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General Course on the International Protection of Human Rights

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Chapter I: THE GENERALIZATION AND EXPANSION OF THE INTERNATIONAL PROTECTION OF HUMAN RIGHTS

It was not until modern times that it became accepted in theory and in practice that there was no logical or juridical impossibility of norms of international law being directly addressed to individuals as *protected persons* at international level. Earlier international experiments of protection of the human person remained for some time circumscribed to certain categories of individuals (such as workers under the ILO system, members of minorities, inhabitants of territories under mandate and of trust territories). New trends in the process of *generalization* of human rights protection (as from the immediate post-world war II period) purpoted to reduce the disabilities of persons who until then remained without protection and to overcome gradually some of the limitations *ratione personae* (e.g., the link of nationality) of traditional (diplomatic) protection; those new trends pointed towards generalized protection of individuals *qua* individuals, in their capacity as such, enforceable by Parties which obligated themselves to garantee certain basic rights of the human person emanating directly from international law *(droit des gens)*.

The Universal Declaration of Human Rights of 1948 constituted a decisive impetus in the process of *generalization* of human rightss protection which the last four decades have witnessed, standing as source of inspiration and point of irradiation and convergence of human rights instruments at global and regional levels. With the adoption of the U.N. Covenants (and Optional Protocol) on

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Human Rights, in 1966, comprising measures of implementation, the original project of an International Bill of Human Rights, started with the 1948 Universal Declaration, was completed. By then, other U.N. treaties, at global level, already existed (e.g., *inter alia,* the 1965 U.N. Convention on the Elimination of All Forms of Racial Discrimination, following the 1963 Declaration on the matter), and others were to follow, covering special sectors or aspects of human rights protection (e.g., *inter alia,* the 1979 U.N. Convention on the Elimination of All Forms of Discrimination against Women, the 1973 Convention of the Supression and Punishment of the Crime of *Apartheid,* the 1984 U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

Such U.N. human rights treaties, growing in number, over the years, were also to co-exist, still at global level, with mechanism of protection established by U.N. specialized agencies (mainly ILO and UNESCO) comprising measures of implementation of a non-judicial character. U.N. human rights treaties were, moreover, to co-exist with other "general" conventions, at regional level (the 1950 European Convention on Human Rights; the 1969 American Convention on Human Rights, following the 1948 American Declaration on the Rights and Duties of Man, which, in its turn, preced by months the Universal Declaration; the 1981 African Charter on Human Peoples' Rights). Global and regional human rights instruments were to complement, rather than compete, with each other.

Parallel to "general" and "specialized" human rights treaties, other procedures were devised on the basis of instruments other than treaties, i.e., resolutions or decisions of international organizations (e.g., the 1970-1971 ESOCOC resolution 1503 system, the 1978 UNESCO Executive Board decision 3.3 system, the system of operation of the Inter-American Comission on Human Rights *vis-à-vis* States which are not Parties to the American Convention on Human Rights). With the gradual entry into force of multiple successive human rights treaties at global and regional levels, resolutions on the matter did not lose their juridical value, nor did they diminish in importance, considering that a number of States did not, or have not so far, ratified or adhered to those treaties. For such States, in special, instruments based on resolutions have retained their full value in practical terms, in interaction with the pertinent human rights provisions of the constituent instruments of the international organizations within which they were adopted.

In the field of human rights protection, from the 1948 Universal Declaration up to the present time, one thus beholds the phenomenon of the *co-existence of instruments of distinct or varying legal nature and effects,* not only in different spheres of application (global and regional) but sometimes within the same system (e.g., U.N. instruments, inter-American instruments). The granting and gradual strengthening of the procedural capacity of alleged victims of human rights violations in the last four decades has thus legal basis either on conventions or on instruments which, in spite of being technically not mandatory (resolutions), exert notwithstanding legal effects *vis-à-vis* member States of the respective international organizations.

In the "legislative" phase, of elaboration of human rights instruments, mechanisms of implementation would in all probability simply not have been established had the plea of domestic jurisdiction of States not been gradually and successfully overcome. This factor was accompanied by the gradual recog-

nition and crystallization of the international procedural capacity of individuