectful of others' opinions; apply the Chatham House Rule.</p> | |
| <h3>Session 5: Introduce the 'parking lot'</h3> | | |
| 5 minutes | <p>The facilitator explains that when questions might arise among the participants but they are not relevant to the topic being discussed, these questions/issues can be 'parked' in list on a flip-chart. The issues in the parking lot will be addressed later during the workshop, either at the end of the day or at the end of the workshop.</p> | |
| <h3>Session 6: In-Test</h3> | | |

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| <p>10 minutes</p> | <p>The facilitator gives participants a number written on a card to identify themselves and reminds them to keep the card for the Out-Test.</p> <p>The facilitator explains to participants that the In-Test is anonymous and aims to allow participants to measure their level of existing knowledge about the different topics that the course will cover and allow the course organisers and resource persons to fine-tune their activities.</p> <p><u>Note:</u> If only few modules are to be delivered, make sure to delete the questions relating to modules and topics that the training will not cover.</p> | <p>Numbered cards</p> <p>Printed copies of the In-Test</p> |
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MODULE 1 - INTRODUCTION TO HUMAN RIGHTS LAW

Aims and objectives

This module is designed for HR field officers who lack a basic knowledge of Human Rights Law and is meant to introduce the main legal international framework for the protection of human rights. The module aims to identify the international legal sources of International Human Rights Law and explain how to interpret them. It also details the existing legal instruments that are devoted to the protection of human rights at international and regional level.

Duration: 1/2 day

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

You will need: Module 1 PowerPoint presentation slides, flip-chart and markers, computer, projector, paper.

Learning objectives

Participants will be able to:

- ★ illustrate the main tenets of international human rights and of other areas of International Law aimed at safeguarding basic rights and freedoms;
- ★ assess if a convention is relevant and applicable in a given situation;
- ★ interpret an international HR Convention;
- ★ name and explain the existing human rights organs, bodies, mechanisms and institutions, both in a regional and a universal context, and detail their expertise and powers, as well as their actual engagement in human rights field operations.

DAY 1 - MODULE 1
INTRODUCTION TO HUMAN RIGHTS LAW

| Time | Title of the session | Method/Material | Learning objectives |
|------------|---|---|---|
| 30 minutes | International Human Rights Law: a few introductory remarks | Presentations Computer and projector Flip-chart and markers Printed materials (Art. 2.7 UN Charter; Art. 25 ICCPR, Art. 21 UDHR) | ★ Be able to illustrate the main tenets of international human rights and of other areas of International Law aimed at safeguarding basic rights and freedoms. |
| 80 minutes | The nature and hierarchy of international legal sources dealing with human rights | cont. | ★ Be able to assess if a convention is relevant and applicable in a given situation. ★ Be able to interpret an international HR Convention. |
| 15 minutes | Coffee break | | |
| 60 minutes | The nature and hierarchy of international legal sources dealing with human rights (cont.) | cont. | ★ Be able to assess if a convention is relevant and applicable in a given situation. ★ Be able to interpret an international HR Convention. |
| 30 minutes | International treaties and international mechanisms for protecting human rights | cont. | ★ Name and explain the existing human rights organs, bodies, mechanisms and institutions, both in a regional and a universal context, and detail their expertise and powers, as well as their actual engagement in human rights field operations. |

| Duration | Activity | Resources/comments |
|--|--|---|
| Session 1: International Human Rights Law: a few introductory remarks | | |
| 30 minutes | This session explains to participants the definition of human rights, International Human Rights Law and the scope of its application. | |
| | <p>Group exercise and short video</p> <p>Before displaying Slide 3, ask participants the following question:</p> <p>What to your knowledge is the definition of human rights (HR)?</p> <p>Write the answers on a flip-chart.</p> <p>Immediately afterwards, show them the video.</p> <p>Give participants the complete answer by showing Slide 4 and 5.</p> <p>Slide 6: Ask participants to give a definition of International Human Rights Law (IHRL), and then provide them with the right definition.</p> <p>Slide 7: Ask participants if and to which extent Art. 2.7 of the UN Charter allows States to consider human rights as a matter of domestic jurisdiction, for which they are exempt from any external interference.</p> <p>Slide 8</p> <p>You might simulate a situation in which a EU delegation visits State XYZ and speaks about the need to respect more HR in that country; the counterpart reacts by invoking Art. 2.7 of the UN Charter and requesting that the EU Delegation immediately stop their interference in the internal affairs of XYZ.</p> <p>N.B.: what should emerge is that HR, as they have been codified in so many treaties, most of which have also been ratified by XYZ, are in fact no longer considered a matter of domestic jurisdiction of the respective Member State, but are instead enshrined in international treaties and conventions, most of which are also part of customary international law.</p> | <p>PowerPoint presentation slides M1</p> <p>Video http://www.youthforumanrights.org/what-are-human-rights.html</p> <p>Printed material Art. 2.7 UN Charter and/or Slide 7</p> |
| References and further reading | <ul style="list-style-type: none"> ★ Shaw, International Law, 6th ed., Cambridge: Cambridge University Press, 2008, 69-128, 645-696, 778-843 ★ Alston and Goodman, International Human Rights, 5th ed., Oxford: Oxford University Press, 2013, 72-93, 113-118 ★ Clapham, Human Rights: A Very Short Introduction, Oxford: Oxford University Press, 2007 | |

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| ★ Useful web resources | http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx TED-Ed Originals. What are the universal human rights? - Benedetta Berti. Available at https://ed.ted.com/lessons/what-are-the-universal-human-rights-benedetta-berti | |
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| Duration | Activity | Resources/comments |
|---|--|--|
| <h2>Session 2: The nature and hierarchy of international legal sources dealing with human rights</h2> | | |
| 125 minutes | <p>This session enables participants to understand if and when a treaty is applicable in a given situation and, in the affirmative case, how to interpret it. It also focuses on the relations between International Human Rights Law and national law.</p> | |
| | <p>Slide 9</p> <p>Exercise 1 (30 minutes)</p> <p>Ask participants what the difference is between the signing and ratifying a treaty. Then ask them to explain when a treaty becomes binding for a State (i.e. when the state has ratified the treaty and the treaty has entered into force, as long as the state has not imposed any restrictions regarding the treaty).</p> <p>Ask them where they can find relevant information on these aspects (i.e. regarding the depositary of the respective treaty).</p> <p>Then, as an exercise, have course participants visit the UN Website (section devoted to the status of treaties of which the UNSG is the depositary) and, making reference to the ICCPR, ask the students find out if a state has ratified the treaty, with or without restrictions, and when the Treaty entered into force.</p> | <p>Website https://treaties.un.org/pages/ParticipationStatus.aspx</p> |
| | <p>Exercise 2 (45 minutes at most)</p> <p>Give participants, working in teams of 2 or 3, a copy of Article 25 of the ICCPR and Article 21 of the Universal Declaration on Human Rights, and ask them to:</p> <ul style="list-style-type: none"> ★ identify commonalities and differences between the two articles; ★ choose which one guarantees a higher level of protection, from the perspective of the voter; | <p>Printed material Art. 25 ICCPR, Art. 21 UDHR</p> |

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| | <p>★ justify in legal terms their preference between the two articles.</p> <p>Once they finish their work, ask each group to present its conclusions. At the end of the debriefing, sum up the conclusions and highlight that in interpreting a treaty rule, reference should be made to the rules for interpreting the treaties as codified in the 1969 Vienna Convention on the Law of Treaties (Art. 31 ff).</p> | |
| Coffee break | | |
| | <p>Exercise 3 (15 minutes)</p> <p>Ask participants to list jus cogens rules relating to any human rights they know (e.g. prohibition of slavery, apartheid, genocide, gross violations of basic human rights, etc.).</p> <p>Exercise 4 (45 minutes)</p> <p>Ask participants to discuss, in teams of 2 or 3, the hierarchy of sources of IHRL and what happens if a state violates a peremptory rule of International Law - jus cogens (i.e. if it commits genocide, for example).</p> <p>Ask participants to report to the plenary on their findings: What should emerge is</p> <p>a more stringent regime of state responsibility (i.e. any other state in the international community could adopt countermeasures against the state committing a violation of a jus cogens rule such as the one prohibiting genocide;</p> <p>the personal responsibility of whomever is involved in committing a violation of jus cogens, with the associated consequences: no immunity, no prescription, universal jurisdiction and the possibility of a residual competence of the ICC.</p> <p>Display Slide 10 and briefly list the non-binding instruments that are relevant in international affairs as examples of soft law, and make the connection with the international legal sources.</p> | |
| ★ References and further reading | <p>★ Chinkin, 'Sources' in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), International Human Rights Law, 2nd ed., Oxford: Oxford University Press, 2014</p> <p>★ Simma and Alston, 'The Sources of Human Rights Law: Custom, Jus Cogens, and General Principles'. Australian Yearbook of International Law 12 (1988-1989): 82</p> | |

| Duration | Activity | Resources/comments |
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| <h2>Session 3: International treaties and international mechanisms for protecting human rights</h2> | | |
| <p>★ 30 minutes</p> | <p>This session offers a general overview of the international treaties dealing with the protection of human rights, the content of international human rights and the existing international mechanisms for protecting human rights.</p> | |
| | <p>By showing Slides 11, 12 and 13, list the main universal conventions and, if necessary, elaborate on the main characteristics of them. You may decide to focus more on the conventions and the respective protocols that protect a specific vulnerable group (e.g. children, refugees, women, etc.).</p> <p>By showing Slides 14 and 15, list the international human rights instruments at regional level.</p> <p>Optional:</p> <p>According to the exigencies and needs of participants, you might use Slides 16-19 that focus on the European Union. By displaying the different articles, elaborate on:</p> <ul style="list-style-type: none"> ★ European values (Art. 2 TEU) ★ The European Union’s obligation to uphold and promote its values in its external relations and to contribute to peace, security, sustainable development, etc. (Art. 3.5 TEU) ★ Rights, freedoms and principles enshrined in the EU’s Charter of Fundamental Rights (Art. 6 TEU) <p>Slides 20-21: Recall the concept of a breach of treaty and explain that the European Council “may determine the existence of a serious and persistent breach by a Member State” of the values enshrined in Art. 2 TEU and outline the associated consequences, i.e. suspension of certain rights.</p> <p>Slide 22-23: Briefly explain that the EU is guided by the principles listed in Art. 21, which includes the principles of the UN Charter and International Law in its actions at international level.</p> <p>Slide 24: Briefly mention the EU’s Common Security and Defence Policy and its potential use of missions deploying civilian and military personnel outside the EU for peace-keeping, conflict prevention and strengthening international security.</p> <p>Start discussing the content of international human rights law by displaying Slide 25: Ask participants to give examples of civil and political rights to help them understand the difference between civil and political rights and economic,</p> | |

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| | <p>social and cultural rights. Then explain the new frontiers of human rights.</p> <p>Exercise 5 (30 minutes)</p> <p>Before displaying the content of Slide 26, ask participants, divided into groups of 2 to 4, to identify the key characteristics of an ideal international mechanism that could be activated when redressing human rights violations (the following issues should emerge: impartiality, independence, effectiveness, enforceability, easily accessible, free of charge, quick, etc.).</p> <ul style="list-style-type: none"> ★ Ask each group to then present their findings to the plenary. ★ After this, examine the various mechanisms listed on Slides 27-30, highlighting differences and similarities, and to what extent they reflect the ideal mechanism identified by the participants. | <p>Paper</p> <p>Participants can report use a flip-chart to report on and better present their findings.</p> |
| <ul style="list-style-type: none"> ★ References and further reading | <ul style="list-style-type: none"> ★ UNESCO: Human Rights: Questions and Answers. Available at http://unesdoc.unesco.org/images/0018/001850/185034e.pdf ★ Dembour, 'What are Human Rights? Four Schools of Thought'. Human Rights Quarterly 32 (2010): 1 ★ Ishay, A History of Human Rights: From Ancient Times to the Globalisation Era, University of California Press, 2008 | |
| <ul style="list-style-type: none"> ★ Useful web resources | <p>http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx</p> | |

MODULE 2 - INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW

Aims and objectives

This module aims to provide a general overview of the other branches of International Law developed for the protection of individual and collective rights. During Part 1, participants will gain an understanding of the rationale and main tenets of International Humanitarian Law and of how it interacts with International Human Rights Law. Furthermore, they will explore the historical evolution as well as the principles behind International Criminal Law and come to understand the mechanisms that can be applied to bring perpetrators of international crimes to justice. Finally, participants will be able to explore the legal framework that protects the rights of refugees, asylum seekers, IDPs and migrants, with a special attention to States' obligations.

Duration: 2 days

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

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You will need: Module 2 PowerPoint presentation slides, flip-chart and markers, computer, projector, paper, tape.

Part 1 – Key elements of International Humanitarian Law

Learning objectives

Participants will be able to:

- ★ explain what International Humanitarian Law (IHL) is and how it developed over time;
- ★ specify the rationale and the main tenets of IHL;
- ★ compare the different nature of IHL and IHRL and how they interact to afford better protection to individuals caught up in conflict.

DAY 2 - MODULE 2 - PART 1

INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW

| Time | Title of the session | Method/Material | Learning objectives |
|-------------|--|---|--|
| 90 minutes | Introduction to International Humanitarian Law | Presentations Computer and projector Flip-chart and markers Tape | <ul style="list-style-type: none"> ★ Explain what International Humanitarian Law (IHL) is and how it developed over time. ★ Specify the rationale and the main tenets of International Humanitarian Law. |
| 15 minutes | Coffee break | | |
| 105 minutes | International Humanitarian Law (IHL) and its relationship with International Human Rights Law (IHRL) | cont. | <ul style="list-style-type: none"> ★ Compare the different nature of IHL and IHRL and how they interact to afford better protection to individuals caught up in conflict. |
| 60 minutes | Lunch | | |

| Duration | Activity | Resources/comments |
|--|---|--|
| Session 1: Introduction to International Humanitarian Law (IHL) | | |
| 90 minutes | This session introduces participants to the main features of IHL, identifying the legal framework and the fundamental principles regulating IHL. | |
| | <p>Group exercise 1 and short video</p> <p>After viewing Slide 3, ask participants the following question:</p> <p>What is, to your knowledge, IHL?</p> <p>Write the answers given on a flip-chart.</p> <p>Immediately afterwards, show them the video.</p> <p>Give participants the complete definition by showing Slide 4 and briefly explaining that the origins of International Humanitarian Law lies on the “Memory of Solferino” by Henry Dunant 1862 and the creation of the International Committee of the Red Cross (ICRC).</p> | <p>PowerPoint Presentation slides M2Part1</p> <p>Video</p> <p>https://www.icrc.org/eng/resources/documents/audio_visuals/video/2014/rules-of-war.htm</p> |
| | <p>Displaying Slide 5, explain that the legal framework is made up of:</p> <ul style="list-style-type: none"> ★ Treaty law: Elaborate on the key conventions mentioned in bullet points. ★ Customary law: Briefly explain that IHL is also made up of customary rules. In fact, customary IHL “continues to be relevant in today's armed conflicts for two main reasons”: ★ “[W]hile some States have not ratified important treaty law, they remain nonetheless bound by rules of customary law.” ★ “[T]he relative weakness of treaty law governing non-international armed conflicts – those that involve armed groups and usually take place within the boundaries of one country”. ★ [Excerpts: International Committee of the Red Cross, <i>Customary international humanitarian law</i>. Available at https://www.icrc.org/en/document/customary-international-humanitarian-law-0] <p>“A study published by the ICRC in 2005 showed that the legal framework governing internal armed conflicts is more detailed under customary international law than under treaty law. Since most armed conflicts today are non-international this is of particular importance. The study identified 161 rules of customary IHL that constitute the common core of humanitarian law binding on all parties to all armed conflicts.” [Excerpt: International Committee of the Red Cross, <i>Customary international humanitarian law</i>. Available at</p> | |

<https://www.icrc.org/en/document/customary-international-humanitarian-law-0>

Slide 6: Elaborate on the **limits of IHL**. The message that should be underlined here is that IHL does not prohibit the use of violence, BUT rather provides a legal framework that sets the rules and limits to the use of force during armed conflict. These rules are **non-derogable**.

Slide 7: Explain that the body of rules of IHL come into force in 3 different situations:

- ★ International armed conflict:
- ★ Inter-state armed conflict - in the past, wars were “officially declared”, e.g. Eritrea vs. Ethiopia War, Gulf War
- ★ All cases of occupation
- ★ Wars of national liberation. According to Art. 1.4 API, peoples fight for their right to self-determination in three different cases: against colonial domination, against foreign occupation, against racist regimes.
- ★ Non-international armed conflict
- ★ Internationalised armed conflict

Note: stress that it is paramount to give a correct qualification of the conflict because applicable law depends on this.

Slide 8: Further elaborate on the law applicable during IAC and NIAC.

Slides 9-10: Explain that IHL is not applicable to domestic disturbances, and give the definition of such disturbances. Then elaborate on the chart, explaining the degree of legal protection in relation to the level of violence within a certain country.

Slide 11: Making use of the charts, explain where IHL stands with respect to other bodies of International Law.

Slides 12-18: Explain the **fundamental principles governing IHL**, providing short examples, while at the same time asking participants who might be working or have worked in war-affected countries to give examples of real situations.

Quiz (10 minutes)

Slides 19-24: Ask participants to stand up and go to the back or front of the room where there is more space. Display the slides and ask them to move on the left/right according to the answer (true/false) they believe is correct. Attach some tape to the floor to create 2 areas

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| | for each possible answer. Then display the correct answer and discuss it together. | |
| Coffee break | | |
| References and further reading | <ul style="list-style-type: none"> ★ 1907 Hague Regulations ★ 1949 Geneva Conventions: I on Wounded and Sick in the Field; II on Wounded, Sick and Shipwrecked at Sea; III on Prisoners of War; IV on Civilians (in the hands of the enemy). Available at https://ihl-databases.icrc.org/ihl ★ Customary IHL. Available at https://ihl-databases.icrc.org/customary-ihl/eng/docs/home ★ Commentaries to the First and Second Geneva Convention of 1949. Available at https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/365?OpenDocument ★ Commentaries to the Third and Fourth Geneva Convention of 1949 and Additional Protocols. Available at https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp ★ 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to Have Indiscriminate Effects ★ International Committee of the Red Cross, <i>International Humanitarian Law as a Branch of Public International Law</i>. Available at https://casebook.icrc.org/law/fundamentals-ihl#toc-b-international-humanitarian-law-as-a-branch-of-public-international-law ★ International Committee of the Red Cross, <i>International Humanitarian Law: a branch of international law governing the conduct of States and individuals</i>. Available at https://casebook.icrc.org/law/fundamentals-ihl#toc-iii-international-humanitarian-law-a-branch-of-international-law-governing-the-conduct-of-states-and-individuals ★ Sassoli Marco, 'Ius ad bellum and Ius in Bello – The Separation between the Legality of the Use of Force and Humanitarian Rules to be Respected in Warfare: Crucial or Outdated?', in Schmitt Michael & Pejic Jelena (eds.), <i>International Law and Armed Conflict: Exploring the Faultlines, Essays in Honour of Yoram Dinstein</i>, M. Nijhoff, Leiden/Boston, 2007, pp. 242-264 ★ International Committee of the Red Cross, <i>The fundamental obligation of combatants to distinguish themselves from the civilian population</i>. Available at https://casebook.icrc.org/law/principle-distinction#toc-vi-the-fundamental-obligation-of-combatants-to-distinguish-themselves-from-the-civilian-population ★ International Committee of the Red Cross, <i>Introduction</i>. Available at https://casebook.icrc.org/law/non-international-armed-conflict#toc-introduction ★ International Committee of the Red Cross, <i>Historical Development of International Humanitarian Law</i>. Available at https://casebook.icrc.org/law/fundamentals-ihl#toc-c-historical-development-of-international-humanitarian-law ★ International Committee of the Red Cross, <i>Hand-out 2: The Main Sources of International Humanitarian Law</i>. Available at https://www.icrc.org/en/download/file/58493/handout_2_the_main_sources_of_international_humanitarian_law.pdf | |

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| | <ul style="list-style-type: none"> ★ Bouvier Antoine, 'Assessing the Relationship Between Ius in Bello and Ius ad Bellum: An "Orthodox" View', in Proceedings of the 100th Annual Meeting, <i>American Society of International Law</i>, 2006, pp. 109-112 ★ International Committee of the Red Cross, <i>Mini Exploring Humanitarian Law: The essence of humanitarian law</i>. Available at https://www.icrc.org/eng/what-we-do/building-respect-ihl/education-outreach/ehl/ehl-other-language-versions/ehl-english-mini-ehl.pdf |
| ★ Useful web resources | E-learning modules useful for the preparation to the module. Available at https://www.icrc.org/en/document/basic-rules-and-principles-ihl |

| Duration | Activity | Resources/comments |
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| Session 2: International Humanitarian Law (IHL) and its relationship with International Human Rights Law (IHRL) | | |
| 105 minutes | This session enables participants to understand the main challenges of the application and implementation of IHRL and IHL. | |
| | <p>Slide 25: Provide the outline of the main elements to facilitate understanding of the differences and similarities between IHL and IHRL.</p> <p>Slides 26-30: Explain when IHL and IHRL is applicable and what law is applicable in cases of lower levels of internal violence. Further elaborate on the differences between IHL and IHRL with regard to derogations.</p> <p>Slides 31-33: Explain the different approaches in case of conflicting norms, IHRL vs. IHL.</p> <p>Slide 34: Explain whose rights IHL and IHRL protect.</p> <p>Slide 35: relations affected</p> <p>Slide 36: IHRL applies by and large to the individuals present on the territory of a State and under the jurisdiction of that State (Art. 2 ICCPR). However, the notion of jurisdiction has evolved in IHL as to encompass a State's activities outside his own territory.</p> <p>To better understand the concept of extraterritorial applicability, the following leading jurisprudence can be mentioned:</p> <ul style="list-style-type: none"> ★ ECtHR, <i>Loizidou v. Turkey</i>, Judgment (Merits and Just Satisfaction), 18 December 1996, para. 5; ★ Human Rights Committee, <i>Lopez Burgos v. Uruguay</i>, 29 July 1981). ★ However, the more restrictive approach adopted by the ECHR in the case of <i>Banković v. Belgium</i> (Admissibility Decision, 12 December 2001). | PowerPoint presentation slides M2Part1 |

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| | <p>IHL: applies to the different categories of protected persons and – by virtue of the “functional” principle – in all places where these persons find themselves.</p> <p>Slide 37: Illustrate that some core human rights are protected both by IHL and IHRL.</p> <p>Slide 38: Illustrate differences and commonalities with regard to implementation of IHRL and IHL.</p> <ul style="list-style-type: none"> ★ Compliance with IHRL treaties is mainly pursued through the supervisory activities of the different Treaty Monitoring Bodies (TBs). The most important treaties envisage the possibility for individuals to file a complaint with a TB. ★ Compliance with IHL is ensured by means of mechanisms envisaged by the GCs and the APs. Warring parties can appeal to protecting powers or to the International Committee of the Red Cross. However, the rights cannot be directly “claimed” by the victim(s) of a specific violation. | |
| | <p>Quiz & Wrap up (10 minutes)</p> <p>Open the link on Slide 39 and click to the section “final test” (Slide 21 of the e-learning module). Guide the discussion and complete the quiz together with the participants.</p> <p>Optional (60 minutes)</p> <p>If needed for the specific training, you can add one session on Conduct of Hostilities.</p> <p>Key points to be discussed are listed below:</p> <ul style="list-style-type: none"> ★ In any armed conflict, the right of the parties to the conflict to choose methods or means of warfare is not unlimited. ★ In an armed conflict, the choice of the means and methods of warfare is subject to a number of restrictions: This is referred to as the principle of limitation; other fundamental principles, such as distinction, proportionality and precaution, also form part of the basic rules governing the means and methods of warfare, that is to say the rules determining the choice and use of weapons. ★ “Means of warfare” refers to the tools used to wage war, that is, to weapons. ★ “Methods of warfare” includes tactics and strategies used in conducting military operations to weaken or defeat an enemy. | <p>Website: https://app.icrc.org/elearning/en/ihl/M2/index.html</p> |

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| | <ul style="list-style-type: none"> ★ These two concepts are inextricably linked: It is difficult to decide whether a weapon is legal without taking into consideration how it is intended to be used. ★ To determine whether the use of a weapon is legal under IHL, bear in mind: illegal weapons, legal weapons with limitations, illegal use of weapons. ★ Fundamental principles: The effects of war must be limited as much as possible; the objective of war is to weaken the enemy's forces (civilians and civilian objects should not be attacked); inflicting unnecessary suffering is prohibited; prohibition of the use of means and methods of warfare that cause superfluous injury or unnecessary suffering; the prohibition of the use of means and methods of warfare incapable of distinguishing between civilians/civilian objects and military targets (prohibition of using means and methods of warfare having indiscriminate effects). These are customary rules. ★ Special case of nuclear weapons: No treaty expressly prohibits or restricts the use of nuclear weapons. ★ General principles governing conduct of hostilities are the principle of proportionality and of precaution in attack. ★ Special case of cluster munitions: 2010 Convention. ICRC recalls that the use of cluster munitions is regulated by the rules governing the conduct of hostilities, which are the principle of distinction, the prohibition of indiscriminate attacks and the principle of proportionality and precaution (unless circumstances do not permit). | |
| <ul style="list-style-type: none"> ★ References and further reading | <ul style="list-style-type: none"> ★ International Committee of the Red Cross, <i>Fields of application</i>. Available at https://casebook.icrc.org/law/ihl-and-human-rights ★ International Committee of the Red Cross, <i>Protected persons</i>. Available at https://casebook.icrc.org/law/ihl-and-human-rights#toc--2-protected-persons ★ International Committee of the Red Cross, <i>Introduction</i>. Available at https://casebook.icrc.org/law/civilian-population#toc-i-the-protection-of-the-civilian-population-against-the-effects-of-hostilities ★ International Committee of the Red Cross, <i>Rules on protected civilians</i>. Available at https://casebook.icrc.org/law/civilian-population#toc--3-rules-on-protected-civilians ★ International Committee of the Red Cross, International Humanitarian Law as a Branch of Public International Law, III. International Humanitarian Law: a branch of international law governing the conduct of States and individuals, 2. Personal scope of application. Available at https://casebook.icrc.org/law/fundamentals-ihl#toc-b-international-humanitarian-law-as-a-branch-of-public-international-law ★ International Committee of the Red Cross, <i>The geographical scope of application: the extraterritorial application of International Human Rights Law</i>. Available at https://casebook.icrc.org/law/ihl-and-human-rights#toc--4-the-geographical-scope-of-application-the-extraterritorial-application-of-international-human-rights-law | |

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| ★ Useful web resources | ★ E-learning modules useful for the preparation to the module. Available at https://www.icrc.org/en/document/basic-rules-and-principles-ihl ★ Weapons Law Encyclopedia. Available at http://www.weaponslaw.org |
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Part 2 – Key elements of International Criminal Justice

Learning objectives

Participants will be able to:

- ★ Explain and critically analyse foundations and institutions of International Criminal Justice and International Criminal Law.
- ★ Relate International Criminal Justice mechanisms to protection of human rights.
- ★ List and critically reflect on recent developments in International Criminal Justice.
- ★ Summarize and critically examine conceptual foundations, evolution and challenges of Transitional Justice.
- ★ List various mechanisms of Transitional Justice and relate to transitions of different contexts.
- ★ Analyse the relationship between human rights and Transitional Justice.

DAY 2 - MODULE 2 – PART 2

INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW

| Time | Title of the session | Method/Material | Learning objectives |
|------------|---|---|---|
| 30 minutes | Foundations of International Criminal Justice (ICJ) | Presentations Computer and projector, flip-chart and markers | <ul style="list-style-type: none"> ★ Explain and critically analyse foundations and institutions of International Criminal Justice and International Criminal Law. ★ Relate International Criminal Justice mechanisms to protection of human rights. ★ List and critically reflect on recent developments in International Criminal Justice. |
| 45 minutes | Foundations of International Criminal Law (ICL) | cont. | ★ cont. |
| 15 minutes | Coffee break | | |
| 90 minutes | Models of Transitional Justice (TJ) | cont. | <ul style="list-style-type: none"> ★ Summarise and critically examine conceptual foundations, evolution and challenges of Transitional Justice. ★ List various mechanisms of Transitional Justice and relate them to transitions of different contexts. ★ Analyse the relationship between human rights and Transitional Justice. |

| Duration | Activity | Resources/comments |
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| Session 1: Foundations of International Criminal Justice (ICJ) | | |
| 30 minutes | This session introduces participants to the concept of ICJ and its historical development. | |
| | <p>After having explained the learning objectives of Session 1, display Slide 4 and explain what ICJ is as you go through the bullet points.</p> <p>Slide 5: Give a brief recap of what International Law is and emphasise that now IL is also binding for individuals. Then explain that only at the turn of the 21st century has the concept of ICJ emerged, also thanks to the jurisprudence of:</p> <ol style="list-style-type: none"> 1. Ad hoc International Criminal Tribunals <ul style="list-style-type: none"> ★ International Criminal Tribunal for the Former Yugoslavia (ICTY) ★ International Criminal Tribunal for Rwanda (ICTR) 2. Internationalised or mixed courts <ul style="list-style-type: none"> ★ Special Court for Sierra Leone (SCSL) ★ Special Panels of the Dili District Court in East Timor ★ Extraordinary Chambers in the Courts of Cambodia (ECCC) ★ War Crimes Chamber (WCC) in Bosnia ★ Special Tribunal for Lebanon (STL) 3. International Criminal Court (ICC) <p>Group exercise 1 (10 minutes)</p> <p>Before displaying Slide 6, ask participants when they believe ICJ began its development.</p> <p>Annotate answers on a flip-chart and then display Slide 6.</p> <p>Slides 6-7: Briefly explain to participants the genesis of ICJ. Further elaborate on the bullet points in the slides as follows:</p> <ul style="list-style-type: none"> ★ At the end of First World War the League of Nations was founded in 1920 in the attempt to set up a rudimentary system of collective security to prevent wars and maintain peace. It was then replaced by the United Nations (UN) in 1945 after Second World War. ★ Make a link with Module 1 recalling that, when a State decides to become a member of an international organisation (e.g. the UN), it 'renounces' part of its sovereignty. | PowerPoint presentation slides M2Part2 |

- ★ With the exception of the Nuremberg and Tokyo Tribunals, States have always dealt with criminal offences committed by their own citizens abroad as a domestic matter, invoking the principle of non-interference in internal affairs. Therefore, States were criminalising offences in their own national legal systems and punishing the responsible persons by implementing their own national criminal legislation. The same approach was applied for crimes committed by state officials on behalf of, or with the support of, their state. The international community responded to forms of 'state criminality' by creating legal frameworks such as treaties (e.g. 1949 Geneva Conventions, Convention against Torture, Genocide Convention, etc.) that obliged contracting States to criminalise a certain offence in their own legal systems as a prohibited conduct and punish the responsible persons. This traditional institutional framework did not prove sufficient and effective for a variety of reasons, and it was only with the establishment of the ICTY and ICTR that international criminal tribunals were set up to prosecute and punish the so-called 'core crimes', i.e. genocide, crimes against humanity and war crimes (Cassese and Gaeta 2013).

- ★ Stress the fact that the international community, civil society organisations, intergovernmental organisations and NGOs played a very active role in the articulation of values and principles of ICJ.

Slide 8: Briefly anticipate the aims of ICJ as showed in the slide, which will be further explained when describing the aims of ICL and TJ.

Slides 9-10: Explain to participants the different **historical phases** of ICJ and the relatively consequent emergence of the concept of **international crimes**.

1. Immediately after World War I (WWI) several attempts were made to establish international criminal institutions, but they all failed.

- ★ In 1919, after the end of WWI, the Treaty of Versailles was signed and the victors agreed upon a few provisions with Germany, which provided for the punishment of leading figures responsible for war crimes and for the establishment of a special tribunal composed of five judges appointed by the Allies. Nevertheless, the accused would have been tried by their opponents, which raised doubts with regard to the fairness of proceedings and the impartiality of the tribunal. In the end the attempt to set up a sort of ICL resulted in failure and no international court was set up (Cassese and Gaeta 2013).

- ★ The Treaty of Sèvres (1920) envisaged the determination of those responsible for the Armenian genocide, however, the attempt to establish a tribunal and thus to prosecute war criminals was eventually suspended.
- ★ The concept of **war crime** as international crime emerges. Draw the link to the origins of IHL.

2. After WWII and as a response to mass atrocities committed during the war by the Nazis and the Japanese, the establishment of the International Military Tribunal in Nuremberg and the Tokyo Tribunal was decided.

Major flaw of the two tribunals: Judges and prosecutors were appointed by the victors. This resulted in so-called '**victors' justice**'. According to Cassese, some important aspects arose after WWII:

- ★ A break with the idea that criminal jurisdiction with regard to international crimes should be carried out only by States, i.e. as a matter of internal affairs; moreover, emergence of the idea that state crimes are not committed by abstract entities but by concrete individuals.
- ★ New offences emerged, such as crimes against humanity and crimes against peace.
- ★ Military leaders as well as high-ranking politicians were brought to trial.
- ★ Begin of the development of legal standards of responsibility such as the elimination of the defence of "obedience to superior orders".

3. During the Cold War period, principles of the UN Charter (e.g. maintenance of international peace and security) and ICJ (i.e. prevention of violence and abuse; retribution and sense of justice) were subject to dictates of geo-political interests.

- ★ 1948 [Convention on the Prevention and Punishment of the Crime of Genocide](#), but the word "genocide" already appeared in 1946.
- ★ In the 1980s the notion of torture was revised and in 1984 the [Convention against Torture](#) was adopted.

4. The period that coincided with the end of the Cold War saw a re-emergence of ICJ along with a spirit of relative optimism; this was manifested in the creation of ICTY, ICTR, internationalised or mixed courts and the establishment of the ICC.

BUT the failure to prevent the Rwandan Genocide in 1994 raised questions and doubts about the effectiveness of

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| | international institutions and the commitment of the international community. | |
| | Optional video International Justice on trial: Theodor Meron at TEDxHagueAcademy. Available at https://www.youtube.com/watch?v=S3UBZ3MYY5c | |
| ★ References and further reading | A. Cassese and P. Gaeta, <i>Cassese's International Criminal Law</i> , 3 rd ed., Oxford, Oxford University Press, January 2013, Chapter 'Fundamentals of International Criminal Law' ★ A. Cassese and P. Gaeta, <i>Cassese's International Criminal Law</i> , 3 rd ed., Oxford, Oxford University Press, January 2013, Chapter 'International Criminal Courts' ★ Cryer et al., <i>An Introduction to International Criminal Law and Procedure</i> , 2 nd ed., Cambridge University Press, 2010. Chapter 'Introduction: What is International Criminal Law?' | |

| Duration | Activity | Resources/comments |
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| Session 2: Foundations of International Criminal Law (ICL) | | |
| 45 minutes | This session describes the aims, features and sources of ICL as well its constituent principles. Furthermore, it gives a brief overview of the core international crimes. Finally, it provides some points of reflection with regard to the main challenges of ICL. | |
| | <p>Displaying Slide 11, explain to participants what ICL is. Emphasise the fact that matters dealt with by ICL were usually under exclusive States' jurisdiction, i.e. <i>rationae personae, materiae, loci and temporis</i>.</p> <p>Slide 12: ICL has unique features such as the fact that it "simultaneously derives its origin from and continuously draws upon both international humanitarian law and human rights law as well as national criminal law" (Cassese and Gaeta, 2013).</p> <p>Slides 13-14: Briefly explain that the sources of ICL are derived from International Law and that public international law, ICL, IHL and IHRL are deeply intertwined. Use the description below to explain the bullet points of the slide.</p> <p>★ Some international criminal courts are established through treaties: London Agreement, 1945 (IMT), Rome Statute, 1998 (ICC), Agreement between the UN and Sierra Leone, 2002 (SCSL), Agreement between the UN and Lebanon, 2007 (STL). The statutes of international criminal courts are of great importance as they set forth the crimes over which the relevant court or tribunal may adjudicate. For instance, the Rome Statute establishing the ICC has laid down both</p> | PowerPoint presentation slides M2Part2 |

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| | <p>a list of crimes subject to the jurisdiction of the ICC and some general principles of ICL. In this case, the ICC criminalises genocide, war crimes and crimes against humanity and it has recently introduced the crime of aggression.</p> <ul style="list-style-type: none"> ★ Some provisions of the statutes of international criminal courts refer to international treaties, which encompass provisions for prosecution and punishment of particular international offences. For example, Art. 2 of the ICTY Statute refer to “grave breaches of the 1949 Geneva Conventions” and Art. 4 of the ICTR Statute refer to Common Art. 3 to the four 1949 Geneva Conventions and the Second Additional Protocol. ★ Some international HR treaties refer to international crimes. For instance, 1949 Genocide Convention and 1984 Convention against Torture. At the same time the latter, for example, impose obligation on member states to prosecute or extradite (aut dedere aut judicare). ★ For instance, international criminal courts have often referred to international customary law to establish whether a rule of customary nature has evolved. For example, in <i>Furundzija</i> (TC) the ICTY held that “the prohibition of rape and serious sexual assault in armed conflict has also evolved in customary international law”. [ICTY, Prosecutor v. Anto Furundzija (Judgment), TC, §§168-169.] ★ Moreover, in several cases, international criminal courts have referred to custom in order to establish the content of an international rule that made a crime punishable. ★ They refer to principles that are specific to criminal law as deriving from national legal systems, as mentioned above. ★ <p>Group exercise 2 (10 minutes)</p> <p>Before displaying Slide 15, ask participants what they think aims of ICL are. Annotate the answers on the flip-chart and then show the answers, elaborating further on each ICL’s aim.</p> <ul style="list-style-type: none"> ★ We refer to retribution when there is the “necessity of punishing those who have violated societal norms, irrespective of the possible future benefits of prosecution, on the basis that offenders deserve punishment for what they have done” (Cryer 2014). ★ Deterrence is one of the most common justifications used for punishment. Indeed, punishment can prevent | <p>Relevant documents</p> <p>Art. 2 ICTY Statute</p> <p>Art. 4 ICTR Statute</p> <p>Common Art. 3 1949 Geneva Conventions</p> |
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someone from engaging or re-engaging in a prohibited conduct.

- ★ It is linked to the concept of deterrence and it can hamper crimes by detaining the offender.
- ★ This theory is based on the idea that “the point of criminal sanctions is reformation of the offender” (Cryer 2014). Many human rights activists at national level advocate this theory and support the so-called “restorative justice”.
- ★ The educational aim of ICL is strictly related to the role of ICJ to provide victims with a sense of justice through transitional justice mechanisms (see Session 3 Models of Transitional Justice).

Slide 16: Establish a link to the notion of “providing victims a sense of justice”, while indicating what the **broader aims of ICL** are:

- ★ **Vindicating the rights of victims:** However, due to the fact the international criminal tribunals often deal with higher-level offenders, it is arduous for all the victims to actually see the perpetrators during a trial. Whether the experience of testifying is actually useful is subject to discussion.
- ★ **Recording history:** This is sustained by many scholars as one of the longer-term goals of ICL. However, note that the practice of international criminal tribunals is not consistent on this matter. Moreover, the idea that criminal trials have the function of **truth-telling** has been criticised, as some claim that courts are not the “not always the best place to seek to write history” (Cryer 2014).
- ★ **Societal reconciliation:** It has been affirmed that ICL has contributed and still contributes to societal peace and reconciliation after the end of a conflict, both of an internal and international nature, and can prepare the ground for lasting peace. This idea often comes with the concept of “no peace without justice”.

Slide 17: Give an overview of the major **principles of ICL** we found in the legal frameworks and established practices, from the Nuremberg Charter (IMT) to the Rome Statute (ICC).

Slides 18-19: Recall Slides 9 and 10 and explain to participants that we have begun to refer to **international crimes** just after the establishment of international criminal tribunals. In fact, according to Cassese and Gaeta, these institutions “exercise their jurisdiction over individuals who may be indicted on account of criminal rules of a truly international nature”. Then, display the

constitutive elements of an international crime, one by one.

Slides 20-22

- ★ **War crime:** Make reference to *Tadic*, wherein the ICTY ruled that, for a crime to be considered a war crime, these criteria must be met:
 - ★ (i) the violation must constitute an infringement of a rule of international humanitarian law;
 - ★ (ii) the rule must be customary in nature or applicable treaty law.
 - ★ (iii) the violation must be "serious", i.e. it must constitute a breach of a rule protecting important values, and the breach must involve grave consequences for the victim;
 - ★ (iv) the violation of the rule must entail the individual criminal responsibility.
- ★ [ICTY, Prosecutor v. Dusko Tadic, AC, 1995]
- ★ **Genocide:** Make reference to the acts mentioned in Art. 2 of the 1948 Genocide Convention which are the following:
 - ★ (a) Killing members of the group;
 - ★ (b) Causing serious bodily or mental harm to members of the group;
 - ★ (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - ★ (d) Imposing measures intended to prevent births within the group;
 - ★ (e) Forcibly transferring children of the group to another group.
- ★ **Note:** Mention that Art. 1 of the 1949 Genocide Convention imposes on contracting parties the duty to prevent genocide. Finally, it is worth mentioning that the ICJ reinforced the view that States have a "direct obligation to prevent genocide" and to refrain from committing genocide. In this situation the ICJ also confirmed that when a conduct, such as genocide, is attributable to a State, it gives rise to State responsibility. [International Court of Justice, *Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, Judgment, I.C.J. Reports 2007, §§ 162-167]
- ★ **Crimes against humanity:** Explain the definition of this crime, derived from leading cases, as follows:

Relevant document:
1948 Convention on the Prevention and Punishment of the Crime of Genocide

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| | <ul style="list-style-type: none"> ★ 1. Widespread violation: “massive, frequent, large scale violation, carried out collectively with considerable seriousness and directed against a multiplicity of victims”. [ICTR, Prosecutor v. Akayesu, TC I, 2 September 1998, § 580] ★ A single inhumane act of “extraordinary magnitude” could amount to widespread. [ICTY, Prosecutor v. Blaskic, TC I, 3 March 2000, § 206] ★ 2. Systematic violation: “thoroughly organised and following a regular pattern on the basis of a common policy involving substantial public or private resources”. [Akayesu] ★ 3. No link with armed conflict is required. Therefore, they are prohibited regardless of whether they are committed in time of war or peace. ★ 4. Against the civilian population ★ Torture could also be considered a discreet crime given the amount of conventions and legal instruments that have prohibited it (such as the UDHR, ICCPR, ECHR, ACHR, ACHPR, UNCAT, 1949 Geneva Conventions and their additional Protocols, etc.). It is recognised as international custom and it has also ‘reached the status’ of <i>ius cogens</i>. ★ The definition of torture can be found in Art. 1(1) of the Convention against Torture. It is classified as: ★ “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, ★ when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. ★ It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.” ★ Aggression was first considered as a “crime against peace” in the 1945 London Agreement and applied by the International Military Tribunal. ★ The definition of the crime of aggression has been recently introduced under the Rome Statute, whose related provisions entered into force in 2017. Therefore, this conduct is now under the jurisdiction <i>rationae materiae</i> of the ICC. | <p>Relevant document: 1984 Convention against Torture</p> |
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- ★ **Terrorism** has been an object of controversy and several debates, also partly due to the lack of an internationally agreed definition of the term 'terrorism'. As of now, only treaties criminalising specific terrorist conduct exist.
- ★ **Optional debate:** The trainer might engage participants and ask them to share their opinions on what is terrorism, according to their knowledge. Ask participants to create small groups of 3 or 4 people with the persons sitting next to them and to pinpoint what they believe are the key elements that should characterise the definition of terrorism. Then, discuss in a plenary session what the groups came up with and, under the guidance of the trainer, discuss what could be the possible critiques to each suggested definition.

Slide 23: Recalling Slide 5, illustrate the different models created and used by the international community to address international crimes. Draw the attention to the fact that different models might correspond to different phases of the development of ICJ.

1. Military Tribunals

- ★ Nuremberg (IMT)
- ★ Tokyo

2. Ad hoc International Criminal Tribunals: The main characteristic is that they are **set up by the UN Security Council** under Chapter VII, and both ICTY and ICTR were empowered to prosecute and punish serious violations of IHL.

- ★ 1993 ICTY
- ★ 1994 ICTR

3. Internationalised or mixed courts: In general terms, the main characteristics are: a) the courts were created following an **agreement by the UN** (UNSC or UNSG) and the **national government**; b) they have a **mixed composition** of international and national judges and staff and have **mixed jurisdiction**, i.e. both international crimes listed in international treaties (Geneva Conventions and UN Conventions) and some criminal offences under national law.

- ★ 2002 Special Court for Sierra Leone (SCSL)
- ★ 2000 Special Panels of the Dili District Court in East Timor
- ★ 2001 Extraordinary Chambers in the Courts of Cambodia (ECCC)

Relevant document:
Art. 8bis, Rome Statute

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| | <ul style="list-style-type: none"> ★ 2005 War Crimes Chamber (WCC) in Bosnia ★ 2007 Special Tribunal for Lebanon (STL). First there was an Agreement between UN and Lebanon whose provisions entered into force by virtue of the UNSC Resolution 1757. <p>4. ICC: The main characteristics are that it has a permanent nature, and has unlimited jurisdiction both temporally and territorially. The drafting by the International Law Commission, whose institution was appointed under the request of the UN General Assembly (UNGA), started in 1994. In 1996 the UNGA established a Preparatory Committee on the Establishment of an International Criminal Court (Prep Com). The draft Statute was submitted in 1998 to the Diplomatic Conference at Rome. In the end the Conference adopted the so-called Rome Statute whose provisions envisaged the establishment of the ICC. The Rome Statute entered into force only in 2002 after the 60th ratification.</p> <p>Slides 24-25: Emphasise the main challenges of the ICJ, making reference to what was previously explained and discussed. In particular, bullet points no. 5 and 6 can create the basis for group discussions.</p> | |
| | <p>Optional content at lecturer's discretion (60 minutes or more, "War crimes in detail"):</p> <ul style="list-style-type: none"> ★ Conscription and enlistment of children: the jurisprudence of the Special Court for Sierra Leone and ICC ★ Terrorism as a war crime: the jurisprudence of the Special Tribunal for Lebanon, 2011 Interlocutory Appeal decision. Discuss whether terrorism should be established as a separate crime in the Rome Statute. | |
| Coffee break | | |
| <ul style="list-style-type: none"> ★ References and further reading | <ul style="list-style-type: none"> ★ Cryer et al., <i>An Introduction to International Criminal Law and Procedure</i>, 3rd ed., Cambridge, Cambridge University Press, June 2014, Chapter 'The Aims, Objectives and Justifications of International Criminal Law'. ★ A. Cassese and P. Gaeta, <i>Cassese's International Criminal Law</i>, 3rd ed., Oxford, Oxford University Press, January 2013, Chapter 'The Elements of International Crimes'. ★ A. Cassese and P. Gaeta, <i>Cassese's International Criminal Law</i>, 3rd ed., Oxford, Oxford University Press, January 2013, Chapter 'International Criminal Courts' ★ A. Cassese and P. Gaeta, <i>Cassese's International Criminal Law</i>, 3rd ed., Oxford, Oxford University Press, January 2013, Chapter 'Fundamentals of International Criminal Law' | |

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| | <ul style="list-style-type: none"> ★ A. Smeulers, 'Perpetrators of International Crimes: Towards a Typology', in A. Smeulers & R. Haveman (eds.), <i>Supranational Criminology: towards a criminology of international crimes</i>, Antwerp, Intersentia, 2008, pp. 233-265 ★ K. J. Heller, 'The role of the International Prosecutor', in C. Romano, K. Alter, Y. Shany (eds.), <i>Oxford Handbook of International Adjudication</i>, Oxford University Press, 2013, pp. 669- 690 ★ S. Kendall and S. Nouwen, 'Representational Practices at the International Criminal Court: The Gap Between Juridified and Abstract Victimhood', <i>Law and Contemporary Problems</i> 76 (2014), 235-262 ★ Cryer et al., <i>An Introduction to International Criminal Law and Procedure</i>, 3rd ed., Cambridge, Cambridge University Press, June 2014, Chapter 'Crimes against Humanity' ★ Cryer et al., <i>An Introduction to International Criminal Law and Procedure</i>, 3rd ed., Cambridge, Cambridge University Press, June 2014, Chapters 'War Crimes' and 'Genocide' ★ Cryer et al., <i>An Introduction to International Criminal Law and Procedure</i>, 3rd ed., Cambridge, Cambridge University Press, June 2014, Chapter 'Aggression' |
| ★ Useful web resources | <ul style="list-style-type: none"> ★ International Criminal Court Official Website. Available at https://www.icc-cpi.int ★ International Criminal Tribunal for the Former Yugoslavia. Available at http://www.icty.org/en ★ International Criminal Tribunal for Rwanda. Available at http://unictr.unmict.org ★ Text of the 1949 Geneva Conventions and their additional Protocols. Available at https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions ★ Articles posted by Carsten Stahn on the Blog of the European Journal of International Law. Available at https://www.ejiltalk.org/author/cstahn/ ★ Journal of International Criminal Justice. Available at https://academic.oup.com/jicj |

| Duration | Activity | Resources/comments |
|---|---|---|
| Session 3: Models of Transitional Justice (TJ) | | |
| 90 minutes | This session focuses on the critical examination of the conceptual foundations, evolution and challenges of Transitional Justice. It also discusses various mechanisms of Transitional Justice and relates to transitions of different contexts, and analyses the relationship between human rights and Transitional Justice. | |
| | <p>Group exercise 3 (5 minutes)</p> <p>Start Session 3 by asking participants the following question: What, to your knowledge, is TJ?</p> <p>Note answers on a flip-chart, then display Slide 26 and illustrate to participants the definition given by the</p> | <p>PowerPoint presentation slides M2Part2</p> <p>Relevant document: 'What is Transitional Justice?' Factsheet, International Center for</p> |

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| <p>International Center for Transitional Justice highlighting the distinctive traits underlined in the text on the slide.</p> <p>Slide 27: Show the video to explain the reasons behind the emergence of TJ and give the timeframe of this multidisciplinary field. Relevant information can be found in essential bibliography no. 1.</p> <p>Slide 28: Although the aims of TJ will vary depending on the context, the following aspects can always be considered constant:</p> <ul style="list-style-type: none"> ★ Recognition of the dignity of individuals ★ Redress and acknowledgment of violations ★ The aim to prevent them from happening again ★ [International Center for Transitional Justice] <p>Slide 29: Broader aims may include:</p> <ul style="list-style-type: none"> ★ Reform of institutions, i.e. to establish accountable institutions and restore confidence in them ★ Access to justice, i.e. especially for the most vulnerable persons and groups in society in the aftermath of human rights violations and abuses ★ Gender – i.e. ensure that women have an effective role in social and political space in the pursuit of a just society ★ Respect for the rule of law ★ Facilitating peace processes and fostering durable resolution of conflicts ★ Establishing a basis to address the underlying causes of conflict and marginalisation ★ Advancing the cause of reconciliation as the ultimate goal of a society lacerated by past human rights abuses and internal conflicts ★ [The Aims of Transitional Justice, International Center for Transitional Justice] <p>Slides 30-31: Explain to participants that TJ might entail a potential tension, which is expressed by the three questions on the slide.</p> <p>These lead to the question of peace versus justice and/or truth versus justice. In other words, scholars and practitioners often have debated and tried to assess whether TJ should focus:</p> <p>on ensuring individual accountability and promoting human rights through accountability</p> | <p>Transitional Justice. Available at https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf</p> <p>Video: Why Transitional justice, International Center for Transitional Justice. Available at https://www.youtube.com/watch?v=EIYpJxwc6Jo</p> |
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vs.

on the desire to attain successful transition to democracy/peace

Moreover, when discussing the question of peace vs. justice, participants should always ask themselves what are the interests at stake when a TJ mechanism is in place: victims, families of the victims, government, the outgoing regime, the political elite?

Slides 32-33: The notion of TJ may “include both judicial and non-judicial mechanisms with differing levels of international involvement (or none at all).” Also, States and/or the international community in general may foresee only one of the mechanisms listed or a combination thereof. [The rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary-General, 23 August 2004]

Recall Slide 23 when discussing the legal mechanisms for prosecution.

Define **Gacaca Courts** as an example of local justice mechanisms:

- ★ Gacaca courts are community-led Traditional Justice mechanisms aimed at promoting reconciliation after the Rwandan genocide. It differs from court-based national and international legal settlement because of the direct and close involvement of the local population.
- ★ These courts were traditional mechanisms used for settling disputed between families concerning marriage, property and personal injury. Gacaca courts were revitalised “in order to deal with the huge number of genocide-related cases clogging up the formal justice system and jails in Rwanda” (Keetharuth 2009).
- ★ This mechanism, however, has been criticised because it failed “to protect the rights of victims and perpetrators and to achieve its stated aims of ending impunity and bringing reconciliation” (Smith 2010).
- ★ An important dilemma to be considered is that this kind of process could uncover old wounds and bring conflicts back to the surface. At the same time, it may also contribute to healing wounds and settling conflicts.

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Then, show the short **video**.

Explain to participants that **reparation** “serves to acknowledge the legal obligation of a state, or individual(s) or group, to repair the consequences of violations – either because it directly committed them or it failed to prevent

them.” (International Center for Transitional Justice). Refer to the document (UNGA 60/147, 2005) with regard to the legal framework set by the UN imposing obligations upon states. Moreover, reparations also “express to victims and society more generally that the state is committed to addressing the root causes of past violations” and ensuring a guarantee of non-repetition.

- ★ **Material** compensation is of different types and can include financial compensation, but also restoration of civil and political rights, cancellation of unfair criminal convictions, physical rehabilitation, and granting access to land, health care, or education.
- ★ Examples of **symbolic** reparation are public apologies by the state and/or by the perpetrator, memorials and commemorations.
- ★ [Reparations, International Center for Transitional Justice]

Explain what **truth commissions** are as stated by the United Nations Secretary-General:

“Truth commissions are official, temporary, non-judicial fact-finding bodies that investigate a pattern of abuses of human rights or humanitarian law committed over a number of years”. [United Nations Security Council, The rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary-General, 23 August 2004, § 50]

Group exercise 4 (10 minutes)

Ask participants to discuss in groups of 2 or 3 what the reasons behind the establishment of truth commissions are, bearing in mind the aims of TJ mentioned earlier.

Then, participants will report their answers and opinions in plenary session.

The key message that should arise is that truth commissions have the following functions and aims:

- ★ to close the past and formally acknowledge past abuses;
- ★ to clarify and acknowledge the truth;
- ★ to contribute to justice and accountability;
- ★ to promote reconciliation & prevent future conflicts;
- ★ and to develop a victim centred- approach.

Other initiatives related to truth-seeking are: storytelling, documentation, archives, history books and the search for missing persons.

Video: Rwanda’s Gacaca Courts questioned 10 years on, Al Jazeera. Available at <https://www.youtube.com/watch?v=DajmN6zQrGE>

Relevant document: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005

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| | <p>Searching for missing persons is closely related to the crime of enforced disappearance. Development of the jurisprudence of the IACHR has led to the consolidation of the right to the truth. Moreover, denying an immediate family member of a victim access to the truth constitutes inhuman and degrading treatment.</p> <p>In cases of institutional collapse or a weak or subservient judicial system, institutional reforms have proved to be an efficient tool to ensure accountability and to prevent the recurrence of human rights violations.</p> <p>Institutional reform consists of “the process of reviewing and restructuring state institutions so that they respect human rights, preserve the rule of law, and are accountable to their constituents.” Therefore, it may involve the police, military and the judiciary.</p> <p>[Institutional Reform, International Center for Transitional Justice]</p> <p>Slides 34-36: Review the main challenges of TJ and outline as some of the issues (written in bold text on the slides) are linked to the aspects addressed earlier.</p> | <p>Inter-American Commission on Human Rights, The Right to Truth in the Americas, 2014, http://www.oas.org/en/iachr/reports/pdfs/right-to-truth-en.pdf</p> |
| | <p>Optional (60 minutes)</p> <p>The lecturer may decide to focus on a specific tribunal or peace process, depending on the location of the mission.</p> | |
| <p>★ References and further reading</p> | <ul style="list-style-type: none"> ★ ‘What is Transitional Justice?’ Factsheet, International Center for Transitional Justice. Available at https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf ★ ‘The Aims of Transitional Justice’, International Center for Transitional Justice. Available at https://www.ictj.org/about/transitional-justice ★ W. Schabas, ‘Unimaginable Atrocities’, Oxford, Oxford University Press, 2012, Chapter ‘No Peace without Justice? The Amnesty Quandary’ ★ Akhavan P., ‘The Rise, and Fall, and Rise, of International Criminal Justice’ (2013), 11 Journal of International Criminal Justice 527-536 ★ United Nations Security Council, The rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary-General, 23 August 2004 ★ ‘Reparations’, International Center for Transitional Justice. Available at https://www.ictj.org/our-work/transitional-justice-issues/reparations | |

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| | <ul style="list-style-type: none"> ★ 'Institutional Reform', International Center for Transitional Justice. Available at https://www.ictj.org/our-work/transitional-justice-issues/institutional-reform ★ Exploring Stories of Genocide and Justice after Conflict, Samantha Lakin at TEDxFulbrightSantaMonica. Available at https://www.youtube.com/watch?v=1LgweHHDy0Y ★ Fletcher L., Weinstein H. with Rowen J., 'Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective' (2009), 31 <i>Human Rights Quarterly</i> 163 ★ Cryer et al., <i>An Introduction to International Criminal Law and Procedure</i>, 3rd ed., Cambridge, Cambridge University Press, June 2014, Chapter 'Alternatives and Complements to Prosecution' ★ Keetharuth S. B., 'Major African legal instruments', 2009. Available at http://www.kas.de/upload/auslandshomepages/namibia/Human_Rights_in_Africa/7_Keetharuth.pdf ★ Smith A., 'Basic Assumptions of Transitional Justice and Children' in Sharanjeet Parmar S., Roseman M. J., Siegrist S. and Sowa T. (eds.), <i>Children and Transitional Justice Truth-Telling, Accountability and Reconciliation</i>, Cambridge: UNICEF and Human Rights Program, Harvard Law School, 2010 |
| <ul style="list-style-type: none"> ★ Useful web resources | <ul style="list-style-type: none"> ★ International Center for Transitional Justice, https://www.ictj.org ★ OHCHR, Rule of Law - Transitional Justice, http://www.ohchr.org/EN/Issues/RuleOfLaw/Pages/TransitionalJustice.aspx ★ International Journal of Transitional Justice, https://academic.oup.com/ijtj |

Part 3 – Key elements of International Refugee Law, Law of Internal Displacement and International Migration Law

Learning objectives

Participants will be able to:

- ★ explain who can qualify as refugee and asylum seekers and what is international protection;
- ★ recall the legal contours of the *non-refoulement* principle;
- ★ recall Refugee Status Determination procedures and the substantive rights refugees enjoy under universal and regional legal instruments;
- ★ list the forms of durable solutions and subsidiary protection;
- ★ recall other categories of displaced persons (migrants, victims of trafficking, etc.) and the legal instruments and mechanisms established for their protection at the international level;
- ★ assess what the main challenges of international migrants are;
- ★ explain the differences between refugees and Internally Displaced Persons (IDPs) both in legal terms and with respect to the substantial protection granted by International Law;
- ★ recall the obligations of the State vis-à-vis IDPs;
- ★ summarise the evolution and current status of the EU's policies and regulations regarding migrants and asylum seekers.

DAY 3 - MODULE 2 – PART 3

INTERNATIONAL HUMAN RIGHTS LAW AND ITS RELATIONSHIP WITH OTHER BRANCHES OF INTERNATIONAL LAW

| Time | Title of the session | Method/Material | Learning objectives |
|-------------|-----------------------------|--|--|
| 120 minutes | International Refugee Law | <p>Presentations</p> <p>Computer and projector, flip-chart and markers</p> <p>Exercise 1: Passport photo, some coins & bills of different currencies, 2-3 family pictures, old SIM cards, an empty blister package of Paracetamol or similar, passport/ID cards.</p> <p>Exercise 2: Printed copies of the 1951 Geneva Convention</p> | <ul style="list-style-type: none"> ★ Explain who can qualify as refugee and asylum seeker and what international protection is. ★ Recall the legal contours of the non-refoulement principle. ★ Recall Refugee Status Determination procedures and the substantive rights refugee enjoy under universal and regional legal instruments. ★ List the forms of durable solutions and subsidiary protection. |
| 15 minutes | Coffee break | | |
| 105 minutes | International Migration Law | <p>Presentations</p> <p>Computer and projector, flip-chart and markers</p> | <ul style="list-style-type: none"> ★ Recall other categories of displaced persons (migrants, victims of trafficking, etc.) and the legal instruments and mechanisms established for their protection at international level. ★ Assess what the main challenges of international migrants are. |
| 60 minutes | Lunch | | |

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| 75 minutes | Law of Internal Displacement | Presentations; Computer and projector, flip-chart and markers. Exercise 5-6: Printed copies of the Guiding Principles on Internal Displacement. | <ul style="list-style-type: none"> ★ Explain the differences between refugees and Internally Displaced Persons (IDPs) both in legal terms and with respect to the substantial protection granted by International Law. ★ Recall the obligations of the State vis-à-vis IDPs. |
| 15 minutes | Coffee break | | |
| 75 minutes | The EU <i>acquis</i> on asylum and migration | Presentations Computer and projector, flip-chart and markers | <ul style="list-style-type: none"> ★ Summarise the evolution and current status of the EU's policies and regulations regarding migrants and asylum seekers. |

| Duration | Activity | Resources/comments |
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| Session 1: International Refugee Law (IRL) | | |
| 120 minutes | This session introduces participants to the main tenets of international refugee law and the obligations States have vis-à-vis asylum seekers and refugees. It gives an overview of the Refugee Status Determination (RSD) procedures and the substantive rights refugees enjoy under universal and regional instruments. | |
| | <p>Icebreaker (10 minutes)</p> <p>After having explained the learning objectives of Session 1 (Slide 3), pretend to leave the training room and slam the door. When you return, pretend you are a police guard and ask participants why they want to enter your country.</p> <p>Write the answers on a flip-chart.</p> <p>N.B.: Participants should give you the reasons why they might leave their country and go to another one.</p> <p>Show Slide 4, checking with participants whether the reasons they identified correspond (more or less) with the list displayed on the slide.</p> <p>Then ask participants the following question: “Which of the reasons listed in the slide are protected under international law? “</p> <p>Slides 5-6: Explain to participants that in general people move “for a better life”, and we can identify 4 categories: a) economic, b) family, c) education, d) health and e) protection (security). However, the motives that migrants have may be mixed.</p> <p>Show the short video on forced migration.</p> <p>Show Slide 7 to explain that the right to seek and to enjoy asylum is enshrined in Art. 14 UDHR</p> <p>Slides 8-11 briefly show and explain the latest data on forcibly displaced people, and on countries of origin and destination.</p> <ul style="list-style-type: none"> ★ Over the past 20 years the number of persons displaced has doubled. ★ 65+ million people are forcibly displaced worldwide as a result of persecution, conflict, generalised violence and human rights violations. ★ The majority of world’s displaced people are located in Africa. ★ 55% of the refugees worldwide came from South Sudan, Afghanistan and Syria. | <p>PowerPoint presentation slides M2Part3Sess1</p> <p>Video: UNHCR, Choose to help, https://www.youtube.com/watch?v=-cSe-MjxOS4</p> |

- ★ The top hosting country is Turkey.
- Slides 12-14: Give an overview of the **short history of IRL**.
- ★ Post World War I movements:
 - ★ 1.5 million Russian nationals as a result of the Bolshevik Revolution, the famine of 1921 and the breakdown of White Russian resistance
 - ★ After the collapse of the Ottoman Empire: 320,000 Armenian refugees; 1.3 million Greeks
 - ★ 450,000 Spanish refugees as a result of Spanish Civil War
 - ★ 400,000 refugees leave Nazi Germany.
 - ★ The League of Nations focused on specific groups of refugees (e.g. Russians and later on Armenians) and did not draft a global refugee definition.
 - ★ Nansen passports were issued through the agency of the League of Nations to stateless persons after WW1.
 - ★ In 1944 UNRRA was established to provide emergency relief and return of millions displaced by World War II in Europe.
 - ★ IRO was created to deal with registration, determination of status and resettlement, before falling victim to the Cold War.
 - ★ Finally an international treaty was adopted providing a global definition of refugee.
 - ★ In 1967 NY Protocol to the 1951 Geneva Convention removed time (before 1 January 1951) and geographical (Europe) limitations on the Geneva Convention, OAU Convention and Cartagena Declaration.

Slide 14: Explain the history and mandate of **UNHCR**

Group exercise 1 (15 minutes)

Distribute a plastic bag containing possible objects that could be carried by people seeking asylum from their countries of origin. For example, a passport photo, some coins & bills of different currencies, 2-3 family pictures, old SIM cards, an empty blister package of Paracetamol or similar, passport/ID cards.

Ask participants to pick up one of these objects.

Then ask participants to imagine that they had to leave their home country and then to answer, discussing among groups of 2 or 3 people, the 3 questions displayed on Slide 15.

Slides 16-17: What is international protection?

Optional video: The Nansen Passport – UNHCR’s Nansen Refugee Award 2014, <https://www.youtube.com/watch?v=7AonnZiwmds>

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| | <p>Group exercise 2 (15 minutes)</p> <p>Distribute 10-15 copies of the 1951 Geneva Convention to participants so that there is one copy for every 2 persons. Then, as displayed on Slide 18, ask participants to:</p> <ul style="list-style-type: none"> ★ read the Convention; ★ identify the five most important articles; ★ present them in order of importance and explain why they are important. <p>The conclusion of the exercise is to find Article 33, which is the cornerstone of IRL enshrining the principle of “non-refoulement”.</p> <p>Slides 19-20: Explain the principle of “non-refoulement” and the exception to it.</p> <p>Before showing the video, explain to participants that nowadays, border crossing is a very common reality; in this case, however, when asylum seekers tried to cross EU borders, they were confronted with locked gates.</p> <p>N.B.: The message that should come across is that, even if the principle of non-refoulement obliged States to “not push back” persons whose life or freedom may be threatened, the reality is that thousands of refugees and migrants who were arriving each day in Greece from across the Mediterranean found locked gates upon reaching the borders with Macedonia, Hungary, Bulgaria and Slovenia.</p> <p>Use the map of the document reported on the right column to show the border fences in Europe.</p> <p>Slides 21-22: Define who is a refugee according to the 1951 Geneva Convention and explain how to determine who is a refugee, i.e. according to the Refugee Status Determination (RSD).</p> <p>Slides 23-28: Explain and further elaborate on the inclusion clauses of the refugee definition (Art. 1A, 1951 Geneva Convention)</p> <p>Conclude the discussion by showing a short video explaining who is considered a refugee.</p> <p>Slide 29: After having defined who is a refugee, explain and further elaborate on who is not a refugee, i.e. the exclusion clauses.</p> <p>Slides 30-32: Briefly explain what the standards are that shall be respected for RSD. Then go through the decision-making process and analyse the factors that should be taken into account when conducting an interview to determine whether a person is a refugee.</p> <p>Slide 33: List the main rights of refugees under the 1951 Geneva Convention.</p> | <p>Relevant document: 1951 Geneva Convention relating to the Status of Refugees. Available at http://www.unhcr.org/3b66c2aa10.pdf</p> <p>Video: Refugee crisis: chaos at the Greece-Macedonia border. Available at https://www.youtube.com/watch?v=Ulh2x9jJl-g</p> <p>Relevant document: UNHCR, Border fences and internal border controls in Europe, March 2017. Available at https://data2.unhcr.org/f/documents/download/55249</p> <p>Video: UNHCR, 60 Years of the UN Refugee Convention. Available at https://www.youtube.com/watch?v=LtPXV8a_nil</p> |
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Slides 34-38: International protection is a temporary substitute for safeguards of national protection. Protection interventions need to support the attainment of the 3 **durable solutions**:

1. Voluntary repatriation
2. Local integration
3. Resettlement

Although they are called durable, unfortunately they are often permanent solutions.

They are complementary:

- ★ In cases where repatriation is not an option, local integration could offer a durable solution and the chance to build a new life.
- ★ In cases where local integration is not an option, resettlement to a third country could be the best durable solution.

1. There is no definition of **voluntary repatriation** as such in the 1951 Geneva Convention, but IHRL provides context & Excom conclusions, and UNHCR handbook provides guidance:

- ★ “Everyone has the right to leave any country, including his own, and to return to his country.” UDHR ICCPR
- ★ “Non-refoulement” GC
- ★ Voluntariness
- ★ “Safety and dignity”

There are two types of voluntary repatriation: spontaneous and facilitated.

Data has shown decreasing numbers over the last decade. However, refugee returns increased in 2016: of 552,200 returnees, most returned to Afghanistan (384,000).

Challenges in the application of this solution come up in cases of protracted crises (e.g. Syria) and with regard to the notion of voluntariness.

2. **Local integration** is a complex and gradual process with legal, economic, social and cultural dimensions. It imposes considerable demands on both the individual and the receiving society. In many cases, acquiring the nationality of the country of asylum is the culmination of this process.

UNHCR estimates that, over the past decade, 1.1 million refugees around the world became citizens in their country of asylum.

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| | <p>3. Resettlement is the selection and transfer of refugees from a state in which they have sought protection to a third state that has agreed to admit them as refugees.</p> <p>Data trends: In 2016, 20-year high with 162,500 refugees referred by UNHCR and over 189,300 resettled, but with future predicted drop in available places, resettlement needs outweigh resettlement places; New York Declaration calls for increase in resettlement places.</p> <p>In 2016, most resettlement submissions processed in (MENA) region 67,400 (41%), Africa 44,000 (27%), Europe 29,200 (18%), Asia and the Pacific 20,700 (13%) and the Americas 1,300 (<1%).</p> <p>Slide 39: Making a link with durable solutions (especially local integration), explain that refugee status may cease under three non-exclusive criteria (i.e. cessation clause).</p> <p>Slides 40-43: Explain to participants that, although a person might not meet the refugee definition under the 1951 Geneva Convention, he/she could still be entitled to a form of protection, i.e. subsidiary protection, humanitarian status, leave to remain. This is possible through regional instruments such as the OAU Convention, the Cartagena Declaration or EU instruments. In fact, these three regions have agreed on common wider definitions for persons in need of international protection.</p> | |
| | <p>Optional content at trainer’s discretion</p> <p>Depending on the context of the course, the trainer may decide to focus on a specific region and compare, for example, the OAU Convention with the 1951 Geneva Convention.</p> <p>The 1969 Convention governing the Specific Aspects of Refugee Problems in Africa (‘1969 Convention’) is the regional legal instrument governing refugee protection in Africa.</p> <p>It was adopted on 10 September 1969 by the Organisation of African Unity, now African Union (AU). It entered into force on 20 June 1974 after ratification by one third of the Member States. It has since been signed or ratified by 50 of the 53 Member States of the AU.</p> <p>The 1969 Convention contains a preamble and 15 articles.</p> <p>The main differences between the OAU and Geneva Convention are:</p> <ul style="list-style-type: none"> ★ Definition(s) ★ Internal flight alternative ★ Asylum ★ Non-refoulement | <p>Relevant document: Convention governing the Specific Aspects of Refugee Problems in Africa. Available at http://www.achpr.org/files/instruments/refugee-convention/achpr_instr_conv_refug_eng.pdf</p> |

- ★ Responsibility sharing
- ★ Exclusion and cessation
- ★ Non-discrimination
- ★ Voluntary repatriation

1. The 1969 Convention (Article 1) provides two refugee definitions: the 1951 Convention relating to the Status of Refugees and a second unique definition which provides the following definition:

“[T]he term refugee shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality”.

- ★ This unique definition explicitly introduces objective criteria, based on the conditions prevailing in the country of origin, for determining refugee status, and ‘requires neither the elements of deliberateness nor discrimination inherent in the 1951 Convention definition’. Both definitions are employed by UNHCR in its operations in Africa.
- ★ The references to external aggression, occupation and foreign domination have not been used since the end of colonialism and apartheid, and most determinations are based on “events seriously disturbing public order in either part or the whole of his country of origin or nationality”.

2. Unlike the GC, the 1969 Convention does not include the notion of internal flight.

3. The 1951 Convention does not establish any right to asylum. The 1969 Convention provides that Member States “shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality” (Art. 2.1).

The 1969 Convention characterises the grant of asylum as a “peaceful and humanitarian act” that “shall not be regarded as an unfriendly act by any Member State” (Art. 2.2).

4. “No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article I, paragraphs 1 and 2” (Art. 2.3).

This is broader than the 1951 Convention’s non-refoulement provision in four important respects:

- ★ The 1969 Convention does not include a national security exception.
- ★ It applies at frontiers, while the 1951 Convention makes no such explicit provision.
- ★ Non-refoulement applies to “persons”, whereas the 1951 Convention applies only to “refugees”.
- ★ It protects refugees from return to territories where their “life, physical integrity or liberty” would be threatened, while Art. 33.1 of the 1951 Convention protects refugees from refoulement to territories where their “life or freedom” would be threatened.

5. Art. 2.4 of the OAU includes an early notion of responsibility sharing, stating the following:

“[W]here a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the [AU], and such other Member States shall in the spirit of **African solidarity** and **international cooperation** take appropriate measures to **lighten the burden** of the Member State granting asylum”.

6. The 1969 Convention does not include an exclusion clause on grounds of national security.

The 1969 Convention shall cease to apply to any refugee who has:

- ★ “committed a serious non-political crime outside his country of refuge after his admission to that country as a refugee”;
- ★ “seriously infringed’ the 1969 Convention’s purposes and objectives”;
- ★ “been guilty of acts contrary to the purposes and principles of” the AU.
- ★ (Art. 1.4 and 1.5)

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| | <p>7. Art. 4 on non-discrimination in the application of the Convention follows Art. 3 of the 1951 Convention; however, discrimination is also prohibited on the grounds of nationality, membership of a particular social group or political opinion.</p> <p>8. The 1969 Convention is the first and until now only international legal instrument to formally insist on the voluntariness of refugee repatriation.</p> | |
| | Slide 44: Explain and further discuss with participants the current context and challenges of migration. | |
| | <p>Slides 45-49: Quiz & Wrap-up</p> <p>Firstly, ask participants the questions displayed on each slide. Then, only after participants have given their answer, display the correct answers.</p> | |
| Coffee break | | |
| ★ References and further reading | <ul style="list-style-type: none"> ★ 1951 Geneva Convention and its Protocol ★ 1969 Convention Governing the Specific Aspects of Refugee Protection in Africa ★ 1984 Cartagena Declaration ★ UNHCR, Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees, April 2001. Available at: http://www.refworld.org/docid/3b20a3914.html. ★ Lauterpacht, S. E. & Bethlehem, D., 'The Scope and Content of the Principle of Non-refoulement', in Feller, E., Türk, V. & Nicholson, F. (eds.), Refugee Protection in International Law, UNHCR Global Consultations on International Protection, Cambridge University Press, Cambridge, 2003, pp. 87-177. Available at http://www.unhcr.org/419c75ce4.html ★ UNHCR, Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, December 2011, HCR/1P/4/ENG/REV.3. Available at http://www.refworld.org/docid/4f33c8d92.html ★ Sivakumaran, S., 'Exclusion from Refugee Status: The Purposes and Principles of the United Nations and Article 1F(c) of the Refugee Convention', International Journal of Refugee Law, (2014) Vol. 26, No. 3, pp. 350-381. Available at http://ijrl.oxfordjournals.org/content/26/3/350.full.pdf+html | |
| ★ Useful web resources | <ul style="list-style-type: none"> ★ UNHCR, Global Trends, Forced Displacement in 2016, June 2017. Available at http://www.unhcr.org/globaltrends2016/ ★ 1951 Geneva Convention relating to the Status of Refugees. Available at http://www.unhcr.org/3b66c2aa10.pdf ★ Convention governing the Specific Aspects of Refugee Problems in Africa. Available at http://www.achpr.org/files/instruments/refugee-convention/achpr_instr_conv_refug_eng.pdf | |

| Duration | Activity | Resources/comments |
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| Session 2: International Migration Law | | |
| 105 minutes | This session gives an overview of who a migrant is and what the applicable international regime is; it identifies the main categories of displaced persons and explains what the current challenges are. | |
| | <p>After having explained the learning objectives of Session 2 (Slide 3), explain what the types of international migration are (Slide 4) and elaborate further on each of them, while displaying Slides 5 to 7.</p> <p>Group exercise 3 (10 minutes)</p> <p>Ask participants the questions displayed on Slide 8 and write the answers on a flip-chart. Then display the correct answers on Slide 9.</p> <p>The total number of international migrants is 258 million, which is the equivalent of being the 5th most populous country on the planet.</p> <p>Slides 9-12: Give the current data on international movement and key demographic facts along with a prediction for 2050. Emphasise migrants' recipient countries, displayed in bold on Slide 11, as the result of current conflicts and geopolitical situations.</p> <p>Show the 2-minute video on "Human Migration" (1) and, at trainer's discretion, the 6-minute video on "Human Population" (2).</p> <p>Slide 13: Click on the link and display the online map on Remittance Flows Worldwide in 2016.</p> <p>Slide 14-15: Give the definition of who an international migrant is and who an irregular migrant is.</p> <p>Slides 16-18: Give participants a short history and timeline of international migration, emphasising the steps and concepts written in bold in the text of the slides.</p> <p>Ask participants the following question:</p> <p>"Is there an international regime on migration?"</p> <p>Display Slide 19 and, following the animations, explain that, despite the existence of a wide framework for the protection of the rights and organisation, migrants continue to experience violence and abuses. Use Slide 20 to elaborate on the reasons why this is happening.</p> <p>Slides 21-22: Explain to participants that States are the entity deciding on migration through immigration policies. However, regional organisations have created agreements ensuring freedom of movement of individuals within the</p> | <p>PowerPoint presentation slides M2Part3Sess2</p> <p>Video (1): Science Insider, Animated map shows how humans migrated across the globe. Available at https://www.youtube.com/watch?v=CJdT6QcSbQ0</p> <p>Video (2): American Museum of Natural History, Human Population Through Time. Available at https://www.youtube.com/watch?v=PUwmA3QQOE</p> |

region. To conclude the topic, explain to participants that while migration is regulated at national level, there are nevertheless limits that states should take into account when deciding migration policies, i.e. international and regional human rights instruments.

Display Slides 23-24 and list the so-called core international human rights treaties and the treaties related to refugees, stateless persons, trafficked and smuggled persons.

Display Slide 25 and elaborate on the graph as follows:

- ★ The ratification of the United Nations legal instruments relating to international migrants and migration, while steadily increasing over time, remains uneven.
- ★ The 1951 Refugee Convention and its 1967 Protocol have been ratified by 145 and 146 United Nations Member States, respectively. Likewise, 171 countries have ratified the protocol to combat human trafficking and 145 countries have ratified the protocol seeking to stem migrant smuggling.
- ★ However, only 51 countries have ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As of September 2017, 37 Member States had ratified all five United Nations legal instruments relating to international migration, while 13 Member States had ratified none of the relevant instruments.

Slides 26-33: Explain to participants that **migrants** have the same rights as every human being, and that they therefore enjoy the same rights as laid out in international human rights instruments. Emphasise the following:

- ★ There is a right to leave one's country but there is no right to enter another country.
- ★ The prohibition of non-refoulement is enshrined both in the 1951 GC and in the CAT.
- ★ Although the International Convention on the Protection of the Rights of All Migrant Workers and Their Families has been in force since 2003, no major destination and receiving countries has ratified the Convention. Refer to Slide 31, which indicates the reasons behind this issue.

As a conclusion, explain to participants that integration policies undertaken by some countries could be used as a measure for migrants' rights, and elaborate providing examples as shown on Slide 34.

Slides 35-38: Explain to participants that there are other categories of forced migrants, i.e. **smuggled and trafficked migrants**. Elaborate on the definitions and the key

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| | <p>provisions found in the international legal instruments used to fight the phenomena related to transnational organised crime.</p> <p>Display Slide 39 and, following the animations, ask participants: “What are the differences between smuggling and trafficking?”. After participants have provided their answers, display the correct answers.</p> <p>Slide 41: Explain to participants that for the first time, migration was included in 9 out of 17 goals of the UN 2030 SDGs Agenda. For a better explanation of the specific references and entry points of migration in the goal and target framework of the declaration, refer to two documents in the right column.</p> <p>To give a short overview, show participants the 1-minute video on SDGs and Migration.</p> <p>Slide 42: Explain to participants the main commitments expressed in the New York Declaration for Refugees and Migrants (September 2016), making reference to the original document referenced in the right column. Stress that the New York Declaration launched a process of intergovernmental negotiations, which will lead to the adoption of a UN global compact for safe, orderly and regular migration at an intergovernmental conference to be held in 2018. The zero draft was presented in February 2018 and the provisional last round of consultations and negotiations will take place in July 2018.</p> <p>Slides 43-46: Explain to participants the international migration governance, i.e. the Global Migration Group, and briefly list the 20 principles developed by the Working Group on migration, human rights and gender.</p> <p>Slides 47-49: Explain and analyse together with participants the current issues and challenges in international migration. At the end of Slide 47, it is important to make a link to the so-called mixed migration. It is mixed because the population who is moving may include:</p> <ul style="list-style-type: none"> ★ irregular migrants (movement is often organised and facilitated by smugglers, although some move independently); ★ refugees and asylum-seekers (forced migrants); ★ victims of trafficking (involuntary migrants); ★ stateless persons; ★ unaccompanied minors, separated children and other vulnerable persons on the move; ★ unclassifiable categories (some may be vulnerable). | <p>Relevant documents: Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, 25 September 2015. Available at http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E.</p> <p>IOM, 2030 Agenda For Sustainable Development and Migration. Available at http://international.rau.am/uploads/blocks/0/3/365/files/IOM_Migration_in_the_2030_Agenda.pdf</p> <p>Video: Migration & SDGs – 1 minute about migration. Available at https://www.youtube.com/watch?v=vttCzL0g2fk</p> <p>Relevant document: New York Declaration for Refugees and Migrants, A/RES/71/1, 19 September 2016. Available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1</p> |
| | <p>Quiz (5 minutes)</p> | |

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| | In order to check whether all the above-mentioned topics are properly understood, ask participants to answer, in a plenary session, the 6 questions displayed on Slides 50-55. First display the question and, only after participants give their response, show the correct answer, illustrated by the animation. | |
| Lunch | | |
| ★ References and further reading | <ul style="list-style-type: none"> ★ IOM, International Migration Law N°25 - Glossary on Migration. Available at http://publications.iom.int/books/international-migration-law-ndeg25-glossary-migration ★ International Law and Migration, pp. i-xxiii, Vincent Chetail ed., Vol. 1, Cheltenham: Edward Elgar Publishing, 2016; Criminal Justice, Borders and Citizenship Research Paper No. 2831360. Available at SSRN: https://ssrn.com/abstract=2831360 ★ Koser K., International Migration Law: A Very Short Introduction, Oxford University Press, Oxford, 2016 | |
| ★ Useful web resources | <ul style="list-style-type: none"> ★ IOM website http://www.iom.int/ ★ IOM publications http://publications.iom.int/about-iom-publications | |

| Duration | Activity | Resources/comments |
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| Session 3: Law of Internal Displacement | | |
| 75 minutes | This session introduces participants to the definition of who is an internally displaced person (IDP) and what the differences are to a refugee, both in legal terms and with respect to the protection granted by international law. Finally, it gives an overview of the obligations states have vis-à-vis IDPs. | |
| | <p>Icebreaker (10 minutes)</p> <p>After having explained the learning objectives of Session 3 (Slide 3), display Slide 4. After few minutes, ask participants to indicate in plenary session the three things they would have taken with them.</p> <p>Show the 5-minute video.</p> | <p>PowerPoint presentation slides M2Part3Sess3</p> <p>Video: UNHCR, What they took with them. available at https://www.youtube.com/watch?v=xS-Q2sgNjl8</p> |
| | <p>Group exercise 4 (5 minutes)</p> <p>Ask participants the question displayed on Slide 5 and annotate the answers on a flip-chart. Then display the correct answers following the animations.</p> | <p>Relevant document: Internal Displacement</p> |

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| <p>Slide 6: Explain the data on IDPs. Use the map made available by the Internal Displacement Monitoring Centre.</p> <p>Slides 7-9: Give the definition of an IDP as reported in the Guiding Principles on Internal Displacement, highlighting the following elements (in bold on the slides):</p> <ul style="list-style-type: none"> ★ Persons and groups of persons, i.e. Individuals and communities, who are forced or obliged to flee or leave. The forcible nature of their movement stands in contrast to nomadism, economic migration and adaptive migration. “Forcible” does not necessarily mean “arbitrary”. ★ Causes: ★ “In particular” implies that the list of causes is not exhaustive. ★ Pre-emptive and responsive displacement: Adaptive migration does not apply, except for slow-onset disasters. ★ Displacement is often the result of a number of interlinked causes. ★ People who have not crossed an international border are not refugees. <p>Provide examples of IDP situations to highlight the broad scope of the definition, while displaying Slide 10.</p> <p>Slides 11-12: Compare the definition of a refugee and an IDP, and elaborate on the similarities and differences between them.</p> <p>Group exercise 5 (15 minutes)</p> <p>Display Slide 13 and ask participants to read the scenario and to identify whether a person is an IDP or not. Make sure that for every two participants there is a printed copy of the UN Guiding Principles on Internal Displacement. Then ask participants to report their answer in a plenary round. After each scenario, display the correct answer following the animation and elaborate on it. Continue with the same modality until Slide 17 to complete the 5 scenarios.</p> <p>Tip: Print some copies of the scenarios beforehand, in case participants are not able to read the slides.</p> <p>Slides 18-19: Explain the reasons why an IDP needs protection, and elaborate on the fundamental need of having a clear and comprehensive picture of the country considered.</p> <p>Slides 20-21: Explain to participants that when assessing whether an IDP should receive assistance, they need to</p> | <p>Monitoring Centre, Global Report on Internal Displacement. Available at http://www.internal-displacement.org/global-report/grid2017/</p> <p>Optional Video: UNHCR, Faces of Displacement 2013. Available at https://www.youtube.com/watch?v=JFKH2IGYBe8&feature=youtu.be</p> <p>Relevant Document: Guiding Principles on Internal Displacement. Available at http://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html</p> |
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take into account different levels of vulnerabilities depending on the factors enlisted in the bullet points. Be sure to stress that, nevertheless, the level of vulnerability should not be presumed to the detriment of IDPs, and should be assessed carefully on the ground. Then, displaying the picture on Slide 21, clarify the different levels of protection/assistance of people on the move.

Slides 22-23: Explain to participants that **States have obligations vis-à-vis IDPs** stemming from different bodies of law. These legal obligations constitute the basis for the protection of IDPs' rights. Elaborate on the application by analogy of IRL to IDP situations.

Slide 24: Compare the legal framework applicable to refugees and IDPs. Emphasise that:

- ★ the 1951 Refugee Convention and its 1967 Protocol create a specific legal regime for those in need of international protection;
- ★ the Guiding Principles on Internal Displacement restate international legal standards that are relevant to the specific needs of IDPs.

Slides 25-26: Provide the **chronology of developments on IDPs** and introduce the Guiding Principles as a non-binding instrument whose sources are IHRL, IRL by analogy and IHL.

Slide 27: Explain the key features of the **Guiding Principles**, making reference to the needs-based approach and the rights-based approach. [See also Module 7]

Ask participants the question displayed on Slide 28 and, following the animations, display the correct answers.

Group exercise 6 (10 minutes)

Ask participants to look at the Guiding Principles. Printed copy as per exercise 5 or electronic copy are both fine. Then ask participants the following questions:

“What are the rights contained in the Guiding Principles?”

Write the answers on a flip-chart and guide the discussion to reach the conclusion as displayed on Slide 29. It is important to make a link to Slides 22-23 on the obligations States have vis-à-vis IDPs, especially when a State is affected by internal violence or disturbances, or is Party to NIAC or IAC.

N.B.: IHRL applies all the time, both in times of war (regardless of the intensity of the violence) and in times of peace.

Briefly explain the structure (4 Sections) of the Guiding Principles on Slide 30 and clarify the implementation of them as follows (Slides 31-35):

Relevant Document:

Guiding Principles on Internal Displacement. Available at <http://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html>

Section I, General principles:

- ★ Equality and non-discrimination: IDPs shall enjoy the same rights as other persons in their country and shall not be discriminated against (Principles 1, 4).
- ★ Sovereignty as responsibility: National authorities have the primary responsibility to protect and assist IDPs within their jurisdiction (Principle 3).
- ★ All relevant groups must observe Principles: relevant groups should refer to national and local authorities but also non-state actors, e.g. parties to a conflict (Principle 2).
- ★ Particular attention to vulnerable groups: e.g. children, the elderly, disabled persons (Principle 4)

Section II, Protection from Displacement, provides that:

- ★ “Every human being shall have the **right to be protected against being arbitrarily displaced** from his or her home or place of habitual residence” (Principle 6.1).
- ★ Displacement is **arbitrary**, when:
 - ★ it is based on ethnic cleansing;
 - ★ in situations of armed conflict, **unless for civilians security** or imperative military reasons;
 - ★ in **large-scale development projects**, which are not justified by compelling and overriding public interests;
 - ★ in cases of disasters, unless the safety and health of those affected requires their evacuation; and
 - ★ when used as a collective punishment.

(Principle 6.2)

- ★ Duty to prevent and avoid displacement of populations **unless absolutely necessary** (Principles 5, 6, 7)
- ★ If displacement is unavoidable, certain guarantees must be met (Principles 7,8,9):
 - ★ Specific decision taken by State body with such legal authority
 - ★ Does not violate right to life
 - ★ Conditions of safety, nutrition, health, hygiene
 - ★ Full information and participation of affected population
 - ★ Particular protection for indigenous persons

Section III, Protection during Displacement, provides a range of civil, political, economic, social and cultural rights. List the following examples:

- ★ Right to life, liberty and security, including protection against attack, torture, sexual and gender-based violence (Principles 10, 11, 12)
- ★ Right to freedom of movement, protection from forced return to or resettlement in any place where their life, safety, liberty and/or health would be at risk (Principle 14)
- ★ Right to safe access to essential food, shelter, health services, water and sanitation (Principle 18)
- ★ Right to personal documentation (Principle 20)
- ★ Right to education (Principle 23)
- ★ Right to vote and participate in public affairs (Principle 22)

Section IV, Humanitarian Assistance. Elaborate on Slide 34.

Section V, Durable Solutions. Explain that IDPs have the right to choose among 3 durable solutions that need to have meet certain standards:

- ★ Voluntarily, in safety and dignity (Principle 28)
- ★ Non-discrimination and equal access to public services, and to participate in public affairs (Principle 29)
- ★ Right to property restitution/compensation (Principle 29)

Slides 36-45: Continue the explanation on **how to implement the Guiding Principles**, clarifying that all principles shall be applied without discrimination and taking vulnerable groups into special account. To this regard, ask participants what the specific protection needs of women and men might be. Lead the discussion and elaborate on the fact that displacement can affect men and women in different ways, and that it is therefore essential to apply the Guiding Principles with a gender sensitive approach.

Explain that national authorities bear the main responsibility for providing assistance and protection to IDPs (Slide 40). However, IDPs can still request assistance from authorities, and international organisations can support IDPs to a certain extent, as displayed on Slides 41-42.

Display Slide 43 and, making use of the logos and pictures, provide examples of the different needs IDPs have and explain which Agency is supporting each of them. The key message is that as there is no single Agency responsible for IDPs, there is a need for clusters and cooperation. Elaborate further on the reasons behind the collaborative approach (Slide 44) and explain “who does what” (Slide 45).

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| | Slide 46: Provide a recap of the Guiding Principles, emphasising the concepts in bold. | |
| | <p>Slides 47-48: Give an overview of the key features of the OAU Kampala Convention. Then explain the Brookings-Bern framework on national responsibility for internal displacement, which is intended to help governments address all aspects of the phenomenon in their countries. The framework establishes benchmarks by identifying 12 steps that governments should take.</p> <p>[Brookings-Bern Project on Internal Displacement, Addressing Internal Displacement: A Framework for National Responsibility, April 2005. Available at https://www.brookings.edu/research/addressing-internal-displacement-a-framework-for-national-responsibility/]</p> <p>Slides 49-50: Reach a conclusion on the IDP definition and elaborate further on the current challenges and opportunities on IDPs, while encouraging participants to give their opinion.</p> | |
| Coffee break | | |
| ★ References and further reading | <ul style="list-style-type: none"> ★ 'Chetail V., 'Introduction: Internally Displaced Persons - The Challenges of International Protection'. Refugee Survey Quarterly, Vol. 24, No. 3, pp. 7-8, 2005. Available at SSRN: https://ssrn.com/abstract=1681916 ★ Cohen R., 'Protection of internally displaced persons: national and international responsibilities' in Chetail and Bauloz (eds.), Research Handbook on International Law and Migration, Edward Elgar Publishing, 2014 ★ UNHCR, Internally Displaced People, Questions & Answers. Available at http://www.unhcr.org/basics/BASICS/405ef8c64.pdf ★ Kalin W., 'The Guiding Principles on Internal Displacement and the search for a universal framework of protection of internally displaced persons' in Vincent Chetail and Céline Bauloz (eds.), Research Handbook on International Law and Migration, Edward Elgar Publishing, 2014 ★ TED-Ed, What does it mean to be a refugee? - Benedetta Berti and Evelien Borgman. Available at https://www.youtube.com/watch?v=25bwiSikRsl ★ Brookings-Bern Project on Internal Displacement, Protecting Internally Displaced Persons: A Manual for Law and Policymakers, October 2008. Available at http://www.unhcr.org/50f955599.pdf | |
| ★ Useful web resources | <ul style="list-style-type: none"> ★ Guiding Principles on Internal Displacement. Available at http://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html ★ UNHCR on IDPs. Available at http://www.unhcr.org/idps-policy-guiding-documents.html and http://www.unhcr.org/internally-displaced-people.html ★ Refworld on IDPs. Available at http://www.refworld.org/idps.html | |

| Duration | Activity | Resources/comments |
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| Session 4: The EU <i>acquis</i> on asylum and migration | | |
| 75 minutes | This session introduces participants to the evolution and current status of EU policies and regulations regarding migrants and asylum seekers. | |
| | <p>Icebreaker (10 minutes)</p> <p>After having explained the learning objectives of Session 4 (Slide 3), display Slide 4. After a few minutes, ask participants to discuss in pairs and come up with possible factors. Then one person from each pair has to share in plenary their answers.</p> <p>Display Slide 5 and discuss the factors that might determine where a European asylum seeker goes, providing concrete examples.</p> <p>Slides 6-11: Discuss the latest data on asylum applications, first instance decisions and pending cases, making use of the charts.</p> <p>Slides 12: Explain the 2017 data on asylum applicants to the EU and their respective countries of origin. Develop the bullet points as follows:</p> <ul style="list-style-type: none"> ★ Despite a considerable decrease compared to 2016, twice as many Syrians lodged an application for international protection in the EU+ as any other citizenship. ★ Iraqi, Afghan and Nigerian nationals each lodged more than 40 000 applications in 2017. <p>Slide 13: Briefly explain the history of migration and asylum to Europe, following the key steps in bullet points. Discuss with participants</p> <ul style="list-style-type: none"> ★ the possibility of having a nexus between asylum and migration, and ★ the reasons why there is a necessity to develop policies entailing a nexus between asylum and migration. <p>[On the nexus between asylum and migration see: UNHCR, Agenda for Protection [Global Consultations on International Protection/General], 26 June 2002, A/AC.96/965/Add.1; UNHCR, Agenda for Protection, 3rd edition, October 2013; Crisp J., 'Beyond the nexus: UNHCR's evolving perspective on refugee protection and international migration', UNHCR Research Paper No. 155, April 2008].</p> <p>Slide 14: Briefly explain why there is a need for a Europe of Asylum and, making use of the animations, elaborate on</p> | PowerPoint presentation slides M2Part3Sess4 |

the different stages and developments from the Treaty of Rome to the Treaty of Lisbon:

- ★ The Four Freedoms and Purpose of European Communities: stimulation of economic development through the free movement of **goods, capital, people and services**
- ★ The first regulation on the free movement of workers in 1968 recognised that workers must not only be free to move, but may also take their family members – of whatever nationality – with them.
- ★ Treaty of Maastricht (1993)
- ★ Freedom of movement of nationals
- ★ Abolition of internal border controls
- ★ The EU has developed legislation on the movement of social security entitlements, social assistance rights, healthcare and mutual recognition of qualifications.
- ★ Much of the above-mentioned law regulating the freedom of movement, which was developed primarily for EU nationals, also applies to various categories of other European non-EU nationals, namely those of Iceland, Liechtenstein and Norway, countries that are part of the European Economic Area (EEA), which entered into force in 1994. These groups have the same rights regarding freedom of movement as do EU nationals.
- ★ Similarly, based on a special agreement concluded with the EU on 21 June 1999, Swiss nationals enjoy a right to move and settle in the EU.
- ★ The Treaty of Maastricht created citizenship of the Union, based on the possession of citizenship of one of the EU Member States. This concept means freedom of movement for citizens and their family members of any nationality.

Slides 15-17: List where we can find the **sources of the EU acquis** on asylum and elaborate on the steps undertaken by the EU from 1957 until 1999. Then elaborate on the **asylum programmes** following the bullet points and explain the main goals and principles of the **EU strategic guidelines 2015-2020**.

Slide 18: Provide an overview of the **main challenges** in building a Europe of Asylum, the so-called “EU asylum acquis”, and the EU response with correspondent legislation for each challenge.

Slides 19-21: Following the bullet points, summarise the **rights secured by the Europe of Asylum** to asylum seekers and refugees and elaborate on the three pillars of the **Common European Asylum System**. Then show the 2-

minute **video** on asylum. Summarise what was already said in the video by briefly discussing the bullet points on asylum legislation.

Slides 22-29: Briefly explain **why there is a need for a Europe of Migration** as written in the bullet points. The key message is that migration cannot be managed by one country alone, and that EU member states must thus cooperate in order to better manage migration. Then, elaborate on the EU's migration acquis, following the bullet list of topics respectively explained from Slide 24 to 29. It is important to emphasise from the beginning that States continue to determine who and how many non-EU nationals enter their territory.

Slides 30-33: Provide the list of **EU Agencies** that work on different aspects of asylum and migration and briefly explain the mandate and tasks of each agency. Use the notes of the PowerPoint presentation to expand the debate. On Eurosur, display the 2-minute video. Conclude by saying that there is no EU agency responsible for migration, and that the EU avails itself of implementing partners while informal processes have been underway.

Slide 34: Discuss with participants the current challenges, taking into account the aspects and issues explained earlier. Guide the debate by making use of the bullet points.

Video: Asylum, DG Migration and Home Affairs. Available at https://www.youtube.com/watch?time_continue=1&v=aSuqV7q_CNY

Video: EUROSUR, DG Migration and Home Affairs. Available at <https://www.youtube.com/watch?v=otm56hNKOzA#t=28>

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|----------------------------------|---|-------------------------|
| | Optional content: refer to Appendix I | M2Part3Sess4_Appendix I |
| ★ References and further reading | <ul style="list-style-type: none"> ★ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection ★ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection ★ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted ★ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person ★ Chetail, V., 'The Common European Asylum System: bric-à-brac or system?', in Chetail, V., De Bruycker, P. & Maiani, F. (eds.), Reforming the Common European Asylum System: The New European Refugee Law, Martinus Nijhoff, forthcoming 2015. Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2564990 ★ UNHCR, Manual on Refugee Protection and the European Convention on Human Rights (April 2003, Updated August 2006), August 2006. Available at: http://www.refworld.org/docid/3f4cd5c74.html | |
| ★ Useful web resources | <ul style="list-style-type: none"> ★ EU Commission on Migration. Available at https://ec.europa.eu/commission/priorities/migration_en ★ European Asylum Support Office. Available at https://www.easo.europa.eu ★ Common European Asylum System. Available at https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en | |

MODULE 3 - POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD

Aims and objectives

This module is designed for HR field officers who already possess a basic knowledge of human rights law and are required to deepen their knowledge on the universal and regional institutions and mechanisms for the promotion and protection of human rights, in order to better perform their tasks. Furthermore, great importance will be attached to reaching a deeper understanding the competencies and powers of the different bodies, organs and institutions as well as their actual engagement in human rights field operations. Finally, the last session of the module will illustrate the main role and core functions of human rights field presences as well as their typologies and characteristics.

Duration: 3 days

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

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You will need: Module 3 PowerPoint presentation slides, flip-chart and markers, coloured cards, computer and projector, paper.

Part 1 – The United Nations System for the protection of human rights

Learning objectives

Participants will be able to:

- ★ explain the UN human rights policy framework, including UN reform programs;
- ★ recall the HR roles played by the UN main organs;
- ★ explain the mandate of the UNOHCHR and other Department and Offices with human rights related functions;
- ★ explain the role played on human rights issues by the treaty-based mechanisms;
- ★ compare charter-based bodies with the treaty- based bodies.

DAY 4 - MODULE 3 - PART 1

POLICIES, MECHANISMS AND TOOLS FOR THE PROTECTION OF HUMAN RIGHTS IN THE FIELD

| Time | Title of the session | Method/Material | Learning objectives |
|-------------|---|--|--|
| 90 minutes | The United Nations Main Organs and Human Rights | Presentations Computer and projector Printed materials (UN Charter) | <ul style="list-style-type: none"> ★ Explain the UN human rights policy framework, including UN reform programs. ★ Recall the HR roles played by the UN main organs. ★ Explain the mandate of the UNOHCHR and other departments and offices with human rights related functions. |
| 15 minutes | Coffee break | | |
| 105 minutes | United Nations Human Rights Mechanisms: Treaty-based mechanisms | Presentations Computer and projector Printed materials (main UN human rights treaties) | <ul style="list-style-type: none"> ▪ Recall the nature and scope of human rights promotion and protection by the charter-based bodies and treaty-based bodies. ▪ Compare charter-based bodies with the treaty-based bodies. ★ Explain the role played on human rights issues by the treaty-based mechanisms. ★ Enlist international treaty-based mechanisms. |
| 60 minutes | Lunch | | |
| 90 minutes | United Nations Human Rights Mechanisms: Charter-based bodies and mechanisms (including the UPR) | Presentations Computer and projector | <ul style="list-style-type: none"> ★ List the various machineries under the UN special procedures for the promotion and protection of human rights. <ul style="list-style-type: none"> ▪ Explain the UPR mechanism as a complement to the work of treaty bodies. |

| Duration | Activity | Resources/comments |
|---|--|--|
| Session 1: United Nations main organs and human rights | | |
| 90 minutes | This session introduces participants to the international human rights policy framework as well as the role and functions of the main UN organs, namely the Security Council, the General Assembly, ESCOSOC, the Secretariat and the ICJ, with a particular focus on the mandate and role of subsidiary bodies that have a core mandate on human rights (Human Rights Council, Advisory Committee etc.). | |
| | <p>Activity: Start the session by asking participants the following question:</p> <p>What are, to your knowledge, the main United Nations organs that deal with human rights issues?</p> <p>Use the flip-chart and markers to create a UN human rights architecture together with participants. Guide the discussion to have them distinguish between:</p> <ul style="list-style-type: none"> ★ Political organs (SC, GC, ECOSOC, Secretariat, ICJ, Trusteeship Council) ★ Subsidiary bodies with specific HR functions (Human Rights Council, ...) ★ Secretariat’s Offices with a HR mandate (OHCHR) and other departments with a HR related function (e.g. DPA, DPKO, PBC...) ★ Charter-based mechanisms ★ Treaty based mechanisms <p>Then show the chart “Structure of the United Nations Human Rights Bodies and Mechanisms” (Slide 4) and discuss it with participants, explaining – by using the different colours – the different roles played by organs, bodies and mechanisms (blue for main organs of the UN, yellow for offices, subsidiary bodies and commissions, orange for charter-based mechanisms and green for treaty-based mechanisms) with specific human rights competence.</p> <p>Show Slides 5 and 6 and explain the role of the UN main organs on human rights:</p> <ul style="list-style-type: none"> ★ The General Assembly ★ The ECOSOC ★ The Security Council and the Secretariat | PowerPoint presentation slides M3Part1Sess1 |

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| | <p>Introduce the role of the Human Rights Council by showing Slide 7 and asking participants to answer the following questions:</p> <p>What is the HR Council?</p> <p>What does it do?</p> <p>Annotate the answers provided on a flip-chart and then give the complete answer by showing the rest of Slide 7, then Slides 8 to 10.</p> <p>Also discuss with participants the innovative features introduced within the UN HR system with the creation of the Council and the abolition of the former Commission on Human Rights in 2006 by showing Slide 11.</p> | |
| | <p>Introduce the Advisory Committee of the Human Rights Council and display its mandate by showing Slide 12.</p> | |
| | <p>Introduce the role and mandate of the United Nations Office of the High Commissioner for Human Rights by displaying Slides 13 to 19, elaborating on:</p> <ul style="list-style-type: none"> ★ The post of the HC for Human rights ★ The extent of the mandate ★ The structure of the office ★ Basic figures on OHCHR ★ Main activities of the office (OHCHR theory of change slide) ★ Field presences (map) | |
| Coffee break | | |
| References and further reading | <ul style="list-style-type: none"> ★ Connors and Schmidt, 'United Nations' in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), <i>International Human Rights Law</i>, 2nd ed., Oxford: Oxford University Press, 2014. ★ Broecker, 'The Reform of the United Nations' Human Rights Treaty Bodies'. <i>ASIL Insights</i>, 8 August 2014. Available at http://www.asil.org/insights/volume/18/issue/16/reform-united-nations-human-rights-treaty-bodies ★ Hampson, 'An Overview of the Reform of the UN Human Rights Machinery'. <i>Human Rights Law Review</i> 7 (2007): 7 ★ Alston and Goodman, <i>International Human Rights</i>, 5th ed., Oxford: Oxford University Press, 2013, 685-701, 720-728, 759-771 791-794, 808-812, 838-843, 889-903, 978-987, 1025-1030 ★ UN Charter, Articles 1.3 (purposes), 10 and 13 (General Assembly), 24, 27, 39-43 (Security Council), 55 (Economic and Social Co-operation), 62 (Economic and Social Council/ECOSOC) ★ Resolution 48/141, adopted by the General Assembly of the United Nations, setting up a High Commissioner for Human Rights | |

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| | ★ Resolution 60/251, adopted by the General Assembly of the United Nations, setting up the Human Rights Council |
| ★ Useful web resources | ★ www.ohchr.org ★ http://www.un.org/en/sections/what-we-do/protect-human-rights/index.html |

| Duration | Activity | Resources/comments |
|---|--|--|
| Session 2: United Nations human rights mechanisms: treaty-based mechanisms | | |
| 90 minutes | This session explains two types of dedicated UN human rights mechanisms: those established under a human rights treaty and those set up under the former Commission on Human Rights and the Human Rights Council. It then focuses on the mandate and role of conventional mechanisms, i.e. on those bodies to monitor compliance of States parties with their obligations stemming from the human rights treaties they have ratified. | |
| | <p>Start the session by asking participants what the difference is between treaty-based and charter-based mechanisms. Note their answers and then display Slides 2 and 3 to give a definition.</p> <p>Display Slide 4 to introduce the concept of human rights protection systems. The key message that the visual tries to convey is that protection systems (international, regional and national) should be seen as a whole body of legal mechanisms that should be used for the purpose of respecting, protecting and fulfilling human rights. Show the slide step-by-step in order to clarify every element and its links to the rest of the elements as they emerge.</p> <p>Step 1: UN Charter (San Francisco 1945) and Universal Declaration of Human Rights (UDHR 1948) form the foundation upon which the bulk of the international human rights normative framework has been built. They have also been the inspiration of subsequent regional human rights regimes and national laws. The Human Rights Council (HRC) is the main UN organ in charge of promoting and protecting human rights. It is the successor of the former Commission on Human Rights.</p> <p>Step 2: Core International Human Rights Treaties</p> <p>Step 3: Other international instruments may contain additional human rights standards.</p> <p>Step 4: Regional regimes. Some regions of the world have adopted their own regional human rights regimes. These systems do not replace but reinforce the international regime.</p> | PowerPoint presentation slides M3Part1Sess2 |

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| | <p>The relation between these two systems is therefore not hierarchical but complementary.</p> <p>Step 5: National Protection systems. The World Conference on Human Rights’ request to governments “to incorporate standards as contained in international human rights instruments in domestic legislation and to strengthen national structures, institutions and organs of society which play a role in promoting and safeguarding human rights”.</p> | |
| | <p>Then introduce the HR treaty system by discussing the International Bill of Human Rights (Slide 5) and introducing other HR core treaties by classifying them as treaties addressing specific phenomena (Slide 6 – racism and racial discrimination, torture, enforced disappearances) and treaties protecting specific groups (women, children, migrant workers, persons with disabilities) (Slide 7).</p> <p>Illustrate the common features of the treaties by answering the following questions (Slides 8-11):</p> <ul style="list-style-type: none"> ★ What are they? ★ Who benefits from them? ★ What they do? ★ Who monitors them? <p>Display Slide 12, which portrays the human rights treaty mechanisms and architecture, and explain it. Details on the characteristics of each treaty and the respective treaty body are then provided on Slides 15 to 19.</p> <p>Slides 13 and 14 explain the common characteristics of the committees established to monitor the treaties.</p> <p>The treaty bodies perform a number of functions in accordance with the provisions of the treaties that established them. These include consideration of States parties' periodic reports, consideration of individual complaints, conduct country inquiries, and they also adopt general comments interpreting treaty provisions and organise thematic discussions related to the treaties.</p> <p>Six of the Committees (CCPR, CERD, CAT, CEDAW, CRPD, and CED,) can, under certain conditions, receive petitions from individuals. Any individual who claims that her or his rights under the treaty have been violated by a State party to that treaty may bring a communication before the relevant committee, provided that the State has recognised the competence of the committee to receive such complaints and that domestic remedies have been exhausted. In addition, three treaties (the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the Optional Protocol to the Convention on the Rights of the Child on a</p> | |

communications procedure) contain provisions for individual communications to be considered by their respective committees, but these are not yet operative.

Six of the Committees (CESCR, CAT, CEDAW, CRPD, CED, and CRC – when the relevant optional protocol enters into force) may, under certain conditions, initiate country **inquiries** if they receive reliable information containing well-founded indications of serious, grave or systematic violations of the conventions in a State Party.

The Committees also publish their interpretation of the content of human rights provisions, known as **general comments on thematic issues** or methods of work. These cover a wide range of subjects, from the comprehensive interpretation of substantive provisions, such as the right to life or the right to adequate food, to general guidance on the information that should be submitted in State reports relating to specific articles of the treaties.

When a country ratifies a treaty, it assumes a legal obligation to implement the rights recognised in that treaty. However, becoming a party to a treaty is only the first step, because recognition of rights on paper is not sufficient to guarantee that they will be enjoyed in practice. So, in addition to their obligation to implement the substantive provisions of the treaty, each State Party is also **under an obligation to submit periodic reports** to the relevant treaty body (except under the OPCAT) on how the rights are being implemented. The treaty bodies may receive information on a country’s human rights situation from other sources, including national human rights institutions (NHRIs), civil society organisations (CSOs), both international and national, United Nations entities, other intergovernmental organisations, and professional groups and academic institutions. Most committees allocate specific plenary time to hearing submissions from CSOs and UN entities.

In light of all the information available, the relevant treaty body examines the report in the presence of a State Party’s delegation. Based on this constructive dialogue, the Committee publishes its concerns and recommendations, referred to as “concluding observations”.

Show Slides 24-32 to explain the obligation to report and the reporting process.

Exercise (optional)

Roleplay on reporting obligations

Reporting to the HRC

General Background

The State of Rossistan is submitting its initial report to the Human Rights Committee.

The report states, inter alia:

“26. There have been reports of a number of extra-judicial executions. In one instance, the Ituri Bay incident, the courts found that there was no State involvement in the deaths of five environmental activists. The State considers these cases to be closed. It is unaware of details of any other cases.”

“53. The Government has proposed a bill to the National Assembly which would create an independent oversight authority to investigate complaints against the police. The Government has consulted widely on this bill and is committed to its passage through the National Assembly.”

Divide the class into 3 groups:

- ★ 5 participants form the State party delegation to the Committee: one ambassador, the Minister of Justice and 3 government officials from key ministries.
- ★ 6 participants act as Committee members.
- ★ 4 participants are NGOs, 4 participants are representatives of National Human Rights Institutions of Rossistan, and 4 participants are media representatives of Rossistan.
- ★ The rest of the group are observers to the dialogue.

Instructions

The NGOs and NHRI participants privately brief the Committee on their concerns described above, proposing questions for the members to raise and suggesting recommendations that the Committee should make. During this time, the delegation and media participants are outside the room.

The delegation enters (at the same time as the media representatives) and presents its report. The Committee members ask questions, to which the delegation responds. The Committee Chair wraps up the discussion and the delegation makes its closing statement. The media participants combine to compile a short press release, which they then announce, while the Committee compiles several concerns and recommendations, which are then made public.

Discussion: The observers assess the dialogue, making suggestions for each group on how they might be more effective.

Lunch

| | |
|--------------------------------|---|
| References and further reading | <ul style="list-style-type: none"> ★ Overview of the human rights treaty body system and working methods related to the review of States parties, UN doc. HRI/MC/2013/2, 12 April 2013; ★ Other activities of the human rights treaty bodies and participation of stakeholders in the human rights treaty body process, UN doc. HRI/MC/2013/3, 22 April 2013; ★ N. Pillay, Strengthening the United Nations human rights treaty body system: A report by the United Nations High Commissioner for Human Rights, June 2012. Available at http://www2.ohchr.org/english/bodies/HRTD/docs/HReportTBStrengthening.pdf; ★ ‘The United Nations Human Rights Treaty System. An introduction to the core human rights treaties and the treaty bodies’, OHCHR Fact-sheet No.30. ★ The Human Rights Council. Available at http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx ★ L. Cosenza, 'The UN Commission of Inquiry on the Democratic People’s Republic of Korea and the Relationship between the Human Rights Council and the Security Council'. <i>Diritti umani e diritto internazionale</i>, 2 (2013): 567-573. ★ The High Commissioner for Human Rights. Available at http://www.ohchr.org/EN/AboutUs/Pages/HighCommissioner.aspx ★ D.P. Forsythe, <i>Human Rights in International Relations</i>, Cambridge, 2006, pp. 59-65 and 70-72. ★ Connors and Schmidt, ‘United Nations’ in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), <i>International Human Rights Law</i>, 2nd ed., Oxford: Oxford University Press, 2014. ★ Alfredsson et al. (eds.), <i>International Human Rights Monitoring Mechanisms</i>, Nijhoff, 2001 ★ O’Flaherty, ‘Reform of the UN Human Rights Treaty Body System: Locating the Dublin Statement’. <i>10 Human Rights Law Review</i> (2010): 319 ★ Clapham, ‘United Nations Charter-based Protection of Human Rights’ in Krause and Scheinin (eds.), <i>International Protection of Human Rights: A Textbook</i>, 2nd ed., Åbo Akademi University, Institute for Human Rights, 2012, 79-103. ★ Alston and Goodman, <i>International Human Rights</i>, 5th ed., Oxford: Oxford University Press, 2013, 685-701, 720-728, 759-771 791-794, 808-812, 838-843, 889-903, 978-987, 1025-1030 |
| ★ Useful web resources | www.ohchr.org |

| Duration | Activity | Resources/comments |
|---|----------|--------------------|
| Session 3: United Nations human rights mechanisms: charter-based bodies and mechanisms (including the UPR) | | |

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|------------|---|--|
| 90 minutes | This session explains the work of different UN special procedures and introduces the UPR system. | |
| | <p>Introduce participants to the definition of charter-based bodies and mechanisms by displaying Slide 3.</p> <p>Then start to explain the main features of Special Procedures.</p> <p>What are they? Slides 4-5</p> <p>“Special Procedures” is the general name given to the mechanisms established by the former Commission on Human Rights and assumed by the Human Rights Council to examine, monitor, advise and publicly report on human rights situations in specific countries or territories (country mandates), or on major phenomena of human rights violations worldwide (thematic mandates).</p> <p>Special procedures are either an individual (called “Special Rapporteur”, “Special Representative of the Secretary-General”, “Representative of the Secretary-General” or “Independent Expert”) or a working group usually composed of five members (one from each region). The mandates of the special procedures are established and defined by the resolution creating them.</p> <p>Mandate-holders of the special procedures serve in their personal capacity for a maximum period of six years and do not receive salaries or any other financial compensation for their work.</p> <p>The independent status of the mandate-holders is crucial for the impartial fulfilment of their functions. Criteria for the selection and appointment of mandate holders are the following: (a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity and; (f) objectivity. In the appointment of mandate-holders, due consideration is also given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems.</p> <p>How do they work? Slide 6</p> <p>Thematic Special Procedures are mandated to investigate the situation of human rights in all parts of the world, irrespective of whether a particular government is a party to any of the relevant human rights treaties. This requires them to take the necessary measures to monitor and respond quickly to allegations of human rights violations against individuals or groups, either globally or in a specific country or territory, and to report on their activities.</p> | PowerPoint presentation slides M3Part1Sess3 |

As for country mandates, mandate-holders are called upon to take full account of all human rights (civil, cultural, economic, political and social) unless directed otherwise in the country at stake. In carrying out their activities, mandate holders are accountable to the Human Rights Council.

What are the main functions of SPs? Slides 7-8

The main functions of Special Procedures include:

- ★ Analysing the relevant thematic issue or country situation, including undertaking on-site missions
- ★ Advising on the measures which should be taken by the Government(s) concerned and other relevant actors
- ★ Alerting United Nations organs and agencies, in particular, the HRC, and the international community in general, on the need to address specific situations and issues. In this regard they have a role in providing “early warning” and encouraging preventive measures
- ★ Advocating on behalf of the victims of violations through measures such as requesting urgent action by relevant States and calling upon Governments to respond to specific allegations of human rights violations and provide redress
- ★ Activating and mobilising the international and national communities, and the HRC to address particular human rights issues and to encourage cooperation among Governments, civil society and inter-governmental organisations
- ★ Making follow-up to recommendations

[Manual of Operations of the Special Procedures of the Human Rights Council, 2008 par. 5]

Activities

An overview is provided for on Slides 9 and 10.

In detail:

Slide 11

They issue reports, including thematic studies.

In addition to any other reports, mandate-holders may also opt to devote a separate report to a particular topic of relevance to the mandate. Such studies may be initiated by the mandate-holder or undertaken pursuant to a specific request by relevant bodies. Mandate-holders report on their activities on a regular basis to the relevant

United Nations bodies, and particularly the HRC and the General Assembly.

Slides 12-17

They can undertake **country visits**.

Mandate holders also carry out country visits to investigate the situation of human rights at national level. Mandate holders typically send a letter to the Government requesting to visit the country, and, if the Government agrees, an invitation to visit is extended. Some countries have issued "standing invitations", which means that they are, in principle, prepared to receive a visit from any Special Procedures mandate holder. As of September 2009, 65 countries had extended standing invitations to the Special procedures.

During such missions, the experts assess the general human rights situation in a given country, as well as the specific institutional, legal, judicial, administrative and the de facto situation under their respective mandates. During the country visit, the experts usually meet with national and local authorities, including members of the judiciary and parliamentarians, members of the national human rights institution, if applicable, non-governmental organisations, civil society organisations and victims of human rights violations, the UN and other inter-governmental agencies and the press when giving a press conference at the end of the mission.

After their visits, Special Procedures' mandate-holders issue a mission report containing their findings and recommendations.

Slides 18-24

They can send communications to Governments.

Among their activities, most Special Procedures receive information on specific allegations of human rights violations and send communications in the form of urgent appeals or letters of allegation to governments asking for clarification.

“Urgent appeals are used to communicate information in cases where the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or on-going damage of a very grave nature to victims that cannot be addressed in a timely manner by the procedure under letters of allegation. The intention is to ensure that the appropriate State authorities are informed as quickly as possible of the circumstances so that they can intervene to end or prevent a human rights violation. [...]

Letters of allegation are used to communicate information about violations that are alleged to have already occurred and in situations where urgent appeals do not apply.“

[Manual of Operations of the Special Procedures of the Human Rights Council, 2008 par. 43 and 46.]

Most Special Procedures provide for the relevant mandate-holders to receive information from different sources and to act on credible information by sending a communication to the relevant Government(s). Such communications are sent through diplomatic channels, unless agreed otherwise between individual Governments and the Office of the High Commissioner for Human Rights, in relation to any actual or anticipated human rights violations, which fall within the scope of their mandate. Communications may deal with cases concerning individuals, groups or communities, with general trends and patterns of human rights violations in a particular country or more generally, or with the content of existing or draft legislation considered to be a matter of concern. Communications do not imply any kind of value judgment on the part of the Special Procedure concerned and are thus not per se accusatory. They are not intended as a substitute for judicial or other proceedings at national level. Their main purpose is to obtain clarification in response to allegations of violations and to promote measures designed to protect human rights. In communications sent to Governments, the source is normally kept confidential in order to protect against reprisals or retaliation. An information source may, however, request that its identity be revealed. In light of information received in response from the Government concerned, or of further information from sources, the mandate-holder will determine how best to proceed. This might include the initiation of further inquiries, the elaboration of recommendations or observations to be published in the relevant report, or other appropriate steps designed to achieve the objectives of the mandate. The text of all communications sent and responses received is confidential until such time as they are published in relevant reports of mandate-holders, or mandate-holders determine that the specific circumstances require action to be taken before that time.

Slides 23 & 24

Advantages of communication:

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| | <ul style="list-style-type: none"> ★ They focus on individual cases as well as more general pattern of violations. ★ They constitute a useful tool in urgent cases, as it allows for urgent or preventative action. ★ Complaints may be brought against any country, regardless of its status of ratification of international human rights treaties. ★ It is not necessary to have exhausted all domestic remedies before using the procedure. ★ Accessibility: The complainant must not necessarily be made by the victim, although the source must be reliable. <p>Possible drawbacks:</p> <ul style="list-style-type: none"> ★ There must be a Special Procedure in place covering that specific human rights issue. ★ Special Procedures are not legally binding mechanisms, unlike treaty bodies – however, their mandate and authority derive from the Human Rights Council. ★ They still have limited capacity to follow up. <p>Slide 25</p> <p>They can issue press releases.</p> <p>Special Procedures can – individually or collectively – issue press releases highlighting specific situations or international norms to be respected by States.</p> <p>Conclude with Slide 26, which wraps up the main functions of SPs, and Slide 27, which highlights some aspects related to the impact of such mechanisms.</p> | |
| | <p>Display the last Slides 28-30 on the UPR and describe the human rights mechanism by explaining that:</p> <p>The universal periodic review (UPR) is a human rights mechanism of the HR Council. Through it the Council periodically reviews the fulfilment by each of the United Nations Member States of its human rights obligations and commitments. The UPR is a cooperative mechanism, based on an interactive dialogue with the State under review (peer review). It is intended to complement, not duplicate, the work of the treaty bodies.</p> <p>The UPR is a process composed of several steps within a four-year cycle, during which all UN member States are to be reviewed:</p> <ul style="list-style-type: none"> ★ The preparation of information upon which reviews are based, including information prepared by the | |

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| | <p>State under review (national reports), a compilation of United Nations information prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), and a summary of stakeholders' submissions, which is also prepared by OHCHR.</p> <ul style="list-style-type: none"> ★ The review itself, which takes place in the Working Group on the UPR, composed of the 47 member States of the Council, meets in three two-weeks sessions each year. ★ The consideration and adoption of review outcome documents by the Council at its regular sessions. ★ Follow-up to the implementation of UPR outcomes by reviewed States. <p>The Human Rights Council adopts a calendar detailing the order in which the UN Member States will be considered during a four-year cycle of the UPR (we are now in the third cycle – 2017-2021). The reviews take place during the sessions of the UPR Working Group, which meets three times a year. Each state review is assisted by groups of three States, known as “troikas”, who serve as rapporteurs. The selection of the troikas for each State review is done through a drawing of lots prior to each Working Group session.</p> <p>The overall purpose of UPR is the improvement of the human rights situation in every country with significant consequences for people around the globe.</p> <p>The slides show the UPR review process and the UPR timeline since its establishment.</p> | |
| Coffee Break | | |
| References and further reading | <ul style="list-style-type: none"> ★ The Special Procedures. Available at http://www2.ohchr.org/english/bodies/chr/special/index.htm ★ Connors and Schmidt, 'United Nations' in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), International Human Rights Law, 2nd ed., Oxford: Oxford University Press, 2014. ★ Complaint mechanisms of the Special Procedures. Available at http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx ★ The Universal Periodic Review. Available at http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx ★ G. Sweeney and Y. Saito, 'An NGO Assessment of the New Mechanisms of the UN Human Rights Council'. Human Rights Law Review (2009): 203-223 ★ Allehone Mulugeta Abebe, 'Of Shaming and Bargaining: African States and the Universal Periodic Review of the United Nations'. Human Rights Law Review (2009): 1-35. | |

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| | <ul style="list-style-type: none">★ Connors and Schmidt, 'United Nations' in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), <i>International Human Rights Law</i>, 2nd ed., Oxford: Oxford University Press, 2014. |
| <ul style="list-style-type: none">★ Useful web resources | www.ohchr.org |

Part 2 – Regional bodies and mechanisms for the protection of human rights

Learning objectives

Participants will be able to:

- identify and use the main regional instruments protecting human rights;
- list judicial mechanisms and other tools aimed at promoting human rights by regional organisations (EU, Council of Europe, the African Union, The Organisation of American States, the ASEAN, the League of Arab States).

Note: After a general overview of regional protection system, the trainer may decide to focus only on a specific region based on the location of the mission or the region of assignment of participants. Hence the sessions of Part 2 can be opted out of, tailoring the session to a specific geographical criterion.

DAY 4 - MODULE 3 - PART 2

REGIONAL BODIES AND MECHANISMS FOR THE PROTECTION OF HUMAN RIGHTS

| Time | Title of the session | Method/Material | Learning objectives |
|-------------|---|---|---|
| 30 minutes | Regional bodies and mechanism for the protection of human rights: the European system | Presentations Computer and projector Printed materials (main EU human rights conventions) | <ul style="list-style-type: none"> ▪ Be able to identify and use the main regional instruments protecting human rights in Europe. ▪ List judicial mechanisms and tools aimed at promoting human rights by the Council of Europe, the OSCE and the European Union. |
| 15 minutes | Coffee break | | |
| 75 minutes | Regional bodies and mechanism for the protection of human rights: the European system | cont. | cont. |
| ★ DAY 5 | | | |
| 120 minutes | Regional bodies and mechanism for the protection of human rights: African Union | Presentations Computer and projector Printed materials (main AU human rights conventions) | <ul style="list-style-type: none"> ★ Explain the legal framework protecting human rights in the African region. ★ Recall the institutions aiming at promotion and protection of human rights in Africa. |
| 15 minutes | Coffee break | | |
| 105 minutes | Regional bodies and mechanism for the protection of human rights: Organisation of American States (OAS) | Presentations Computer and projector Printed materials (main OAS conventions). | <ul style="list-style-type: none"> ★ Explain the legal framework protecting human rights in the Americas. ★ Recall the institutions and mechanisms aiming at promotion and protection of human rights in the Americas. |

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| | and Inter-American System | | |
| 60 minutes | Lunch | | |
| 40 minutes | Regional bodies and mechanism for the protection of human rights: Association of Southeast Asian Nations (ASEAN), Arab Charter on Human Rights and the League of Arab States | Presentations Computer and projector | <ul style="list-style-type: none"> ★ Assess the reasons behind the lack of a structural system covering Asia as a whole to protect and promote human rights. ★ Recall the recent trends and developments in Southeast Asia as well as national human rights institutions. |

| Duration | Activity | Resources/comments |
|--|--|---|
| <h2>Session 1: Regional bodies and mechanisms for the protection of human rights: the European System</h2> | | |
| 105 minutes | <p>This session describes what are the main regional instruments for the protection of human rights at the European level, namely at the level of the European Union and the Council of Europe.</p> | |
| | <p>Start Part 2 by displaying Slide 3 to recall the explanation given on the human rights systems and to set the context for tackling regional regimes for the protection of HR.</p> <p>Focus on the European system by explaining that the expression “European system” encompasses the mechanisms and procedures for human rights protection put in place within the framework of the three existing regional organisations: the Council of Europe (CoE), the Organisation for the Security and Cooperation in Europe (OSCE) and the European Union (EU).</p> <p>1. The Council of Europe and its main human rights monitoring mechanisms</p> <p>Slides 4-6: The European Court on Human Rights</p> <p>The European Convention on Human Rights was adopted by the Council of Europe in 1950, and entered into force on 3 September 1953. The Convention originally created both a European Commission and a European Court of Human Rights entrusted with the observance of the engagements undertaken by the High Contracting Parties to the Convention. But, with the entry into force of Protocol No. 11 to the Convention on 1 November 1998, the control machinery was restructured so that all allegations are now directly referred to the European Court of Human Rights situated in Strasbourg, France. This Court is the first, and so far only, permanent human rights court active on a full-time basis since 1998. It is made up of 47 judges, one for each State Party to the Convention. The judges, who are totally independent, are elected for six-year terms by the Parliamentary Assembly of the Council of Europe, and can be re-elected. A judge can be dismissed from office if two-thirds of the other judges decide that s/he has ceased to fulfil the required conditions.</p> <p>The judges, who act in their individual capacity, must “be of high moral character and must either possess the qualifications required for appointment to high judicial office or be juresconsults of recognised competence”. During their term of office, judges cannot engage in any</p> | <p>PowerPoint presentation slides</p> <p>M3Part2Sess1</p> |

activity considered “incompatible with their independence, impartiality or the demands of a full-time office”.

The Court has jurisdiction over the Council of Europe’s Member States that have accepted the Court’s jurisdiction. Once a State has done so, all Court decisions regarding it are binding. The Court can sit in Committees of three judges, in Chambers of seven judges or in a Grand Chamber of seventeen judges (Art. 27(1)).

On account of the considerable increase in the number of applications and the Court’s excessive workload, the Member States of the Council of Europe decided to reform the supervisory machinery introduced by the Convention. As a result, they adopted Protocol No. 14 to the Convention in 2004. This Protocol is intended to guarantee the Court’s long-term effectiveness by optimising the filtering and processing of applications. In this regard, such an instrument envisages, among other measures, the creation of new judicial formations for the simplest cases and a new admissibility criterion (the existence of “significant disadvantage”) and introduces a nine-year non-renewable term of office for judges.

The Court is competent to receive and examine inter-State complaints (Art. 33). Under this provision, a State may lodge a complaint about violations committed against persons who are not nationals of any of the Contracting States, and even about violations against nationals of the respondent State.

Because State-to-State applications do not necessitate that one State claim to be a “victim”, the Court has broad competence *ratione personae* under Article 33.

Apart from being competent to receive and examine inter-State complaints, the Court “may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols”. The right of individual petition, provided for in Article 34, represents one of the most effective means of protecting human rights, or better of redressing alleged human rights violations, and constitutes the essential element of the supervisory system established by the ECHR. Before the entry into force of Protocol 11, such a prerogative was an optional one. Indeed, State Parties to the Convention could decide not to accept the right to individual petition. The Protocol renders automatic the acceptance of both the right of

individual petition and the compulsory jurisdiction of the court (infra Art. 32).

Article 32 paragraph 1 refers to the compulsory jurisdiction of the Court, describing it in the following terms: “[T]he jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the protocols thereto which are referred to it as provided in Articles 33, 34 and 47”. These articles empower the Court to review inter-State complaints and individual applications and to give advisory opinions on legal questions regarding the interpretation of the Convention under the aforementioned circumstances.

In order for an application to be accepted by the Court, all effective domestic legal remedies available to the applicant must have been exhausted. Additionally:

The applicant must also lodge the application within six months of the date on which the courts or authorities of that State issued their final decision.

The application may not be anonymous.

The issue should have not been already submitted to another procedure of international investigation or settlement.

Cases which are manifestly ill-founded are declared inadmissible.

The issue must be a violation of a guarantee set forth in the European Convention.

The applicant must be a ‘victim’.

Petitioners may not repeat the substance of a previous petition.

Where an application is not inadmissible, the Court encourages the parties to reach a friendly settlement. Such proceedings are conducted on a confidential basis. Many friendly settlements have been reached when the government of the respondent State has taken administrative or legislative measures to rectify a possible violation of the Convention. In those situations, the Court strikes out of its list, “by means of a decision which shall be confined to a brief statement of the facts and of the solution reached” and no further action is then taken on the case. (Art. 38 and 39)

If this proves impossible, the Court rules on the case in a Chamber of seven judges or, in exceptionally important cases, in a Grand Chamber made up of 17 judges. All of the

Court's final judgements are binding on the States found to have violated the Convention, which are obliged to execute them. The Committee of Ministers of the Council of Europe is responsible for supervising the execution of the Court's judgements. It verifies whether the States found guilty of a violation have indeed adopted the necessary general measures to avoid any other violations of the same kind (amendments to legislation, legal doctrine, regulations or practice, etc.). The Committee of Ministers also checks whether the applicant has been paid any compensation awarded by the Court and, in certain cases, whether other specific measures have been taken.

Article 41 of the ECHR also provides that if a High Contracting party is in breach of its obligation under the Convention, and if its domestic law does not provide for adequate reparation of that breach, then "the Court shall, if necessary, afford just satisfaction to the injured party". It is important to note that in this regard, in many instances the Court has found that the sole finding of a violation was in itself a just satisfaction, while in other cases it also awarded substantial amounts of money to successful applicants. In several occasions, the Court also ordered the return of property unlawfully expropriated to the concerned applicant.

Slide 7: The European Committee of Social Rights

The European Social Charter, adopted in 1961 and revised in 1996, is monitored by the European Committee of Social Rights (ECSR). The mission of the ECSR is to judge that States parties are in conformity in law and in practice with the provisions of the European Social Charter. The Committee is composed of 15 independent experts elected by the Committee of Ministers for a 6-year term of office, renewable once. States must submit annual reports of how they have followed Charter standards. The Committee reviews these reports and subsequently publishes decisions known as "Conclusions". If a state takes no action on a Committee decision to the effect that it does not comply with the Charter, the Committee of Ministers addresses a recommendation to that state in question, asking it to change the situation in law and/or in practice. The Committee of Ministers' work is prepared by a Governmental Committee comprised of representatives of the governments of the States parties to the Charter, assisted by observers representing European employers' organisations and trade unions.

With the entry into force in 1998 of the Additional Protocol to the European Social Charter, there is now a possibility

for workers' groups and NGOs to lodge collective complaints. The Committee examines collective complaints considered admissible. The complaint file must contain the following information:

The name and contact details of the organisation submitting the complaint

Proof that the person submitting and signing the complaint is entitled to represent the organisation lodging the complaint

The state against which the complaint is directed

An indication of the provisions of the Charter that have allegedly been violated

The subject matter of the complaint, i.e. the point(s) in respect of which the state in question has allegedly failed to comply with the Charter, along with the relevant arguments, with supporting documents

Once the complaint is declared admissible, a written procedure is set in motion, with an exchange of memorials between the parties. The Committee may decide to hold a public hearing. The Committee then makes a decision on the merits of the complaint, which is forwarded to the parties concerned and to the Committee of Ministers in a report, which is made public within four months of its being forwarded.

Finally, the Committee of Ministers adopts a resolution. If appropriate, it may recommend that the state concerned take specific measures to bring the situation into line with the Charter.

Slides 8-10: The European Committee for the Prevention of Torture

The Committee for the Prevention of Torture (CPT) monitors the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. It is composed of independent, impartial experts who serve four-year terms and may be re-elected twice; there is one member per signatory state. The underlying idea of the Convention is to prevent ill-treatment of persons deprived of their liberty by a public authority. The Convention does not establish any new norm but aims at strengthening the obligation set forth in Article 3 of the ECHR, which states that "no one shall be subjected to torture or inhuman or degrading treatment or punishment". The CPT is a non-judicial mechanism empowered to hold enquiries and give a ruling on complaints or to

determine whether a State has breached the basic provisions of the treaty. The Council of Europe has two complementary mechanisms for combating torture: the judicial mechanism of the European Court on Human Rights, which operates a posteriori and pronounces rulings on individual complaints, and the CPT, which carries out preventive visits. Both mechanisms are based on Article 3 of the ECHR.

According to its mission statement, “[t]he Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment.” The Committee carries out its preventive role through two kinds of visits: (a) periodic ones and (b) ad hoc visits “required by the circumstances”. Such ad hoc visits can be either urgent actions or follow-up visits. Periodic visits are carried out to all Parties to the Convention on a regular basis. They allow the Committee to be in a position to follow the situation in a given country on a regular basis and therefore permit the adoption of a long-term approach. Ad hoc visits, by contrast, constitute the CPT’s rapid reaction capacity and enable the mechanism to respond in a flexible way to situations.

The CPT visits places of detention (e.g. prisons and juvenile detention centres, police stations, holding centres for immigration detainees and psychiatric hospitals), to see how persons deprived of their liberty are treated and, if necessary, to recommend improvements to States. During the visits, the Committee generally:

- examines the general conditions in the establishments visited;
- observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;
- interviews persons deprived of their liberty in order to understand how they perceive the aspects and hear specific grievances they might have;
- examines the legal and administrative foundation of the deprivation of liberty.

Visits are carried out by delegations, usually of two or more CPT members, accompanied by members of the Committee’s Secretariat and, if necessary, by experts and interpreters. The member elected by the country being

visited does not join the delegation. The Committee must notify the State concerned, but need not specify the period between notification and the actual visit, which, in exceptional circumstances, may be carried out immediately after notification. Governments' objections to the time or place of a visit may only be justified on grounds of national defence, public safety, serious disorder, the medical condition of a person or if an urgent interrogation relating to a serious crime is in progress. In such cases the State must immediately take steps to enable the Committee to visit as soon as possible.

Under the Convention, CPT delegations have unlimited access to places of detention and the right to free movement within such places without restriction. They may interview persons deprived of their liberty in private, and may communicate freely with anyone who can provide information. The recommendations, which the CPT may formulate on the basis of facts found during the visit, are included in a report, which is sent to the State concerned. This report is the starting point for an on-going dialog with the State concerned.

The work of the Committee is inspired by two guiding principles: co-operation and confidentiality. Co-operation with the national authority is at the heart of the Convention, since the aim is to protect persons deprived of their liberty rather than to condemn States for abuses. The Committee therefore meets in camera and its reports are strictly confidential. Nevertheless, if a country fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the CPT may decide to make a public statement. The State itself may request publication of the Committee's report, together with its comments. In addition, the CPT draws up a general report on its activities every year, which is made public. Over the years, the Committee has, through its work, set forth standards for the treatment of detained persons, which are published as "CPT Standards".

Slide 11: The European Commission against Racism and Intolerance

The European Commission against Racism and Intolerance (ECRI) is the Council of Europe's monitoring body, specialised in combating racism, xenophobia, anti-Semitism and intolerance in greater Europe, from the perspective of the protection of human rights. ECRI's action covers all the measures needed to combat violence, discrimination and prejudice against persons or groups of persons on grounds of race, colour, language, religion, nationality or national or ethnic origin.

ECRI was established by the first Summit of Heads of State and Government of the Member States of the Council of

Europe. The decision of its establishment is contained in the Vienna Declaration, which the Summit adopted on 9 October 1993. The second Summit in Strasbourg on 10-11 October 1997 strengthened ECRI's action, and on 13 June 2002 the Committee of Ministers adopted an autonomous Statute for ECRI, thereby consolidating its role as an independent human rights monitoring body.

ECRI's members are appointed on the basis of their in-depth knowledge of combating racism and intolerance. They serve in their individual capacities and are independent and impartial in fulfilling their mandate.

ECRI's statutory activities are: (1) country-by-country monitoring; (2) general policy recommendations; and (3) information and communication activities with civil society.

Slides 12-13: The Commissioner for Human Rights

The position of the Commissioner for Human Rights was approved at the Summit of Heads of State and Government in October 1997, and was established in April 1999 when the Committee of Ministers adopted it. The Parliamentary Assembly elects the Commissioner by a majority of votes. Candidates for the post are selected from three candidates submitted by the Committee of Ministers. A candidate must be a national of a CoE member state with expertise in the area of human rights. A term lasts six years. The first Commissioner for Human Rights was Mr. Alvaro Gil-Robles of Spain, who served from 1999 to 2005.

The fundamental objectives of the Commissioner for Human Rights are laid out in Resolution (99) 50 on the Council of Europe Commissioner for Human Rights. According to this resolution, the Commissioner is mandated to:

foster the effective observance of human rights and assist member states in the implementation of Council of Europe human rights standards;

promote education in and awareness of human rights in Council of Europe member states;

identify possible shortcomings in the law and practice concerning human rights;

facilitate the activities of national ombudsperson institutions and other human rights structures; and;

provide advice and information regarding the protection of human rights across the region.

The Commissioner's work focuses on encouraging reform measures to achieve tangible improvement in the area of human rights promotion and protection. Being a non-

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| | <p>judicial institution, the Commissioner’s Office cannot act upon individual complaints, but the Commissioner can draw conclusions and take wider initiatives on the basis of reliable information regarding human rights violations suffered by individuals.</p> | |
| | <p>2. The OSCE & Human Rights</p> <p>Slide 14: The OSCE & the human dimension</p> <p>The commitments made by OSCE participating States in the human dimension aim at ensuring full respect for human rights and fundamental freedoms, abiding by the rule of law, promoting the principles of democracy by building, strengthening and protecting democratic institutions and promoting tolerance throughout the OSCE region. This organisation is endowed with various mechanisms and procedures for fostering these commitments.</p> <p>The OSCE has established a number of tools to monitor the implementation of commitments that participating States have undertaken in the field of human rights and democracy (the human dimension). One of these tools, the so-called Human Dimension Mechanism, can be invoked on an ad hoc basis by any individual participating State or group of states.</p> <p>It is composed of two instruments: the Vienna Mechanism (established in the Vienna Concluding Document of 1989) and the Moscow Mechanism (established at the last meeting of the Conference on the Human Dimension in Moscow in 1991), the latter partly constituting a further elaboration of the Vienna Mechanism.</p> <p>The Vienna Mechanism allows participating States, through an established set of procedures, to raise questions relating to the human dimension situation in other OSCE States.</p> <p>The Moscow Mechanism builds on this and provides for the additional possibility for participating States to establish ad hoc missions of independent experts to assist in the resolution of a specific human dimension problem, either on their own territory or in other OSCE participating States.</p> <p>The office for Democratic Institutions and Human Rights (ODIHR) is designated to provide support for the implementation of the Moscow Mechanism, and it maintains a list of experts appointed by some of the participating States who are available to carry out such investigations.</p> <p>Slide 15: The High Commissioner of National Minorities</p> | |

To respond to the challenge of ethnic tensions and violence, the then Conference for Security and Co-operation in Europe (CSCE, now OSCE) decided in 1992 to establish the post of High Commissioner on National Minorities (HCNM). The High Commissioner's task is to provide "early warning" and, as appropriate, "early action" at the earliest possible stage "in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgment of the High Commissioner, have the potential to develop into a conflict within the OSCE area". The HCNM thus has a twofold mission: first, to try to contain and de-escalate tensions and, second, to act as a "tripwire". In other words, he is responsible for alerting the OSCE whenever such tensions threaten to develop to a level at which the High Commissioner cannot contain them with the means at his/her disposal.

The mandate also contains a number of provisions restricting the High Commissioner's activities. Explicitly excluded from the High Commissioner's mandate are individual cases concerning persons belonging to national minorities. With regard to the HCNM's activities in general, and to the HCNM's information-gathering and fact-finding activities in particular, the High Commissioner's mandate does not permit him/her either to consider national minority issues in situations involving organised acts of terrorism or to communicate with or acknowledge communications from any person or organisation that practices or publicly condones terrorism or violence.

Slide 16: Representative on Freedom of the Media

The Representative on Freedom of the Media was established in December 1997 to "address serious problems caused by, inter alia, obstruction of media activities and unfavourable working conditions for journalists." Unlike the High Commissioner on National Minorities, the Representative on Freedom of the Media is not a mediator, but serves as an advocate promoting compliance with OSCE principles on freedom of expression and the media.

The Representative plays an early warning role on violations, while concentrating on issues of serious non-compliance. In the case of non-compliance, the Representative contacts the state concerned, tries to discern the facts of the situation, and attempts to resolve the issue. The Representative responds as quickly as possible to the most serious violations of freedom of the media, including hazardous working conditions or an inability to report freely.

The Representative reports to the Permanent Council on its actions, and recommends further action where

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| | <p>necessary. The Representative, like the High Commissioner on National Minorities, cannot talk with any person or organisation that practices or publicly endorses terrorism or violence.</p> | |
| | <p>3. The EU & human rights (Slide 17)</p> <p>Introduce the topic by explaining that the European Union is committed to promoting the universal principles of liberty and democracy, respect for the rule of law, human rights and fundamental freedoms within its borders and in its external relations with third countries. Through an inward-looking perspective, the role of the Court of Justice of the European Communities has been and still is instrumental. In its external relations, the EU has at its disposal a number of instruments for promoting respect for human rights worldwide. It has developed human rights guidelines, and it carries out diplomatic demarches where human rights are violated. It engages in political or specifically human rights related dialogues with many third countries (more than thirty human rights related dialogues at present). It finances the European Instrument for Democracy and Human Rights (EIDHR) etc.</p> <p>Display the legal basis for EU action in the field of HR (Slides 18-19).</p> <p>The role of the Court of Justice of the European Communities in protecting human rights (Slide 20)</p> <p>The Court of Justice of the European Communities (ECJ) is the jurisdictional organ, which, together with the Court of First Instance, ensures the respect of the EC Treaties by Member States and the European Institutions. The ECJ has played a significant role in the development of human rights as a means of determining if the acts of Member States and of the European Institutions are lawful. In a ruling of 1969, the ECJ implied that human rights considerations were inherent in EC law when it stated that an Article in Decision 69/71 “contained nothing capable of prejudicing the fundamental human rights enshrined in the general principles of Community law and protected by the Court”. It further developed the notion that fundamental rights were an integral part of EU law. The principal landmarks in this regard were:</p> <p>(a) International Handelsgesellschaft [1970] ECR 1125, wherein the ECJ declared that it would protect human rights as an integral part of EU law. In this endeavour, the Court ECJ decided that fundamental rights formed part of the general principles of Community law that it was obliged to uphold, and that it should be guided by the constitutional traditions of the Member States in safeguarding those rights.</p> | |

(b) *Nold v Commission* [1974] ECR 491, wherein the ECJ declared that international human rights treaties on which Member States collaborated, or to which they were signatories, also provided guidelines which should be followed within the framework of EU law. No measure could have the force of law unless it was compatible with the fundamental rights recognised and protected by the Member States' constitutions.

(c) *Rutili* [1975] ECR 1219 and *Hauer v Land-Rheinland-Pfalz* [1979] ECR 321, wherein the ECJ confirmed that the rights protected by the ECHR form part of community law.

(d) *Wachauf* [1989] ECR 2609, wherein the ECJ held that its review powers extended to acts of the Member States to the extent that they came within the field of EU law.

Instruments for human rights protection in the EU's external relations (Slide 21)

The European Union is committed to promoting the universal principles of liberty and democracy, respect for the rule of law, human rights and fundamental freedoms in its Common Foreign and Security Policy, as well through its presence in international fora, or through its financial instruments managed by European Commission. The Organisation has at its disposal a number of instruments for promoting respect for human rights worldwide. Details for each instrument enlisted on Slide 21 are further explored on Slides 22 to 31.

1) EU Strategic Framework (2012) and Action Plan (2015) on Human Rights and Democracy

2) HR guidelines (key human rights issues)

To date, it has developed 11 sets of guidelines: Death Penalty; Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Human Rights Dialogues with Third Countries; Children and Armed Conflict; Human Rights Defenders; Promotion and Protection of the Rights of the Child; Violence Against Women and Girls and Combating all Forms of Discrimination Against Them; International Humanitarian Law; Promotion and Protection of Freedom of Religion or Belief: Enjoyment of All HR by LGBTI Persons; Freedom of Expression Online and Offline. The EU guidelines are not legally binding, but because they have all been adopted at ministerial level, they represent constitute priorities for the Union. Indeed, they are pragmatic instruments of the EU Humans Rights policy. The EU implements these various guidelines through specific actions (such as a worldwide campaign of démarches against torture or on death penalty).

3) EUSR on HR

4) HR dialogues

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| | <p>Human rights dialogues are one of the tools, which the European Union may use to implement its human rights policy, and they constitute an essential part of the EU's overall strategy towards third countries. The European Union has established some 40 human rights dialogues, consultations and dedicated discussion forums with third countries. Human rights dialogues currently take place in various formats:</p> <p>Structured human rights dialogues</p> <p>Dialogues conducted in dedicated subcommittees under Association Agreements, Partnership and Cooperation Agreements or Cooperation Agreements, in particular in the context of the European Neighbourhood Policy</p> <p>Local human rights dialogues</p> <p>Troika consultations on human rights issues</p> <ol style="list-style-type: none"> 5) EU action in multilateral forums 6) Rights-based approach to development 7) CSDP missions and operations 8) Democracy support 9) Conditionality <p>Since 1995, the European Community has sought to insert a human rights clause in all agreements, with the exception of sectoral agreements, that are concluded with non-industrialised countries. The human rights clause makes human rights a subject of common interest and part of the dialogue between the parties, and serves as a basis for the implementation of positive measures on par with other key provisions in an agreement. In the event of serious and persistent breaches of human rights, the human rights clause enables one party to the agreement to take restrictive measures against the offending party in proportion to the gravity of the breaches.</p> <ol style="list-style-type: none"> 10) Annual report on human rights and democracy <p>The EU also finances the European Instrument for Democracy and Human Rights (EIDHR), the Instrument contributing to Stability and Peace (IcSP) and other funding sources that have the furthering of HR and democracy as part of their overall aims (Slides 32-33).</p> | |
| Coffee break | | |
| References and further reading | <ul style="list-style-type: none"> ★ Greer, 'Europe' in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), <i>International Human Rights Law</i>, 2nd ed., Oxford: Oxford University Press, 2014. ★ Louis Henkin et al., <i>Human Rights</i>, 2nd ed., Eagan: Foundation Press, 2009, 622-26, 656-62 | |

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| | <ul style="list-style-type: none"> ★ The European Court of Human Rights. International Justice Resource Center. Available at http://www.ijrcenter.org/european-court-of-human-rights/ ★ Schabas, The European Convention on Human Rights. A Commentary, Oxford: Oxford University Press, 2015 ★ Alston and Goodman, 'Regional Arrangements' in International Human Rights, 5th ed., Oxford: Oxford University Press, 2013 |
| ★ Useful web resources | <ul style="list-style-type: none"> ★ www.ohchr.org ★ http://www.un.org/en/sections/what-we-do/protect-human-rights/index.html |

| Duration | Activity | Resources/comments |
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| <h2 style="color: #0056b3; margin: 0;">Session 2: Regional bodies and mechanism for the protection of human rights: the African system</h2> | | |
| 120 minutes | This session describes the main regional instruments for the protection of human rights at the African level. | |
| | <p>Slide 3: Introduce the African System for the protection and promotion of HR by saying that it is the youngest of the three judicial or quasi-judicial regional human rights systems, and was created under the auspices of the African Union. Like the Inter-American System (and the European System, as originally designed), it includes a commission and a court with complementary mandates. The African Commission on Human and Peoples' Rights (ACHPR) and African Court on Human Peoples' Rights (AfCHPR), together with the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), all receive complaints of human rights violations.</p> <p>Slides 4-6: African Court on Human and Peoples' Rights Seat: Arusha, Tanzania Instrument: Protocol to ACHPR Operating since: 2006</p> <p>The African Court on Human and Peoples Rights (AfCHPR) is a regional human rights tribunal with advisory and contentious jurisdiction concerning the interpretation and application of the African Charter on Human and Peoples' Rights, also referred to as the Banjul Charter. Its jurisdiction extends to those States that have ratified the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.</p> | <p>PowerPoint presentation slides</p> <p>M3Part2Sess2</p> |

Complaints against any State that has accepted the Court's jurisdiction may be referred to the Court by: the African Commission on Human and Peoples' Rights, States parties (as respondent or petitioner in a case before the Commission, or on behalf of a individual citizen) and African intergovernmental organisations.

The Court also has jurisdiction to hear cases instituted by individuals and non-governmental organisations with observer status before the African Commission, provided that the relevant State has made the necessary declaration under Article 34 of the Protocol to allow these complaints, described in Article 5(3). As at February 2018, only eight (8) of the thirty (30) States parties to the Protocol had made the declaration recognising the competence of the Court to receive cases from NGOs and individuals. The eight (8) States are: Benin, Burkina Faso, Côte d'Ivoire, Ghana, Mali, Malawi, Tanzania and Rep. of Tunisia. The 30 States which have ratified the Protocol are: Algeria, Benin, Burkina Faso, Burundi, Cameroon, Chad, Côte d'Ivoire, Comoros, Congo, Gabon, Gambia, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria and Niger.

The 11 judges of the Court are elected for renewable, six-year terms. The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, along with the AfCHPR's rules of Court, set out the Court's functions and operating procedures.

Additionally, the States of the African Union have agreed to establish an African Court of Justice and Human Rights, intended to hear disputes arising under all African Union instruments, including the human rights agreements, and to prosecute individuals for serious international crimes. This new tribunal would replace the African Court on Human and Peoples' Rights. However, the Protocol must be ratified by 15 States before the African Court of Justice and Human Rights comes into being.

Slide 7: African Commission on Human and Peoples' Rights

Seat: Banjul, The Gambia

Instrument: ACHPR

Operating since: 1987

The African Commission on Human and Peoples' Rights (ACHPR) promotes and protects human rights in those Member States of the African Union that

have ratified the African Charter on Human and Peoples' Rights.

The Commission accepts complaints ("communications") from individuals, groups of individuals, non-governmental organisations, and States concerning alleged violations of the African Charter on Human and Peoples' Rights.

The ACHPR holds two ordinary sessions a year and may also hold extraordinary sessions upon the request of the Chairperson of the Commission or a majority of Commissioners. During the biannual ordinary sessions, the ACHPR considers periodic reports submitted by States parties, as well as reports from members of the Commission and its Special Mechanisms (rapporteurs, committees, and working groups). The Commission also considers reports concerning country visits ("Special Missions"), which are typically dispatched to countries experiencing political or social unrest.

The African Charter and the Commission's Rules of Procedure establish its composition and procedures.

Slide 8: African Rapporteurs and Working Groups

The African Commission on Human and Peoples' Rights has established multiple special mechanisms to assist the Commission with the promotion and protection of human rights. The special mechanisms' mandates extend to all African Union (AU) Member States who are States parties to the African Charter on Human and Peoples' Rights. All AU Member States are States parties to the Charter. The special mechanisms are dedicated to protecting and promoting specific rights or the rights of specific vulnerable groups.

The existing special mechanisms gather and disseminate information on how different groups of people or specific human rights are being treated throughout the Member States. The special mechanisms use this information to provide States or the Commission with guidance toward effectively securing human rights in Africa.

Each special mechanism has been overseen by one of the Commission's eleven Commissioners, who undertake his or her duties on a part-time basis.

The special mechanisms have a duty to provide the Commission with reports on their activities during each Ordinary Session. In turn, the Commission presents annual Activity Reports to the African Union Assembly that contain information gathered from the special mechanisms, summarising positive developments and areas of concern regarding human rights in Africa.

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| | <p>Principal functions</p> <p>Each special mechanism has a specific mandate. Generally, special mechanisms may:</p> <ul style="list-style-type: none"> conduct country visits to Member States to investigate the enforcement of human rights; make recommendations to Member States to guide them toward the fulfilment of their international obligations; lend expertise to the Commission when it is considering communications that concern the special mechanism’s mandate; submit annual reports to the Commission detailing its activities; propose that the Commission send urgent appeals to Member States regarding imminent human rights violations; send letters to State officials requesting information regarding human rights violations; analyse States’ domestic laws and their compliance with international standards; engage in promotional activities, including seminars, workshops, and expert meetings; and, collaborate with civil society organisations and international human rights bodies. <p>Creation of special mechanisms</p> <p>The African Commission appoints Special Rapporteurs, Chairpersons, and members of the special mechanisms either by consensus or by a vote. Typically, the mandate of the special mechanism is initially authorised for two years, and is renewed by the Commission thereafter. The renewals are effectuated through the passing of a resolution. Each special mechanism’s website contains a list of the resolutions that have authorised the continuing mandate for that mechanism.</p> | |
| References and further reading | <ul style="list-style-type: none"> ★ Heyns and Killander, ‘Africa’ in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), <i>International Human Rights Law</i>, 2nd ed., Oxford: Oxford University Press, 2014 ★ Viljoen, <i>International Human Rights law in Africa</i>, 2nd ed., Oxford: Oxford University Press, 2012 ★ Evans and Murray (eds.), <i>The African Charter on Human and Peoples' Rights: The System in Practice 1986-2006</i>, Cambridge: Cambridge University Press | |

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| | <ul style="list-style-type: none"> ★ Okere, 'The Protection of Human Rights in Africa and the African Charter on Human and Peoples' Rights: A Comparative Analysis with the European and American Systems'. Human Rights Quarterly. Vol. 6, 1984, 141-159 ★ Alston and Goodman, 'Regional Arrangements' in International Human Rights, 5th ed., Oxford: Oxford University Press, 2013 |
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| Duration | Activity | Resources/comments |
|---|---|---|
| <h2 style="color: #4F81BD;">Session 3: Regional bodies and mechanism for the protection of human rights: the American system</h2> | | |
| 105 minutes | This session describes the main regional instruments for the protection of human rights at the Americas level. | |
| | <p>Slide 3: The Inter-American System for the protection of human rights is one of the world's three regional human rights systems, and is responsible for monitoring and ensuring implementation of human rights guarantees in the 35 countries of the Americas that are members of the Organisation of American States (OAS).</p> <p>The Inter-American System is composed of two bodies: a Commission and a Court. Both institutions can receive individual complaints related to alleged human rights violations and may issue emergency protective measures when an individual or the complainant is at immediate risk of irreparable harm. The Commission also engages in a range of human rights monitoring and promotion activities, while the Court may issue advisory opinions on issues pertaining to the interpretation of the Inter-American instruments at the request of an OAS organ or of a Member State.</p> <p>Slide 4: Inter-American Commission on Human Rights Seat: Washington, DC Operating since: 1960</p> <p>The Inter-American Commission on Human Rights (IACHR) addresses human rights conditions and violations in the 35 Member States of the OAS. It began operating in 1960, observing human rights conditions via on-site visits, and in 1965 was tasked with the mandate to begin processing specific complaints of human rights violations. The Commission also holds thematic hearings on specific topical areas of concern, publishes studies and reports, requests the adoption of precautionary measures to protect individuals at risk, and has established several thematic rapporteurships to more closely monitor certain</p> | <p>PowerPoint presentation slides</p> <p>M3Part2Sess3</p> |

human rights themes or the rights of specific communities in the Americas.

Individuals, groups of individuals, and non-governmental organisations recognised in any OAS Member State may submit complaints (“**petitions**”) concerning alleged violations of the American Declaration of the Rights and Duties of Man, American Convention on Human Rights, and other regional human rights treaties (see below). The Commission receives approximately 1,500 petitions every year.

Slide 5: Inter-American Court of Human Rights

Seat: San José, Costa Rica Operating since: 1979

The **Inter-American Court of Human Rights** is the judicial organ of the Inter-American human rights system. Its mandate is more limited than that of the Commission because **the Court may only decide cases brought against OAS Member States that have specifically accepted the Court’s contentious jurisdiction, and those cases must first be processed by the Commission. Additionally, only States parties and the Commission may refer contentious cases to the Court.**

Currently, 23 OAS Member States are States parties to the American Convention on Human Rights, and 20 have opted to accept the Court’s contentious jurisdiction in accordance with Article 62 of the American Convention.

The Court began operating in 1979, and soon thereafter issued several advisory opinions, but did not begin exercising its contentious jurisdiction until 1986, when the Commission submitted the first contentious case: *Velasquez Rodriguez v. Honduras*, to which the Court issued a judgment on the merits in 1988.

Slide 6: Inter-American HR Instruments

The Commission and Court are charged with interpreting and applying a number of regional human rights instruments, which include the following:

- ★ American Declaration of the Rights and Duties of Man
- ★ American Convention on Human Rights
- ★ Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights “Protocol of San Salvador”
- ★ Protocol to the American Convention on Human Rights to Abolish the Death Penalty

- ★ Inter-American Convention to Prevent and Punish Torture
- ★ Inter-American Convention on Forced Disappearance of Persons
- ★ Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women “Convention of Belem do Para”
- ★ Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities

Additionally, the following documents guide the Court and Commission’s interpretation of the above instruments:

- ★ Declaration of Principles on Freedom of Expression
- ★ Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas
- ★ Inter-American Democratic Charter

Slides 7-8: The special mechanisms of the Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights began establishing rapporteurships in 1990. Rapporteurships are special mechanisms dedicated to protecting and promoting the rights of vulnerable groups of people who have historically faced marginalisation. The establishment of rapporteurships allowed the Commission to oversee human rights conditions on topics of particular concern.

All of these special mechanisms gather and disseminate information on how different groups of people or different rights are being protected throughout the Organisation of American States (OAS) Member States. The special mechanisms use this information to develop reports or recommendations to Member States to help them better protect and promote the human rights of their people, and to guide the Inter-American Commission on Human Rights in its decisions.

Thematic rapporteurships are usually overseen by one of the Commission’s seven Commissioners, who undertake his or her duties on a part-time basis. The Commission also designates country rapporteurs from among the seven Commissioners. Each Member State is assigned a country rapporteur, who is responsible for carrying out activities assigned by the Commission within that State. Thematic rapporteurs often collaborate with the country rapporteurs in conducting country visits within the Member States.

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| | <p>Principal functions</p> <p>Each special mechanism's capabilities are set forth in its mandate. Generally, rapporteurships and units may:</p> <ul style="list-style-type: none"> advise the Commission in its processing of individual petitions, cases, and requests for precautionary and provisional measures related to their mandate; undertake country visits to investigate human rights conditions; conduct thematic reports and studies; develop recommendations to Member States; organise seminars, workshops, and specialized meetings; raise awareness of human rights issues; receive information from individuals and civil society; provide the Commission with annual reports on their work and; contribute to the development of international human rights law. <p>Creation of special mechanisms</p> <p>The Commission is empowered to create rapporteurships that are dedicated to areas of special interest, in order to promote and protect the human rights of vulnerable groups throughout the Americas. To create a rapporteurship, the majority of the Commission's members must adopt a resolution. The resolution must delineate the functions and scope of the mandate, provide a description of the activities to be carried out, and an accounting of how these activities will be financed.</p> | |
| References and further reading | <ul style="list-style-type: none"> ★ Pasqualucci, 'The Americas' in Moeckli, Daniel, Shah Sangeeta and Sandesh Sivakumaran (eds.), <i>International Human Rights Law</i>, 2nd ed., Oxford: Oxford University Press, 2014. ★ Quiroga, 'The Inter-American System for the Protection of Human Rights' in Krause and Scheinin (eds.), <i>International Protection of Human Rights: A Textbook</i>, 2nd ed., Åbo Akademi University, Institute for Human Rights, 2012, 519-549. ★ The Inter-American Human Rights System. <i>International Justice Resource Center</i>. Available at http://www.ijrcenter.org/regional/inter-american-system/ ★ Goldman, 'History and Action: The Inter-American Human Rights System and the Role of the Inter-American Commission on Human Rights'. <i>Human Rights Quarterly</i> 31 (2009), 856-887 ★ Ledesma, <i>The Inter-American System for the Protection of Human Rights: Institutional and Procedural Aspects</i>, San Jose, Costa Rica: IIDH, 2008, https://www.iidh.ed.cr/IIDH/media/1751/interamerican_protection_hr-2008.pdf | |

★ Alston and Goodman, 'Regional Arrangements' in *International Human Rights*, 5th ed., Oxford: Oxford University Press, 2013

| Duration | Activity | Resources/comments |
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| <p>Session 4: Regional bodies and mechanism for the protection of human rights: systems within the Association of Southeast Asian Nations (ASEAN) and the League of Arab States</p> | | |
| <p>40 minutes</p> | <p>This session introduces participants to the regional present framework in the Middle East and in Asia. Although Asia is the only area in the world that does not have a human rights court or commission covering the region as a whole, it can be argued that a regional system is currently emerging due to recent developments, especially in Southeast Asia.</p> | |
| | <p>Introduce Session 4 by explaining that it will focus on the ASEAN and the League of Arab States, organisations where developments towards the creation or strengthening of a regional human rights system are on-going. Explain that whereas Europe, Africa and the Americas established their respective human rights instruments with the corresponding enforcement mechanism, the Asia-Pacific region remains the only UN defined region without a specific human rights treaty and without a region-wide mechanism directed at the promotion and protection of human rights. Although the final aim, the establishment of regional human rights machinery, has not been reached so far, progress has been made in the protection and promotion of human rights through the engagement of the UN in creating a regional human rights mechanism, and through the creation of sub-regional human rights protection mechanisms such as the ASEAN Intergovernmental Commission on Human Rights. Also explain that even though the Arab states do not constitute a separate geographical region in the strict sense, as they are located both in Africa and Asia, the fact that the historical, cultural, religious and political links between them are stronger than the links of each of them with the part of the world they belong to makes it necessary to regard them as one separate region. Hence the focus will also be put on a human rights framework within the League of Arab States.</p> | <p>PowerPoint presentation slides M3Part2Sess4</p> |

Display Slide 3 and explain that the inter-governmental regional organisation known as the **Association of Southeast Asian Nations (ASEAN)** is a grouping of ten nation states: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. ASEAN was founded on 8 August 1967 by Indonesia, Malaysia, Philippines, Singapore and Thailand.

Comment on the fact that ASEAN has been making important progress in recent years towards the establishment of a **regional human rights system for Southeast Asia**.

Give a timeline for those developments by saying that following the UN World Conference on Human Rights, in June 1993, and the 26th ASEAN Ministerial Meeting (AMM) in Singapore in July 1993, declared that “in support of the Vienna Declaration and Programme of Action...ASEAN should also consider the establishment of an appropriate regional mechanism on human rights.”

Show the steps undertaken (Slides 4-5):

1) An **ASEAN Charter** was signed by the leaders of all Member States at the 13th ASEAN Summit on 20 November 2007, and entered into force on 15 December 2008 following ratification by all 10 member states. The Charter aims to give ASEAN a legal personality and more clearly establish its institutional framework and rules of procedure.

The promotion and protection of human rights are referred to in the preamble, purposes and principles of the ASEAN Charter, and the establishment of a human rights body is committed to in Article 14 of the Charter.

2) The terms of reference (TOR) of the human rights body, the **ASEAN Intergovernmental Commission on Human Rights (AICHR)**, were endorsed by ASEAN’s Foreign Ministers on 20 July 2009 during the 42nd ASEAN Ministerial Meeting in Phuket, Thailand.

[<http://asean.org/storage/2016/06/34.-October-2015-TOR-of-AICHR-9th-Reprint.pdf>]

ASEAN’s leaders formally established the ASEAN Intergovernmental Commission on Human Rights (AICHR) on 23 October 2009, during the 15th ASEAN Summit.

Illustrate the characteristics of the AICHR:

- ★ The AICHR is an **inter-governmental body** and an integral part of the ASEAN organisational structure. It is a **consultative body**.

- ★ It is composed of one representative for each ASEAN Member State, who shall be accountable to the appointing Government.
- Mandate & functions:
- ★ to develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community;
 - ★ to develop an ASEAN Human Rights Declaration with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights;
 - ★ to enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information;
 - ★ to promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States;
 - ★ to encourage ASEAN Member States to consider acceding to and ratifying international human rights instruments;
 - ★ to promote the full implementation of ASEAN instruments related to human rights;
 - ★ to provide advisory services and technical assistance on human rights matters to ASEAN sectoral bodies upon request;
 - ★ to engage in dialogue and consultation with other ASEAN bodies and entities associated with ASEAN, including civil society organisations and other stakeholders, as provided for in Chapter V of the ASEAN Charter;
 - ★ to consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights;
 - ★ to obtain information from ASEAN Member States on the promotion and protection of human rights;
 - ★ to develop common approaches and positions on human rights matters of interest to ASEAN;
 - ★ to prepare studies on thematic issues of human rights in ASEAN;
 - ★ to submit an annual report on its activities, or other reports if deemed necessary, to the ASEAN Foreign Ministers Meeting; and
 - ★ to perform any other tasks as may be assigned to it by the ASEAN Foreign Ministers Meeting.

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| | <p>Discuss further developments in fields complementary to the promotion and protection of human rights (Slide 6):</p> <p>In addition to the establishment of the AICHR, other developments have been taking place regarding the establishment of human rights mechanisms and instruments for specific groups of people:</p> <ul style="list-style-type: none"> ★ On 7 April 2010, the ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC) was inaugurated in Hanoi, Viet Nam. ★ In 2012, an ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers was also established. ★ In 2007, ASEAN adopted the ASEAN Economic Community Blueprint and in 2009 adopted the ASEAN Political-Security and the ASEAN Socio-Cultural Blueprints, which together constitute the Roadmap for an ASEAN Community (2009-2015). | |
| | <p>The League of Arab States and HR (Slides 7-9)</p> <p>Explain that at the time of its establishment, the aims of the LAS did not encompass the promotion and protection of human rights, as it is mirrored by its founding Charter, which focuses on close cooperation in economic, financial and cultural matters without mentioning human rights.</p> <p>However, in 1968, after an invitation of the UN Secretary-General at the International Human Rights Conference in Tehran, organised by the UN on the occasion of the 20th anniversary of the Universal Declaration of Human Rights, the Council of the LAS established a Standing Committee on Human Rights (SCHR) composed of representatives of the member governments. Though the mandate of the SCHR included receiving reports by Arab states on their human rights situation it was never considered to be a monitoring mechanism for the human rights records of the LAS member states. Such Committee was mainly concerned with the question of human rights violations in the Arab territories occupied by Israel and limited its activities further on the human rights situation in Palestine.</p> <p>It took until 1994 for the idea of the creation of a protective human rights instrument for the Arab region to take concrete form, with the adoption of the Arab Charter on Human Rights in 1994. The Arab Charter of Human Rights was widely criticised by human rights organisations both at the regional and international level as failing to meet international human rights standards. Since it was only signed by one state, Iraq, and was not ratified by one single member of the LAS, it never entered into force. In</p> | |

January 2003 the SCHR finally recommended that the 1994 Charter be revised, and in March 2003 the Council of the LAS instructed the SCHR to “modernize the Arab Charter on Human Rights in light of comments and suggestions received from Arab States, with the participation of legal and human rights experts.” When the new version produced by the SCHR was issued in 2004 it was still inconsistent with international human rights standards, and the OHCHR and civil society stakeholders called for further revision and modernisation to be carried out by human rights experts rather than by the representatives of governments of the SCHR. As a consequence of widespread criticism and pressure, the Council of the LAS allowed **independent experts** to prepare a **new draft**. Under a bilateral agreement between the **OHCHR** and the LAS, seven experts from Arab countries, all of them members of the UN human rights treaty bodies, were appointed to revise the draft Charter. The Committee of experts produced a draft in January 2004 for consideration by the Council of the LAS. In May **2004** the **new Arab Charter of Human Rights** was adopted at a summit of the League and entered into force on 15 March **2008**.

Give a brief overview of the 2004 Charter:

- ★ It comprises a Preamble and the 53 Articles.
- ★ Unlike most of the international and regional human rights instruments, the Charter is not divided into parts or chapters, and substantive rights are not separated from procedural provisions dealing with the monitoring mechanism, ratification and entry into force.
- ★ The individual rights of the Charter encompass **civil and political** as well as **economic, social and cultural rights**, together with specific provisions related to the rights of women, children, migrants and persons with disabilities.
- ★ By affirming the current international human rights standards, it seeks to place human rights at the ‘centre of the key national concerns’ of Arab states and reaffirms that all human rights are universal, indivisible, interdependent and interrelated.

Whereas most of the provisions of the Charter are consistent with international human rights standards, a number of provisions **continue to contradict international human rights law**.

Art. 45 of the revised Charter provides for the creation of an **Arab Human Rights Committee** consisting of seven members elected by secret ballot by the States parties to the Charter, all having equal rights and votes. The members, who must be nationals of States parties, serve

for a four-year period and may be re-elected only once. In their capacity as Committee members, they must fulfil certain criteria: They must be highly qualified and experienced in the field of human rights, and must be fully independent and impartial.

Human Rights Protection Mechanisms (Slides 10-11)

The main task of the **Committee** is the **monitoring of the implementation** of the Charter. Art. 48 provides that **states** are to **report** “on the measures they have taken to give effect to the rights and freedoms recognised in this Charter and on the progress made towards the enjoyment thereof”. The Committee has to consider these reports, discuss them in the presence of a state representative of the country concerned and make the necessary recommendations in accordance with the aim of the Charter. The Charter merely provides that the Committee must issue a public annual report with its recommendations and comments, whereas it does not oblige it to make recommendations and comments after each session.

The Charter does not contain provisions for individual or state communications or complaint mechanisms.

In 2006 a **Sub-Commission on Human Rights** was created as a sub-committee of the Arab Human Rights Committee. The responsibilities of the Sub-Commission mainly encompass the preparation of studies and the drafting of treaties.

Arab Court of Human Rights

In early 2012, the Kingdom of Bahrain proposed the creation of an Arab Court of HR. In September 2014 a ministerial meeting of the LAS approved the statute for an Arab Court of Human Rights. The Court is expected to be the primary judicial body of the LAS, dedicated to the protection and promotion of human rights in the region. To direct its work, the Court would rely heavily on the provisions in the Arab Charter on Human Rights. During the development of and following the adoption of the statute, many concerns were raised regarding the inaccessibility of the Court and its reliance on the Arab Charter on Human Rights. At present, the mandate of the Court allows complaints to be filed by States parties and accredited NGOs,, but not by individuals or groups, including victims of human rights violations. It is not yet in force and has been the subject of criticism by the human rights community based on its provisions that fall short of international standards.

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| References and further reading | <ul style="list-style-type: none">★ Asia. <i>International Justice Resource Center</i>. Available at http://www.ijrcenter.org/regional/asia/★ Tae-Ung Baik, <i>Emerging Regional Human Rights Systems in Asia</i>, Cambridge: Cambridge University Press, 2012, 10-51, 155-293★ Rishmawi, 'The Revised Arab Charter on Human Rights: A Step Forward?'. <i>Human Rights Law Review</i>. Vol. 5, 2005, 361-376.★ Allam, 'The Arab Charter on Human Rights: Main Features'. <i>Arab Law Quarterly</i>, Vol. 28, 2014, 40-63 |
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Part 3 – Human rights field operations

Learning objectives

Participants will be able to:

- ★ explain the development, characteristics and typologies of human rights field presences;
- ★ list the main role and functions of human rights field presences;
- ★ recall current mandates of human rights field operations and be able to discuss achievements and challenges.

DAY 5 - MODULE 3 - PART 3

HUMAN RIGHTS FIELD OPERATIONS

| Time | Title of the session | Method/Material | Learning objectives |
|------------|--|---|---|
| 40 minutes | Human rights field Operations: United Nations system | Presentations Computer and projector | Explain the development, characteristics and typologies of human rights field presences. List the main role and functions of human rights field presences. Recall current mandates of human rights field operations and be able to discuss achievements and challenges. |
| 15 minutes | Coffee break | | |
| 45 minutes | Human rights field operations: United Nations system | cont. | ★ cont. |

| Duration | Activity | Resources/comments |
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| Session 1: United Nations human rights field operations | | |
| 85 minutes | <p>This session introduces participants to the origins of UN human rights field operations and details their transformation over the years. Moreover, it gives an overview of different typologies of human rights field presences and their main characteristics, with a specific focus on peacekeeping operations. Finally, it provides an overview of what a human rights field officer does while performing his/her job.</p> | |
| | <p>Group exercise: Draw a curve (of conflict) on a flip-chart to locate where human rights interventions take place.</p> <p>Discuss with participants the concepts of</p> <ul style="list-style-type: none"> ★ Peace enforcement ★ Peacebuilding ★ Peacekeeping crisis management ★ Peacemaking ★ Humanitarian interventions <p>And ask them to position such instruments along the curve by using coloured cards. Also challenge them by asking to give examples of operations/cases for each typology of action. Note everything on a flip chart to further discuss the topic. Give a timeline to show the evolution of human rights mandates of field operations (from ONUSAL onward). Show Slide 4 to wrap up the discussion.</p> <p>Slide 5: Discuss different typologies of human rights field presences and display their main characteristics:</p> <ul style="list-style-type: none"> ★ OHCHR country offices (details on Slide 6) ★ Regional offices/centres (details on Slide 7) ★ HR Advisors in UNCTs (details on Slide 8) ★ HR components in UN peace operations & political missions. (Details on Slide 11) <p>Describe phases for the creation of a HRFO, its legal basis, institutional architecture and mandate (Slide 12).</p> <p>Give examples of the mandate of different typologies of HR presences:</p> <p>Slides 13-15 – OHCHR mandate</p> <p>Slides 16-17 – UNSC mandate</p> | <p>PowerPoint presentation slides</p> <p>M3Part3Sess1</p> |

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| | <p>What is the role and core functions of a HR field presence? (Slides 18-20):</p> <p>Exercise: Distribute coloured cards to participants to note three core functions. Use the cards to create a coloured puzzle on a flip-chart and define the functions of HRFOs:</p> <ul style="list-style-type: none"> ★ Human rights monitoring & investigation ★ HR assessment ★ Reporting on the situation of HR ★ Advocacy and intervention ★ Support to other UN and regional human rights mechanisms <p>Conclude by discussing current challenges faced by HRFOs (Slide 21) in terms of:</p> <ul style="list-style-type: none"> ★ Resources ★ Mandate negotiation ★ Capacities and professionalisation ★ Protection of ESCR ★ Withdrawal strategies | |
| References and further reading | <ul style="list-style-type: none"> ★ O’Neill William G., ‘Enhancing UN human rights work on the ground’ in Felice D. Gaer and Christen L. Broecker (eds.), <i>The United Nations High Commissioner for Human Rights: Conscience for the World</i>, Martinus Nijhoff Publishers, 2013 ★ O’Flaherty, Michael, et al. ‘Guiding Principles for Human Rights Officers Working in Conflict and Post-conflict Environments. <i>Human Rights Law Centre, University of Nottingham</i> (2008) | |

MODULE 4 - HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING

Aims and objectives

This module offers guidance on how to monitor, fact-find and report human rights. Participants will be introduced to the methodology of monitoring, fact-finding and reporting, principally as developed through the work of international organisations and non-governmental human rights organisations. The module aims at providing both theoretical and practical knowledge of human rights monitoring, fact-finding and reporting, and addresses different approaches to monitoring human rights violations, information-gathering, preparation of reports, international monitoring mechanisms and other relevant procedures intended to conduct monitoring, fact-finding and reporting activities.

Duration: 2 days

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

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You will need: Module 4 PowerPoint presentation slides, flip-chart and markers, coloured cards, computer, paper.

Learning objectives

Participants will be able to:

- ★ explain the nature and objectives of human rights monitoring;
- ★ compare the different types of human rights monitoring and related terminology (e.g. observation, fact-finding, investigations);
- ★ recall the basic principles of human rights monitoring and their operational implications (do not harm, respect the mandate, confidentiality etc.);
- ★ make contact with all actors involved in HR protection on the ground, including local authorities and civil society;
- ★ list the role of the different actors and of possible communication and cooperation mechanisms;
- ★ recall the mandate of other agencies and organisations (including international NGOs) active in HR protection and promotion;
- ★ explain the dynamics of the information gathering process;
- ★ select and identify information sources;
- ★ identify the information and data required to accurately document cases;

- ★ list the techniques and existing constraints regarding the investigation of HR and IHL violations;
- ★ recall inquiry standards, including on protection of evidence;
- ★ recall basic forensic elements and terminology;
- ★ conduct an effective interview;
- ★ assess to the specific difficulties and problems likely to arise when interviewing groups or individuals with special characteristics (e.g. victims of torture, women, refugees and IDPs, children, government officials, suspected perpetrators);
- ★ recall the need to preserve confidentiality and security of information, and basic methods to protect witnesses and sources;
- ★ analyse and assess protection risks that victims, witnesses and sources cooperating with investigations may face;
- ★ identify measures that can be taken to address protection concerns;
- ★ explain the importance of methods to ensure accuracy and appropriate quantity of information;
- ★ list techniques to corroborate consistency of information;
- ★ list indicators that signal the probable occurrence of HRs violations;
- ★ explain the legal framework (international and national) and responsibilities for investigation activities;
- ★ produce various types of human rights reports in different formats;
- ★ explain the role of public reporting;
- ★ apply the appropriate reporting standard to the specific situation and understand how to organise and present different types of reports. [if time allows]

| DAY 6 - MODULE 4 | | | |
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| HUMAN RIGHTS MONITORING, FACT-FINDING AND REPORTING | | | |
| Time | Title of the session | Method/Material | Learning objectives |
| 135 minutes | Human rights monitoring | Presentations Computer and projector | <p>Explain the nature and objectives of human rights monitoring.</p> <p>Compare the different types of human rights monitoring and related terminology (e.g. observation, fact-finding, investigations).</p> <p>Recall the basic principles of human rights monitoring and their operational implications (do no harm, respect the mandate, credibility, confidentiality, etc.).</p> |
| 15 minutes | Break | | |
| 120 minutes | HRFO: partners and stakeholders | cont. | <p>Make contact with all actors involved in HR protection on the ground, including local authorities and civil society.</p> <p>List the role of the different actors and of possible communication and cooperation mechanisms.</p> <p>Recall the mandate of other agencies and organisations (including international NGOs) active in HR protection and promotion.</p> |
| 75 minutes | Lunch | | |

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| 75 minutes | Acquiring and handling information | cont. | <p>Explain the dynamics of the information gathering process.</p> <p>Be able to select and identify information sources.</p> <p>Identify the information and data required to accurately document cases.</p> |
| 15 minutes | Break | | |
| 75 minutes | Acquiring and handling information (cont.) | cont. | <p>List the techniques and existing constraints regarding the investigation of HR and IHL violations.</p> <p>Recall inquiry standards, including on protection of evidence.</p> <p>Recall basic forensic elements and terminology.</p> |
| DAY 7 | | | |
| 135 minutes | Interviewing techniques | cont. | <p>Be able to conduct an effective interview.</p> <p>Be able to assess to the specific difficulties and problems likely to arise when interviewing groups or individuals with special characteristics (e.g. victims of torture, women, refugees and IDPs, children, government officials, suspected perpetrators).</p> <p>Recall the need to preserve confidentiality and security of information, and basic methods to protect witnesses and sources.</p> |
| 15 minutes | Break | | |

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| 120 minutes | Protection of sources and witnesses | cont. | Analyse and assess protection risks that victims, witnesses and sources cooperating with investigations may face. Identify measures that can be taken to address protection concerns. |
| 60 minutes | Lunch | | |
| 60 minutes | Analysing and verifying information of HR and IHL violations | cont. | Explain the importance of methods to ensure accuracy and appropriate quantity of information. List techniques to corroborate consistency of information. List indicators that signal the probable occurrence of HRs violations. Explain the legal framework (international and national) and responsibilities for investigation activities. |
| 15 minutes | Coffee break | | |
| 90 minutes | Reporting | cont. | Produce various types of human rights reports in different formats. Explain the role of public reporting. Apply the appropriate reporting standard to the specific situation and understand how to organise and present different types of reports. [if time allows] |

| Duration | Activity | Resources/comments |
|---|---|--|
| Session 1: Human rights monitoring | | |
| 135 minutes | This session introduces the main principles of human rights monitoring and describes their operational implications. | |
| | <p>Slides 2-3: Introduce the topic by explaining that you will deal with two main aspects related to HR monitoring:</p> <ul style="list-style-type: none"> ★ Types of monitoring ★ Principles upon which the activity is based <p>Display Slide 4 and ask the following question:</p> <p>Where does ‘human rights monitoring’ come from? Explain that it is part of the broad protection mandate of the High Commissioner for Human Rights; the OHCHR assists SPs and TBs in their monitoring work; it is also a function of HCHR field presences; it is a task carried out also by other organisations with a monitoring mandate or role, such as:</p> <ul style="list-style-type: none"> ★ National human rights institutions ★ Civil society actors ★ Regional bodies ★ Other actors <p>Slide 5: Explain that monitoring is a methodology that entails the active collection, verification and use of information to address human rights problems.</p> <p>Ask participants to identify possible related actions and note them on a flip-chart. The listing can include:</p> <ul style="list-style-type: none"> ★ Observation, visiting sites on the ground or remotely (e.g. places of detention, refugee or IDP camps, schools, hospitals) ★ Gathering information about HR problems/incidents ★ Analysis of trends and patterns ★ Engaging with national authorities and other stakeholders (gather information, pursue remedies & follow-up) <p>Observation - investigation – fact-finding</p> <p>Ask for a definition of each of these activities.</p> <p>Display Slides 6-7-8 and define each of them.</p> <p>Discuss the monitoring cycle shown on Slide 9 and explain each of the phases it is composed of.</p> <p>Give some examples of mandates entailing a monitoring function.</p> | PowerPoint presentation slides M4 |

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| | <p>Display Slide 10 and discuss the monitoring principles.</p> <p>Exercise: Types of human rights monitoring and main features</p> <ul style="list-style-type: none"> ★ Divide the class in 4 groups. Assign to each group a different activity: G1 – HR monitoring; G2 – observation; G3 – fact-finding; G4 – investigation ★ From the list below, pick the terms that best describe and can be associated with the type of HR monitoring that has been assigned to your group: ★ active ★ short-term ★ passive ★ establishing facts ★ verification ★ use of forensic expertise ★ drawing conclusions from facts ★ trends and patterns identification ★ remote ★ on-site presence ★ identification of perpetrators ★ engaging with local authorities ★ collection ★ on-going ★ in-depth examination ★ thematic and geographic priorities ★ Each group should present to the plenary its definition of the type of HR monitoring assigned to it and discuss the key words used to characterise it. | |
| <h2 style="color: #4F81BD;">Session 2: Partners & stakeholders for HR monitoring</h2> | | |
| 120 minutes | <p>This session aims at mapping out key actors for human rights monitoring activities and identifying the main stakeholders to cooperate with.</p> | |
| | <p>Exercise:</p> <p>Give participants 3 coloured cards and ask them to note key actors for human rights monitoring. Divide the class into 2 groups and ask one group to identify actors who:</p> <ul style="list-style-type: none"> ★ can influence a given human rights problem; ★ are influenced by a given human rights problem. | |

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| | <p>On a board, display the different cards and discuss their content to arrive at explaining that key actors are/can be:</p> <ul style="list-style-type: none"> ★ Key rights-holders ★ Specific duty-bearers ★ Alleged perpetrators ★ Main forces at work ★ Potential allies <p>Show Slides 14-17 and discuss more in detail each category.</p> <p>Then introduce and explain the different tools:</p> <ul style="list-style-type: none"> ★ Analysis and strategies: actor mapping; mapping structures; mapping organisations and key individuals ★ Contact management: contact lists; databases etc. ★ Communication channels: protocols and registry for authorities; social media, common platforms etc. <p>Explain each tool and give examples (Slides 18-19).</p> <p>Exercise: Actor mapping</p> <p>You can use the two case studies contained in <i>OHCHR, Manual on Human Rights Monitoring” Chapter 8 – Analysis</i>, p. 30 ff., available at: http://www.ohchr.org/Documents/Publications/Chapter08-44pp.pdf for working with participants on the identification of actors and their roles.</p> <p>Divide participants in 3 groups. Provide them with the background information contained in the cases.</p> <ul style="list-style-type: none"> ★ Assign one or two actors to each participant in the group and ask them to write the following information about each actor on a coloured card: ★ actor’s name; ★ interests and needs; ★ possible and/or real influence over the problem stated in the background information received. <p>Then ask the group to discuss the role of the different actors and to draw a mapping of them. Use a flip-chart and coloured cards to build up the actors’ tree. Discuss it in plenary to frame the human rights context by identifying rights-holders and duty-bearers, and the relationship among the different actors.</p> | |
| <h3>Session 3: Acquiring and handling information</h3> | | |
| 180 minutes | <p>This session deals with the dynamics of the information gathering process. Participants will gain an understanding of the dynamics of the information gathering process and be</p> | |

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| | able to select and identify information sources. They will also learn how to identify the information and data required to accurately document cases. Techniques and existing constraints regarding the investigation of HR and IHL violations will also be discussed, together with inquiry standards, including on protection of evidence. | |
| | <p>Slide 22: This session will deal with three main aspects:</p> <ul style="list-style-type: none"> ★ What? The information ★ Who? The sources ★ How? Methods to use <p>★ What information?</p> <p>FACTS – VIOLATIONS – RESPONSIBILITY (Slides 23-24)</p> <p>Who did What to Whom, Where When How Why?</p> <p>(b) Who? The sources Slides 25-26</p> <p>Elaborate on sources and types of information (human sources, sites of incidents, documentary info, digital info, open sources...), then discuss primary and secondary sources of information.</p> <p>Finally, elaborate on methods for collecting information.</p> <p>c) How? (Slide 27)</p> <p>Show Slide 28 and list different methods and explain each of them (Slides 29-35).</p> <ul style="list-style-type: none"> ★ Interviewing ★ Site visits ★ Collecting documents, photographs, video material ★ Observing and recording events (e.g. demonstrations, trials) ★ Requesting written submissions/expert advice ★ Taking photographs/video of sites, injuries, physical evidence (e.g. bullet casings) ★ Other methods (e.g. surveys, focus group discussions) | PowerPoint presentation slides M4 |
| Session 4: Interviewing techniques | | |
| 135 minutes | This session will explore techniques of how to conduct effective interviews and look at specific difficulties and problems likely to arise when interviewing groups or individuals with special characteristics (e.g. victims of torture, women, refugees and IDPs, children, government officials, suspected perpetrators). It will also cover the need to preserve confidentiality and security of information, and basic methods to protect witnesses and sources. | |

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| | <p>Describe the structure of the session (Slide 38)</p> <ol style="list-style-type: none"> 1) Planning and preparing interviews 2) Appropriate interviewer conduct <ul style="list-style-type: none"> - Starting the interview - During the interview - Concluding the interview 3) After the INTERVIEW 4) Challenges related to interviewing certain categories of interviewees <p>Slides 39-42.</p> <p>Ask participants to reflect on the following question: What to do before an interview? How to prepare?</p> <p>Discuss with them the steps for effective interview planning by answering the following questions and preparing with trainee a kind of checklist (use the flip-chart):</p> <ul style="list-style-type: none"> ★ Who to interview and how to identify people? ★ Where should the interview take place? ★ How to protect interviewees and minimize risk? ★ What is the purpose of the interview? ★ What background information is needed to prepare? ★ What information has to be gathered during the interview? ★ Who will conduct the interview? (gender, etc.) ★ Who will interpret/translate and how? Into which language? ★ Who else will be present? ★ How will the interview be recorded? <p>Then move to describe the phase of conducting an interview and present a possible to-do list on how to start the interview:</p> <ul style="list-style-type: none"> ★ Establish initial rapport and introduce yourself. ★ Explain the mandate (office/team/col...) ★ Establish confidentiality and informed consent to use and/or share information & possible implications. ★ Anticipate the use of the interview's content. ★ Enquire about any protection/safety concerns. ★ Do not make promises you cannot keep. <p>During the interview</p> | <p>PowerPoint presentation slides M4</p> |
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- ★ Develop & maintain rapport, get personal details (or at the end, as appropriate).
- ★ Let interviewee tell the story in own words and at his/her own pace.
- ★ Start with less sensitive/controversial questions.
- ★ Ask open-ended questions; avoid leading questions ('tell me about...').
- ★ Listen attentively (don't interrupt).
- ★ Then ask specific questions to fill gaps/clarify; paraphrase & then ask question.
- ★ Assess credibility and reliability (e.g., ask same question in different ways: 'how do you know...?'), but don't judge.
- ★ Ask for documents/materials supporting the account (e.g., photos).

Concluding the interview

- ★ Ask the interviewee if s/he has any questions, concerns or additional information to share.
- ★ Discuss consent to use or share information if not done at beginning.
- ★ Establish a mechanism to keep in touch.
- ★ If necessary/possible, set a follow-up meeting.
- ★ Ensure s/he understood and agrees with required follow-up.
- ★ Share a list of organisations providing support for referral, as appropriate.
- ★ Thank the person for their time and courage.
- ★ What to do after the interview? (Slide 43)

Explain to participants that you need to:

- ★ evaluate information gathered and testimonies recorded;
- ★ draft an interview report asap and store it in a safe place; and
- ★ undertake the necessary follow-up actions.

Wrap up by explaining the PEACE model to conduct interviews (Slide 44).

Then proceed by discussing peculiarities and aspects of interviewing persons belonging to specific groups (Slide 45):

- ★ Women

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| | <ul style="list-style-type: none"> ★ Children ★ Survivors of trauma ★ Indigenous peoples, rural populations ★ Lower-income groups ★ Refugees and IDPs ★ Persons with disabilities ★ Authorities ★ Alleged perpetrators | |
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Session 5. Protection of sources and witnesses

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| 120 minutes | <p>In this session participants will learn how to analyse and assess protection the risks that victims, witnesses and sources cooperating with investigations might face, and will discuss measures that can be taken to address possible protection concerns.</p> | |
| | <p>Define protection (Slide 48) and identify the addressees of protection concerns (all persons who come into contacts with human rights monitors in the context of monitoring [Slide 49]).</p> <p>Slide 50: Introduce and discuss the guiding principles for the protection of sources and witnesses:</p> <ul style="list-style-type: none"> ★ Respect for confidentiality. ★ Do not harm. ★ Do not raise expectations. ★ Participatory assessment ★ Local context ★ Risk assessment and review of monitoring objectives <p>Also discuss whose responsibility is it to protect sources and witnesses (Slide 51):</p> <ul style="list-style-type: none"> ★ State responsibility ★ Individual responsibility for self-protection ★ Who can influence protection? <p>STRESS THAT HR MONITORS ARE NOT ABLE TO REALISTICALLY PROTECT, AND THAT IN GENERAL THERE IS NO MECHANISM TO PHYSICALLY PROTECT INDIVIDUALS AT RISK: THE BEST MEANS OF PROTECTION IS PREVENTION.</p> <p>Discuss with participants threat and risk assessment and talk about how assessment of risk can lead to the identification of mitigation actions (Slides 52-55).</p> | PowerPoint presentation slides M4 |

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| | <p>How to plan preventive measures in the following phases (Slides 56-57)</p> <ul style="list-style-type: none"> ★ Prioritising among contacts ★ Security risk assessment ★ Initial contact ★ Interview and follow-up <p>Also discuss with participants methods for protecting information.</p> <ul style="list-style-type: none"> ★ Recording ★ Codes ★ Storage <p>Finally, discuss response measures (Slide 58):</p> <ul style="list-style-type: none"> ★ Advice and support to victims/witnesses ★ Capacity building ★ Technical cooperation with state authorities ★ Advocacy with NGOs, diplomatic missions... ★ Monitoring and reporting ★ Relocation | |
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Session 6. Analysing & verifying information of HR and IHL violations

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| 60 minutes | <p>The session explores methods to ensure accuracy and appropriate quantity of information, introduces techniques to corroborate consistency of information and examines indicators signalling the probable occurrence of HRs violations.</p> | |
| | <p>Explain to participants that the analysis and verification of information gathered to substantiate possible human rights violations is like matching the pieces of a puzzle.</p> <p>1. Check the reliability and credibility of the source (Slide 61).</p> <ul style="list-style-type: none"> ★ Who provided the information? ★ How did the source learn about the information in his/her possession? ★ What is the reason behind providing the information? ★ Is the information consistent with other sources? ★ Was that same source a reliable one in past instances? | PowerPoint presentation slides M4 |

2. Check the **relevance** of the **information** received (Slide 62).

- ★ Is the information relevant to the HR issue?
- ★ Does it point to the occurrence of a HR violation?
- ★ Does the information fit into the context?

3. Check the validity of the information (Slide 63).

- ★ Is it accurate?
- ★ Is it inherently logical?
- ★ Is it consistent with other information gathered?
- ★ Is it corroborated with information from at least 2 other independent sources?

ADMIRALTY SCALE (Slides 64-65)

Assess, through grading each piece of information, the reliability of the source and, separately, the validity of the information.

Explain grading systems on Slide 65 (reliability of source, validity of information).

Also discuss the element of the integrity of methodology (Slide 66) by analysing whether:

- ★ the method of collection of information is beyond reproach;
- ★ the staff involved in the monitoring activity is independent and impartial;
- ★ the information was collected without any bias;
- ★ the information was independently corroborated;
- ★ the analysis was carried out in an objective way;
- ★ gender issues have been adequately analysed.

When explaining methodologies, also introduce the quantitative and qualitative analysis of data and discuss the three levels of analysis through which information gathered has to be screened (Slide 67):

- ★ **Factual analysis** – to ascertain whether the information gathered indicates that a certain event occurred and explains what really happened
- ★ **Legal analysis** – to establish whether facts constitute violations of IHRL or IHL

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| | <ul style="list-style-type: none"> ★ Analysis of responsibilities – to identify the institutions, entities, individuals responsible for the documented HR violations. | |
| <h2 style="color: #4F81BD;">Session 7: Reporting</h2> | | |
| | <p>Slides 70-71: Explain that reporting is an essential element of the human rights monitoring cycle and that human rights reports constitute a primary tool to record and analyse information, present findings of monitoring and fact-finding activities, express concern about a human rights problem, engage in dialogue and advocate with authorities, and propose recommendations for corrective action.</p> <p>Introduce the following aspects of reporting:</p> <ul style="list-style-type: none"> ★ Purpose & target audience ★ Who drafts the report ★ Features of HR reports ★ Human rights analysis in reports ★ Trends and patterns <p>Slide 72: Discuss with participants different ways to structure findings:</p> <ul style="list-style-type: none"> ★ By violation type ★ By perpetrator ★ By geographical area ★ By incident ★ In a combined way <p>Slide 73: Always include a methodology section describing methods of information gathering, of verification, principled methodologies, challenges and possible constraints.</p> <p>Slide 74: A section of the report should always focus on recommendations that:</p> <ul style="list-style-type: none"> ★ should flow from the findings; ★ should be directed to relevant actors; ★ should be SMART (specific, measurable, achievable, relevant, time-bound) or realistically implementable vs. principled. | <p>PowerPoint presentation slides M4</p> |
| <p>References and further reading</p> | <ul style="list-style-type: none"> ★ OHCHR, Manual on Human Rights Monitoring ★ Chapter 02 Basic Principles of Human Rights Monitoring, http://www.ohchr.org/Documents/Publications/Chapter02-MHRM.pdf ★ Chapter 3 Human rights Monitoring, Investigation and Fact-finding by the United Nations http://www.ohchr.org/Documents/Publications/Chapter03-MHRM.pdf ★ Chapter 11 Interviewing http://www.ohchr.org/Documents/Publications/Chapter11-MHRM.pdf | |

- ★ Chapter 13 – Human Rights Reporting,
<http://www.ohchr.org/Documents/Publications/Chapter13-MHRM.pdf>
- ★ Chapter 14 Protection of victims, witnesses and other cooperating persons,
<http://www.ohchr.org/Documents/Publications/Chapter14-56pp.pdf>
- ★ General table of content:
<http://www.ohchr.org/Documents/Publications/OHCHRTTableContents.pdf>
- ★ Møehlum, 'Human Rights Monitoring' in Skåre Siri, Burkey Ingvild and Mørk Hege (eds.), *Manual on Human Rights Monitoring. An Introduction for Human Rights Field Officers*, Oslo: Norwegian Centre for Human Rights, 2008, Chapter 6,
<http://www.jus.uio.no/smr/english/about/programmes/nordem/publications/manual/>
- ★ Jacobsen, *Human Rights Monitoring: A Field Mission Manual*. Leiden/Boston: Martinus Nijhoff Publishers, 2008, 1-19
- ★ Guzman and Verstappen, *What is monitoring*. Versoix: HURIDOCs, 2003, 44,
<https://www.huridocs.org/wp-content/uploads/2010/08/whatismonitoring-eng.pdf>
- ★ Grace and Bruderlein, *Building Effective Monitoring, Reporting, and Fact-finding Mechanisms*. Humanitarian Policy and Conflict Research Draft Working Paper, 2012, 17-21 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2038854
- ★ Grace, 'Recommendations and Follow-up Measures in Monitoring, reporting, and Fact-finding Missions'. Harvard Humanitarian Initiative, 2014, 54
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2480824
- ★ Alston and Knuckey, *The Transformation of Human Rights Fact-Finding*. Oxford: Oxford University Press, 2016, 1-88, 107-128, 499-524
- ★ Draft Model Rules of Procedure suggested by the Secretary-General of the United Nations for Ad Hoc bodies of the United Nations entrusted with studies of particular situations alleged to reveal a consistent pattern of violations of human rights, E/CN.4/1021/Rev. 1, 30 Oct. 1970;
- ★ UN Economic and Social Council, Model rules of Procedure for United Nations Bodies dealing with violations of human rights, E/RES/1870(LVI), 17 May 1974.
- ★ Belgrade Minimal Rules of Procedure for International Human Rights Fact-Finding Missions, AJIL, Vol.75, No. 1, 1981, 163-165.
- ★ U.N. General Assembly Resolution 35/176, Alternative Approaches and Ways and Means Within the United Nations System to improve the Effective Enjoyment of Human Rights and Fundamental Freedoms, 15 Dec. 1980.
- ★ U.N. General Assembly Resolution 46/59, Declaration on Fact-finding by the United nations in the Field of the maintenance of International Peace and Security, 9 Dec. 1991.
- ★ Special rapporteurs/Representatives of the commission on Human Rights, Terms of Reference for Fact-Finding Missions, E/CN.4/1998/45, 20 Nov. 1997. Appendix V.
- ★ Ramcharan, *International law and Fact-Finding in the Field of Human Rights*. Leiden/Boston: Brill Nijhoff, 2014, Chapters I, II, III, IV, V, VI, IX
- ★ Van Boven, 'The reports of fact-finding bodies' in Ramcharan, *International law and Fact-Finding in the Field of Human Rights*. Leiden/Boston: Brill Nijhoff, 2014, 180-185.

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| | ★ Ennals, 'Reporting- A Means of Promoting and protecting Human Rights'. Mennesker og Rettigheter ("Nordic Journal of Human Rights"), 1988, 14-22 |
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MODULE 5 - HUMAN RIGHTS AND RULE OF LAW

Aims and objectives

Rule of law and human rights have an indivisible relationship enshrined in the Universal Declaration of Human Rights: “[I]t is essential, if man is not to be compelled to have recourse as a last resort, to rebellion against tyranny, and oppression, that human rights should be protected by the rule of law”. This module will guide participants through the analysis of the principles of the rule of law and their link with the enjoyment of human rights. Participants will gain an understanding of the concept of rule of law from a historical perspective and the process of strengthening the rule of law in post-conflict environments.

Duration: 1 day

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

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You will need: Module 5 PowerPoint presentation slides, projector, flip-chart and markers, coloured cards, computer, paper, printed copies of the case studies.

Learning objectives

Participants will be able to:

- ★ explain what the rule of law is and have a historical overview of its development;
- ★ recall the sources of international law that express the principles of the rule of law;
- ★ recall the main human rights to be guaranteed by the rule of law;
- ★ explain how rule of law institutions guarantee the respect of human rights;
- ★ compare various approaches in strengthening the Rule of Law;
- ★ list organisations that promote the rule of law.

DAY 8 - MODULE 5
HUMAN RIGHTS AND THE RULE OF LAW

| Time | Title of the session | Method/Material | Learning objectives |
|------------|---|--|---|
| 90 minutes | The rule of law and its principles: a historical approach | Presentations Computer and projector | <ul style="list-style-type: none"> ★ Explain what the rule of law is and have a historical overview of its development. ★ Recall the sources of international law that express the principles of the rule of law. |
| 15 minutes | Coffee break | | |
| 75 minutes | Strengthening the rule of law | Presentations Computer and projector Printed materials | <ul style="list-style-type: none"> ★ Compare various approaches in strengthening the rule of law. ★ List organisations that promote the rule of law. |
| 60 minutes | Lunch | | |

| Duration | Activity | Resources/comments |
|---|---|--|
| Session 1: The rule of law and its principles: a historical approach | | |
| 90 minutes | This session illustrates participants the definition of rule of law and its evolution throughout ages. | |
| | <p>Start the module by asking participants the following question:</p> <p>What is the rule of law?</p> <p>Together with participants, use the flip-chart and markers to collect key words. Guide the discussion to help participants highlight the following concepts:</p> <ul style="list-style-type: none"> ★ The government bound and ruled by law ★ Equality before the law ★ Law and order ★ The protection of human rights <p>Then show Slides 5 to 10 and explain the historic evolution of the concept of rule of law from a historical perspective.</p> | PowerPoint presentation: M5Sess1 |
| 20 minutes | <p>Show the video and then ask the following questions:</p> <p>What are the main principles of the rule of law?</p> <p>Write down the answers and discuss with the class about the possible answers.</p> | <p>Video:</p> <p>https://www.youtube.com/watch?v=0Hubr8mZlIc</p> |
| | <p>Proceed to Slides 11 to 13 and introduce the participants to the principles of rule of law. These principles are the following:</p> <ul style="list-style-type: none"> ★ A government that is not bound by its own laws is by definition lawless. ★ Without equality before the law, the rule of law has meaning only for the few. ★ Without political or social order, the law cannot be applied. ★ Slow, and arbitrary application of the law means a breakdown of rule of law. ★ If the law is neither efficient nor predictable, no one can trust its application or abide by its rules. ★ The essential principle that the rule of law must protect human rights was not always accepted, but has become an obvious precondition for any democracy that establishes human rights as a foundation for its constitutional principles. | |

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| | One might add that in a democracy, the Western concept of the rule of law should also include the separation of religion and state as a basic constitutional principle, since no specific religious institution should establish general law for the entire community. [See Democracy Web comparative studies in Freedom, http://democracyweb.org/rule-of-law-principles] | |
| 20 minutes | Exercise 1: Conduct an exercise on Slide 14. Determine whether the statements are true or false. | |
| 10 minutes | Exercise 2: Conduct a recap of the session and review the main features of the rule of law, allowing space for questions from participants. | |
| Coffee break | | |
| ★ References and further reading | <ul style="list-style-type: none"> ★ Bingham, T., 2010, <i>The Rule of Law</i>, London: Allen Lane. ★ Declaration of the Rights of Man, 1789. ★ Magna Carta, 1215. ★ English Bill of Rights, 1689. ★ U.S. Declaration of Independence, 1776. ★ Constitution of the United States and Bill of Rights, 1787 and 1791. ★ Habeas Corpus Act, 1679 (available at LONANG Institute). ★ Kleinfeld Belton, Rachel. "Competing Definitions of the Rule of Law." Carnegie Endowment for International Peace: Carnegie Papers: January 21, 2005. | |
| ★ Useful web resources | <ul style="list-style-type: none"> ★ https://worldjusticeproject.org/about-us/overview/what-rule-law ★ https://plato.stanford.edu/entries/rule-of-law/ | |

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| Duration | Activity | Resources/comments |
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| Session 2: Strengthening the rule of law | | |
| 75 minutes | This session explains the critical specifics of the post-conflict countries and what needs to be done in order to strengthen the rule of law. | |
| | <p>Short video and presentation: Start the session by asking participants what the main features of the rule of law are in post-conflict countries. Note their answers and then show the video.</p> <p>Display Slide 4 to explain the concept of the legacy of a conflict and the remedies. Show the slide step-by-step in order to clarify each element.</p> <p>Display Slide 5, which introduces the concept of human security, and explain it. Give details on the characteristics of each point and make examples from the field operations.</p> | <p>PowerPoint presentation slides M5Sess2</p> <p>Video: https://www.youtube.com/watch?v=oAHST5m1F54</p> |

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| | <p>Move to Slide 6 and explain the concept of the justice system and accessibility for all.</p> <p>Finally, focus on Slide 7 and the concept of reduction of SGBV as a point of strengthening the rule of law.</p> <p>Exercise 1: Roleplay on strengthening the rule of law</p> <p>Assessment mission</p> <p>Divide the class into 3 groups:</p> <p>Distribute the three case studies with the information of the different scenarios.</p> <p>Instructions</p> <p>Each group takes 10 minutes to read the papers and tries to assess the situation by way of internal discussion. When the time is up, each group presents to the class the scenario and tries to identify where the countries present weaknesses and strengths in their systems, if possible suggesting ways to improve the situation. After each presentation, the lecturer collects comments from the different groups and guides the debate. Finally, the trainer will present the results to participants.</p> | <p>M5_Case Study 1</p> <p>M5_Case Study 2</p> <p>M5_Case Study 3</p> |
| <p>30 minutes</p> | <p>Exercise and short video: Organisations promoting the rule of law</p> <p>Display Slides 8 to 13 and illustrate examples of different organisations promoting the rule of law.</p> <p>Justice and corrections experts provide support to national authorities to re-establish the basic functioning of the criminal justice chain, including courts and prisons, and to develop national justice strategies. The SSR unit provides the secretariat for the United Nations Inter-agency SSR Task Force, which is co-chaired by DPKO and the United Nations Development Programme.</p> <p>Show the video and open the floor to discussion.</p> <p>Wrap up with the techniques to strengthen the rule of law and allow time for questions and answers.</p> | <p>Video: https://www.youtube.com/watch?v=LSWR_WXD MhU</p> |
| <p>Lunch</p> | | |
| <p>★ References and further reading</p> | <ul style="list-style-type: none"> ★ Brian Z. Tamanaha, <i>On the Rule of Law: History, Politics, Theory</i>, Cambridge University Press, 2004 ★ Council of Europe mechanisms in the fields of democracy, rule of law and human rights available at https://www.coe.int/en/web/human-rights-rule-of-law/general ★ The OHCHR Rule of Law - Democracy and Human Rights available at http://www.ohchr.org/EN/Issues/RuleOfLaw/Pages/Democracy.aspx ★ O'Connor V. <i>Understanding the International Rule of Law Community, its History, and its Practice</i> INPROL - International Network to Promote the Rule of Law, 2015 | |

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| ★ Useful web resources | ★ https://www.un.org/ruleoflaw/ ★ https://www.coe.int/en/web/portal/rule-of-law |
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MODULE 6 - THE HUMAN RIGHTS-BASED APPROACH (HRBA)

Aims and objectives

This module aims at illustrating the key elements of a Human Rights-Based Approach and at providing instruments and methodologies on how to use it as a programming tool for mainstreaming human rights into technical cooperation, development and capacity building programs.

Duration: 1/2 day

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

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You will need: Module 6 PowerPoint presentation slides, flip-chart and markers, computer, projector, paper, coloured cards.

Learning objectives

Participants will be able to:

- ★ explain what human rights mainstreaming and the Human Rights-Based Approach are;
- ★ mainstream HR within a specific programme;
- ★ compare the different tools and resources used to implement HRBA.

DAY 8 - MODULE 6

THE HUMAN RIGHTS BASED APPROACH

| Time | Title of the session | Method/Material | Learning objectives |
|-------------|--|--|---|
| 90 minutes | The Human Rights-Based Approach (HRBA) | Presentations Computer and projector Flip-chart and markers Printed materials | <ul style="list-style-type: none"> ▪ Explain what human rights mainstreaming and the Human Rights-Based Approach are. ▪ Mainstream HR within a specific programme. ▪ Compare the different tools and resources used to implement HRBA. |
| 15 minutes | Coffee break | | |
| 120 minutes | cont. | Presentations Computer and projector Flip-chart and markers Printed materials | <ul style="list-style-type: none"> ▪ cont. |

| Duration | Activity | Resources/comments |
|---|--|--|
| Session 1: The Human Rights-Based Approach | | |
| 120 minutes | This session seeks to explain the definition and rationale of the Human Rights-Based Approach (HRBA). It provides an overview of the main components that lay the foundations of the HRBA. | |
| | <p>Introduce the module by saying that over the last decade, there has been significant progress in mainstreaming human rights in the work of the UN system and of regional organisations. This has also entailed a process of human rights integration in areas of technical cooperation at national level that are not directly and/or specifically linked to human rights. Human rights principles are being used to guide programming for technical cooperation. The Human Rights Based Approach is a methodology that can enable more successful programming by informing the way these are designed, implemented, monitored and evaluated.</p> <p>Introduce the contents of the presentation and the learning objectives on Slides 2 and 3 and ask participants the following questions, noting the answers provided on a flip-chart:</p> <p>What is, to your knowledge the HRBA?</p> <p>What are, in your opinion, its constitutive elements?</p> <p>Brainstorm through notes on the flip-chart on what is a Human Rights-Based Approach and then show Slide 4.</p> <p>Give the definition of a Human Rights-Based Approach (HRBA) by saying that it is...</p> <p>... “a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.”</p> <p>[OHCHR, Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation (2006)]</p> <p>Further explain that, in 2003, the Stamford Interagency Workshop on a Human Rights-Based Approach in the Context of UN Reform reached a common understanding and consensus on the definition of HRBA and also defined six key principles of HRBA to guide programming:</p> | PowerPoint presentation slides M6 |

- ★ universality and inalienability;
- ★ indivisibility;
- ★ interdependence and interrelatedness;
- ★ non-discrimination and equality;
- ★ participation and inclusion; and
- ★ accountability and the rule of law.

A HRBA is therefore a “framework of action as well as a methodological tool’ to apply international human rights principles, values, standards and goals to all stages of programming”.

Show **Slide 5**, which captures the main elements of a HRBA:

- ★ rights-holders/duty-bearers relationship
- ★ focus on marginalised groups
- ★ pursues the progressive achievement of all HRs
- ★ gives equal importance to the outcome and process of development.

In the HRBA, the HR principles guiding the development process are just as important as the human rights standards defining the content of the development objectives. HRBA has also a procedural dimension. Key principles such as participation, equality and non-discrimination and accountability ensure that the development and programming processes create a conducive environment for the realisation of HRs.

After having delineated the main characteristics of the HRBA, explore the difference between a rights-based and a needs-based approach through the following exercise (Slide 6):

Divide participants into 4 groups and distribute 3 cards per group, then ask participants to write down one idea on each card (focused on the main differences between the needs-based and rights-based approach). Give them 20 minutes then ask them to report to the plenary on their discussions by reading the ideas on the cards.

Display **Slide 7**.

The main threads of the discussion should lead to identifying the following elements:

Needs-based:

Voluntary action

Contextual needs

Deserve help

Passive beneficiaries

Pragmatic ways to work with structures

Technocratic development

Hierarchy of needs

Human rights-based

Mandatory action

Universal and legally established claims and entitlements

Entitled to enforceable rights

Active participants

Power structures must be effectively changed

Development transforms behaviours and institutions and empowers rights holders

Indivisible and interdependent rights

The overall conclusion is that while other approaches are not wrong, the HRBA builds upon them and improves them.

Then move on to discuss **the WHY of a HRBA** to development.

Analyse 3 aspects:

Slide 8: (a) Normative value (intrinsic rationale)

The HRBA is based on universal values reflected in human rights principles and standards that provide a common standard of achievement for everyone. The HRBA establishes duties and obligations and corresponding claims, and highlights the importance of establishing accountability mechanisms at all levels for duty-bearers to meet their obligations. In the HRBA, people are no longer regarded as passive beneficiaries of State policies but they are considered active participants in their own development and rights-holders, positioning them at the core of the development process.

Slide 9: (b) Instrumental to development strategies

A HRBA leads to better and more sustainable human development outcomes by: analysing the inequalities, discriminatory practices, and unjust power relations; emphasising the accountability of the State and its institutions with regard to respecting, protecting and fulfilling all the human rights of all people within their jurisdiction.

Slide 10: (c) Institutional value

Development challenges are examined from a holistic perspective guided by the human rights principles and taking into account the civil, political, economic, social and

cultural aspects of a problem (e.g. PRSs guided by rights to education and health, freedom of expression and assembly, right to information etc.). A HRBA requires using the recommendations of international human rights mechanisms in the analysis and strategic response to development problems.

Slide 11: Introduce the UN Common Understanding on HRBA by explaining that the 2003 UN Common Understanding on a HRBA to development cooperation identified three complementary criteria that characterise such an approach. The first criterion requires that **“all programmes should further the realization of human rights” (GOAL)**. The second established that **human rights standards and principles should “guide all programming in all sectors and all phases of the programming process” (PROCESS)**. The third criterion affirms that **programming should “contribute to the development of capacities of duty-bearers to meet their obligations and of rights-holders to claim their rights”. (OUTCOME)**.

Proceed to explain each criterion.

Slides 12 -13: GOAL - The ultimate objective must be a greater realisation of rights. Programming is to be informed by concluding observations, recommendations, general comments of TBs and SPs.

Slides 14-15: PROCESS - The process of development must be of a certain type; processes should be guided by human rights principles and standards, and this should happen for all development strategies, in all sectors and phases of the programming cycle.

Slide 16: Explain **HR standards** by saying that international human rights instruments contain the human rights standards that constitute the minimum normative level or content of entitlements and obligations against which duty bearers at all levels of society – but especially organs of the State – can be held accountable. A minimum standard is the minimum level or content necessary to be able to affirm that a right is being fulfilled.

Display **Slide 17** and explain HR principles by saying that the 2 colours show a difference between the two sets of principles. Those in red are content-oriented while those in blue are process-oriented.

Universality and inalienability: Human rights are universal and inalienable. **Indivisibility:** Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are **all** inherent to the dignity of every human person. **Inter-dependence and Inter-relatedness:** The realisation of one right often depends, wholly or in part, upon the realisation of others. **Equality and non-discrimination:** All individuals are equal as

human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind.

Participation and inclusion: Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realised. **Accountability and rule of law:** States and other duty-bearers are accountable for the observance of human rights.

Slide 18: OUTCOME – Go through the various points listed on the slide and underline that the *focus* of strategies is the capacity development of rights-holders to claim their rights, and of duty-bearers to fulfil their obligations.

Slide 19: Explain the added value of the application of a HRBA programming that helps answer four critical questions:

1. Who has been left behind and why?
2. What are they entitled to?
3. Who has to do something about it?
4. What capacity do they need to take action?

Slide 20: The first stage of any programming is the carrying out of a situation analysis (WHO HAS BEEN LEFT BEHIND?) Carrying out such an assessment through a human rights lens helps determine the extent of a potential problem and the affected groups.

Once the existence of a problem has been ascertained, the causality analysis from a human rights standpoint entails the identification of the causes of the problem through establishing its immediate, underlying and root causes, and identifying which rights are at stake. This will result in a list of potential or actual human rights violations, the major factors contributing to such infringements and the actors involved. (WHY? RIGHTS AT STAKE?)

A role-pattern analysis then allows the identification of the claim/duty on the basis of the causality analysis, determining who the rights holders and duty-bearers are in relation to specific rights. (WHO HAS TO TAKE ACTION?) The capacity gap analysis indicates the capacities necessary for duty-bearers to respond to claims and for rights holders to advocate for the enjoyment of their rights. (WHAT CAPACITY IS NEEDED?)

Conclude by highlighting the main elements to a HRBA to programming (**Slide 21**):

Assessment and analysis identifies the human rights claims of rights holders and the corresponding human rights obligations of duty-bearers as well as the immediate,

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| | <p>underlying, and structural causes of the non-realisation of rights.</p> <p>Programmes assess the capacity of right-holders to claim their rights and of duty-bearers to fulfil their obligations. They then develop strategies to build these capacities.</p> <p>Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.</p> <p>Programming is informed by the recommendations of international human rights bodies and mechanisms.</p> <p>Conduct a wrap-up exercise: Using the same groups of the previous exercise, discuss and agree on a definition explaining what a HRBA to programming is.</p> <p>Conclude the module by showing a short video on the HRBA: https://www.youtube.com/watch?v=-ze4QtIrt7g</p> | |
| <p>★ References and further reading</p> | <ol style="list-style-type: none"> 1. IASC, The Human Rights-based Approach to Development Cooperation - Towards a Common Understanding among the United Nations Agencies. Second Inter-Agency Workshop, Stamford, USA, (May 2003) available at https://undg.org/wp-content/uploads/2015/05/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN1.pdf 2. OHCHR, Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation (2006), available at www.ohchr.org/Documents/Publications/FAQen.pdf 3. UNDG, Guidance Note on the Application of the Programming Principles to the UNDAF (2010) 4. UNFPA, HRBA Checklist of Questions, a human rights-based approach to programming: practical implementation manual and training materials (2010) available at https://undg.org/wp-content/uploads/2015/02/HRBA-Checklist-UNFPA.pdf | |
| <p>★ Useful web resources</p> | <ul style="list-style-type: none"> ★ http://www.ohchr.org/EN/NewYork/Pages/MainstreamingHR.aspx ★ http://hrbaportal.org ★ http://hrbaportal.org/archives/resource-types/learning-training-materials | |

MODULE 7 - HUMAN RIGHTS CAPACITY BUILDING AND HUMAN RIGHTS EDUCATION

Aims and objectives

This module seeks to develop practical skills and technical knowledge on capacity building and human rights education. It focuses on methods and techniques that will enable participants to assist host countries in the establishment and strengthening of national actors active in the promotion and protection of human rights. Human rights education is seen as an effective instrument against human rights violations as it aims to prevent such violations from occurring in the first place, by fostering within each person an awareness of human rights issues and a sense of the individual's ability to defend or promote them. Awareness is another preventive tool that can be particularly effective when organised so as to favour the greatest possible 'multiplying effect' in the host country and society.

Duration: 1 day

What you will need for this module

Before starting the module, make sure you are familiar with the layout of the room and how to find emergency exits, toilets, etc.

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You will need: Module 7 PowerPoint presentation slides, flip-chart and markers, coloured cards, computer and projector, paper.

Learning objectives

Participants will be able to:

- ★ describe human rights capacity building as a process for instilling technical knowledge and practical skills, to beneficiaries;
- ★ explain the scope and methods of building national human rights capacities on human rights, including legal and institutional reforms;
- ★ describe human rights education and awareness raising as tools to empower rights holders and to strengthen government and other national institutions;
- ★ recall the basic tenets of human rights advocacy.

DAY 9 - MODULE 7

HUMAN RIGHTS CAPACITY BUILDING AND HUMAN RIGHTS EDUCATION

| Time | Title of the session | Method/Material | Learning objectives |
|----------------------------------|--|--|---|
| 135 minutes | Human rights capacity building | Presentations Computer and projector Printed materials (UN Charter) | Describe human rights capacity building as a process for instilling technical knowledge and practical skills, to beneficiaries. ★ Explain the scope and methods of building national human rights capacities on human rights, including legal and institutional reforms. |
| 15 minutes | Break | | |
| 105 minutes | Human rights capacity building (cont.) | cont. | ★ cont. |
| 75 minutes | Lunch break | | |
| 150 minutes (including break) | HR promotion & education | Presentations Computer and projector, flip-chart markers and coloured cards | ★ Describe human rights education and awareness raising as tools to empower rights holders and to strengthen government and other national institutions. ★ Recall the basic tenets of human rights advocacy. |

| Duration | Activity | Resources/comments |
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| Session 1: Human rights capacity building | | |
| 240 minutes | This session introduces participants to human rights capacity building by discussing three main tools to assess capacity and develop it in the field of HR: the Human Rights Based Approach, human rights training and the TNA. | |
| | <p>Activity: Start the module by asking participants whether they know the HRBA methodology.</p> <p>Explain to them that the HRBA programming methodology identifies rights and duties, explores why these cannot be realised, evaluates the extent of the capacity gap and seeks to close such gaps by developing sustainable local capacity. It is a planning tool to assess what capacity exists and how it should be further developed.</p> <p>Display Slide 5 and 6 and explain that the HRBA entails asking 4 critical questions:</p> <ol style="list-style-type: none"> 1. <u>Who</u> has been left behind? Assessment from a human rights and gender perspective helps to determine whether and where a problem or challenge exists, its intensity and who is affected. The HRBA adds value to this assessment by relating the situation to the human rights obligations in the international instruments ratified by each country. 2. <u>Why?</u> Which rights are at stake? The ‘why’ ties into the causal analysis and will help visualise how human rights principles can help identify persistent patterns of discrimination and exclusion. Causality analysis should lead to the identification of immediate, underlying and root causes. 3. <u>Who</u> has to do something about it? It is important to identify, specifically, who are the duty bearers and rights holders. 4. <u>What capacity</u> do <u>they</u> need to take action? The ‘they’ in the final question refers to both rights holders and duty bearers and helps identify critical capacity gaps that prevent action. <p>Explain the duty bearers/ rights holders relationship (Slide 7) by spelling out the following concepts:</p> <p>Capacity: the ability of individuals, organisations and societies to perform functions, solve problems, and set and achieve individual goals</p> <p>Capacity development: sustainable creation, use and retention of capacity</p> <p>Rights holders capacities: (i) to understand their rights, (ii) to formulate demands on the state to</p> | PowerPoint presentation slides M7 |

protect/promote/fulfil these rights and, (iii) to seek redress if their rights are violated. By developing the capacities of rights holders, they are empowering them to claim their rights.

Duty-bearers: the capacity of the State at all levels to meet its obligations to respect, protect and fulfil.

The obligation/duty to respect: requires the duty-bearer to refrain from interfering directly or indirectly with the enjoyment of the rights

The obligation to protect: requires the duty bearer to take measures that prevent third parties from interfering with the enjoyment of the right

The obligation to fulfil (facilitate): requires duty-bearers to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realisation of the right

The obligation to fulfil (provide): requires duty-bearers to directly provide assistance or services for the realisation of the right.

By developing the capacity of the State to respect, protect and fulfil, the State institutions and government officials become more accountable.

Explain the importance, for human rights capacity building, of the CAPACITY GAP ANALYSIS (Slide 8). The **Capacity Gap Analysis** helps answer the following questions: What capacities are lacking for the rights-holders to claim their rights? What capacities are lacking for these institutions or individuals to carry out their duties as duty-bearers? Under a HRBA, the following components are integral to capacity development:

Responsibility/motivation/commitment/leadership: This refers to the characteristics that duty-bearers *should* recognise regarding their roles in order to carry out their obligations. **Authority:** This refers to the legitimacy of an action, when individuals or groups feel or know that they can take action. **Access to and control over resources**

Slide 9: The Capacity Gap Analysis helps identify critical capacity needs. This helps organisations finding entry points for their human rights capacity building interventions.

- ★ **Exercise:** applying a HR approach to CB – problem identification and role pattern analysis.
- ★ Use a concrete example and ask participants to define the HR goal. First, ask them to:
- ★ **identify the problem:** Conduct an assessment of the issues in the community; collect and review data and

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| | <p>identify priority issues; identify the capacity of the organisation to deal with identified issues;</p> <ul style="list-style-type: none"> ★ identify possible HR violations: Define the problem within the HR Framework; identify which HR are at issue and how have they been violated; ★ identify the rights holders and what they should or could do; ★ identify the duty-bearers and what they should or could do; ★ identify other relevant actors and their possible role; ★ make hypothesis relevant. | |
| | <p>Human rights training</p> <p>A typical example of a human rights capacity building tool is human rights training.</p> <p>Give a definition (Slide 10) and indicate the main traits of a HR training activity (Slide 11). Explain that while the first element (organised) refers to the whole process related to the organisation of the training exercise, the other three attributes relate more to the overall outcomes of human rights training. The target group, which should be at the centre of the whole training exercise and inspire the preparation and the delivery of the training itself, should receive information and acquire knowledge on what human rights are and how relevant they are for the job. The group should be sensitised and empowered to promote and protect human rights in the performance of their professional duties. The training should therefore allow the target group to acquire or reinforce skills so that their functions can be fulfilled in an effective way with due respect and regard for human rights. Overall, the training should be aimed at improving knowledge, skills and attitudes in order to contribute to an appropriate or more appropriate professional behaviour.</p> <p>Discuss HR training principles (Slide 12)</p> <p>Audience specificity: This principle should be part of the training process in all its phases. The starting point and the focus of the whole training exercise are the needs of the participants, so knowing the audience is essential in terms of delivery and planning.</p> <p>Practical approach: Adults in general, and police officers in particular, prefer a practical approach that would fit into their daily reality. They are usually confronted with concrete situations and therefore concrete experience should be the starting activity of the training: What do they already know on the subject? What is their relevant experience on the issue? Which problems do they face? What would they like to learn?</p> | |

Collegial presentations and interactive training techniques: This principle relates to the profile of the trainer and its function. The role of the trainer is to *facilitate learning*, i.e. to help the process of understanding on the part of the participants. Trainers are *educators*. In the case of police training, trainers should to the greatest extent possible share the same organisational/professional culture as the trainee (peer training) and have a human rights expertise. Trainers should also be able to apply interactive training methodologies.

Evaluation: Pre and post evaluative exercises constitute effective tools to tailor training needs, to readjust the training and to assist in the continuous modification and improvement of training exercises.

Linkages with policies: The linkage to professional training policies, to human rights education efforts or to other professional/organisational policies should be underlined for each training exercise, so as to put the activity in a broader context.

Training Needs Assessment (TNA) (Slides 13-16)

Explain its aim and why it is important for HR capacity building activities. Then discuss the main steps for undertaking a TNA.

Remind participants that the process for conducting a training needs assessment is the same as for any type of evaluation:

- ★ Define the purpose.
- ★ Determine the right questions about the context of the training and about the learners.
- ★ Collect information from the right sources to answer your questions; analyse the data to make your recommendations.
- ★ Act on the information; this involves specifying learning needs and identifying the overall learning goal of the training session or programme.

Two main information gathering activities of a training needs assessment for HRE are:

- ★ **The environmental scan** - an analysis of the context in which the human rights training will take place. This includes gathering and analysing information about learners' organisational or community context and their actual work in their organisation or communities.
- ★ **The learner profile** - an analysis of various learner characteristics that will help us build an accurate picture of the learners for the training session and thus inform our decisions about training design. Key

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| | <p>characteristics include demographic information, occupation, education and motivation for learning.</p> <p>When resources for conducting a training needs assessment are limited, it is often possible to integrate some of the basic questions into pre-training questionnaires, informal interviews and pre-training assignments.</p> <p>Exercise: Training Needs Assessment (TNA)</p> <p>Situation</p> <p>In order to meet its requirements under the country's National Human Rights Plan, the Ministry of Economic and Social Affairs of Korlonia is required to integrate human rights into the Ministry's work. The Ministry established the need to organise human rights training for all the staff of the institution starting from the most senior officials.</p> <p>To this end, the officer of the Ministry in charge of executing such decision made contact with ACT FOR YOUR RIGHTS (AYR), a national human rights NGO with extensive experience in HRE, to develop and implement a human rights training course for the Ministry's senior officials.</p> <p>The staff of the Ministry is a new target audience for AYR. That is why the organisation decided to conduct a TNA in order to reach a good understanding of the work context of these officials, as well as their specific learning needs related to the integration of human rights into their work.</p> <p>Task</p> <ul style="list-style-type: none"> ★ Meet with your team and discuss the key questions you will need to answer to develop a training plan for this target audience. ★ Write down the relevant questions and the possible answers from the sources on a flip-chart and provide some elements for a training needs assessment strategy (e.g. priorities, tools, etc.). | |
| <h2 style="color: #4F81BD;">Session 2: Human rights education</h2> | | |
| 150 minutes | This session introduces participants to human rights education and advocacy | |
| | <p>Activity: Define HRE (Slide 19) and enlist and explain its main features and components (Slides 20-21).</p> <p>Illustrate the WPHRE, which started in 2005 and is currently on-going (Slide 22).</p> <p>Introduce the topic of advocacy (Slide 23).</p> | PowerPoint presentation slides M7 |

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| | <p>Discuss with participants the main elements of an advocacy strategy (Slide 24).</p> <p>Map out the target audience of an advocacy campaign and also identify, together with participants, possible intermediaries and allies in the campaign itself (Slide 25).</p> <p>Discuss effective advocacy messages (Slide 26). Give examples (see Slide 27 for characteristics).</p> <p>How to cope with resistance: Discuss strategies (Slides 28-29).</p> <p>Identify tools and forms for advocacy (Slide 30).</p> <p>Exercise: Coping with and countering resistance</p> <p>Task:</p> <ul style="list-style-type: none"> ★ Discuss and devise strategies for countering common resistance and misconceptions vis-à-vis human rights. Use words, actions, and behaviour. ★ Prepare counter-arguments to respond to the statement assigned to your group, communicating a positive attitude towards HR. Write your counter-arguments on a coloured card and share them in plenary. <p>Resistance (some examples, but you can develop more to distribute in the class):</p> <ul style="list-style-type: none"> ★ The realisation of human rights is an expensive task. It is inevitable for countries to postpone it when they do not have sufficient resources. ★ 'I believe in human rights and I have defended them in repeated occasions. However, when it comes to the claims of gays and lesbians, I cannot stand up for these people.' ★ 'In our culture, this cannot be accepted.' ★ 'In times of conflict and post-conflict, we should prioritise peace and security over human rights.' ★ 'Human rights should be contextualized to each culture and country. Women, for example, do not have or enjoy the same rights everywhere. It's all relative.' ★ 'Human rights law prevents terrorists and criminals from being properly punished.' ★ 'Human rights law has been imposed by Europe.' | |
| <ul style="list-style-type: none"> ★ References and further reading | <ul style="list-style-type: none"> ★ OHCHR, Human Rights Training: A Manual on Human Rights Training Methodology, Professional Training Series No.6, New York and Geneva, 2000. ★ Amnesty International, First Steps: A Manual for Starting Human Rights Education, 2002, available at https://www.amnesty.org/en/documents/POL32/002/2002/en/ | |

- ★ R.P. Claude, Methodologies for Human Rights Education. A project of the Independent Commission on Human Rights Education, available at <https://www.pdhre.org/materials/methodologies.html>
- ★ Summary Report of the Office of the UNHCHR, Panel discussion on the implementation of the United Nations Declaration on Human Rights Education and Training: good practices and challenges, A/HRC/35/6, 37 March 2017.
- ★ P. J. Martin, The design and evaluation of human rights education programs, New York: Columbia University, Center for the Study of Human Rights, 2000.
- ★ P.J. Martin, Self-help Human Right education handbook. New York: Columbia University, Center for the Study of Human Rights, 1996.

EVALUATION AND CLOSING

Any training should be conducted in accordance with the European Convention on Human Rights (ECHR) principles, using procedures and common terminology, while at all times ensuring adherence to best practices pertaining to safety, professionalism, behaviour and diversity.

The ENTRi project developed a comprehensive evaluation toolbox applicable for all training efforts offered under the ENTRi umbrella or elsewhere. The Course organiser should be able to implement an effective evaluation process as part of organising a training based on the ENTRi package. The course package programme should be appraised in accordance with the ENTRi evaluation toolbox to ensure that the programme:

- achieves its aim(s) and intended learning outcomes;
- is delivered in a manner which reflects the highest standards of professional practice;
- guarantees sustainable use of resources;
- meets the needs of learners;
- meets the requirements of civilian crisis management missions.

Since it is a long path from a training course to the actual implementation of the acquired skills, effective evaluation needs to be multifaceted in order to identify which aspects of training need adjustments or improvement. Hence, it is useful to carry out several types of evaluation, each of which aims at a different 'level of evaluation'. Four such levels of evaluation can be distinguished (Kirkpatrick 1979): reaction, learning, behaviour, and results. In order to guarantee a systematic and comprehensive assessment of the training programme and its impact, ENTRi conducts five different types of evaluation that correspond to the four levels:

All training courses are to be evaluated by the participants with a **post-course evaluation form**.

Training courses are to be evaluated by the implementing organisation as well as in a peer review by the partnering organisation (**special form – guided feedback for peer review**).

Effectiveness of the training is evaluated by checking the learning progress of individual participants in anonymous **In- and Out-Tests**.

After six months, former course participants receive a link to an anonymous online survey (**six-month post evaluation**) in order to generate feedback on the relevance of the course's content with regard to their working environment and duties in mission.

ENTRi consortium occasionally implements **Training Impact Evaluation Missions** in order to measure the impact of ENTRi training on participants and their working environment.



The focus of each evaluation gradually shifts from the individual, to the training courses, and finally to the working environment of former trainees.

The main purposes of ENTRi evaluations are:

- to improve future training activities and projects through feedback of lessons learned;
- to provide a basis for accountability, including the provision of information to the donor, the public, and interested third parties.

To learn more about the ENTRi Evaluation Framework and download the evaluation tools, please visit: <http://www.entriforccm.eu/resources/packages.html>

Downloadable materials include:

| Evaluation Type | Description | Level of Evaluation | Purpose |
|-------------------|--|---------------------|--|
| Course evaluation | <ul style="list-style-type: none"> ★ Course evaluation sheets for trainees: Focus lies on how participants perceived the different trainers and modules (content and methodology), the overall organisation of the course (incl. logistics) and the facilities. ★ Course organisers are obliged to ask lectures on how they perceived the training and are asked to note feedback comments in the course director's report. ★ Peer review by implementing partner organisation ★ Course directors report | Reaction | <ul style="list-style-type: none"> ★ "General estimate of a particular course's success based upon the views of the participants" ★ Addresses the trainers' behaviour and the participants' experience ★ Reflects participants' opinions ('customer satisfaction') ★ Measure of feelings, not of actual learning |

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| In- and Out-Test | <ul style="list-style-type: none"> ★ Participants have to participate in two tests, one before and one after the ENTRi training course. The focus of the test is not on the individual performance of the respective trainee, but is instead meant to check on the learning success. | Learning | <ul style="list-style-type: none"> ★ Identification of principles, facts, and techniques that were understood and absorbed by the participants (cognitive skills, knowledge) |
| 6-month post questionnaire | <ul style="list-style-type: none"> ★ The questionnaire serves to assess to what degree participants are able to apply the skills acquired in the training courses for their working life – in particular the ability to integrate quickly into the mission environment, the ability to become agents of change within their organisation, and the ability to enable former participants to better contribute to the implementation of the respective mission mandate. | Behaviour | <ul style="list-style-type: none"> ★ Estimation of training-related transfer of learning/knowledge into behaviour ★ Feedback to those involved in (re-) designing programmes to meet future needs |
| Training Impact Evaluation Mission (TIEM) | <ul style="list-style-type: none"> ★ Through qualitative interviews, TIEMs analyse the impact ENTRi pre-deployment and specialisation trainings had on: <ul style="list-style-type: none"> ★ capacity building, i.e. knowledge, skills, attitude, networks; ★ the use of capacity by the individual in a mission; ★ the impact of the individual using capacity built by ENTRi on his/her performance and in fulfilling the mission mandate. | Results | <ul style="list-style-type: none"> ★ Estimation of impact of training-related behavioural change on organisation |

| EVALUATION AND CLOSING | | | |
|------------------------|--|--|---------------------|
| Time | Title of the session | Method/Material | Learning objectives |
| 60 minutes – open end | Out-Test Evaluation Closing ceremony | Printed copies of the Out-Test Flip-chart, markers, evaluation sheets Certificates of attendance | |

Duration: 120 minutes – open end

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You will need: Flip-chart, markers, evaluation sheets, printed copies of the Out-Test

| Duration | Activity | Resources/comments |
|------------------------------------|---|--------------------------------|
| Session 1: Out-Test | | |
| 30 minutes | <p>The facilitator asks participants to retrieve the numbered cards assigned to each of them during the In-Test.</p> <p>The facilitator reminds participants that the Out-Test is anonymous and is aimed to allow participants to check on the learning success.</p> <p><u>Note:</u> if only few modules were delivered, make sure to delete the questions related to the modules and topics that were not covered during the training.</p> | Printed copies of the Out-Test |
| Session 2: Evaluation | | |
| 30 minutes | <p>The facilitator distributes the evaluation sheets on the overall organisation of the course (incl. logistics) and the facilities to the participants. The facilitator reminds them that it is anonymous and explains that it aims to improve future training activities and projects.</p> <p>The facilitator retrieves the flip-chart with the expectations raised by the participants on the first day of the training (see Module 0, Session 2) and goes through them with participants by ticking what expectations were met.</p> <p>The facilitator guides an oral feedback session using the flip-chart in order to assess the overall level of satisfaction of participants with regard to lectures, organisational aspects and logistics. It is intended to be a sharing platform for suggestions and feedback.</p> | Evaluation sheets |
| Session 3: Closing ceremony | | |
| 20 minutes – open end | <p>The director of the organisation delivering the training or the director of the training closes the training. Key messages to be conveyed can be:</p> <ul style="list-style-type: none"> ★ The expectations of participants were met concerning the content/quality of the training and the professionalism of the trainers and facilitators. ★ The importance of lifelong learning. ★ What participants have learned during the training will be useful for performing their tasks and better contributing to their professional goals. | |

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| | <p>The director of the organisation delivering the training or the director of the training delivers the certificates of attendance to each participant.</p> <p>The closing ceremony may end with a social gathering accompanied by a reception.</p> | |
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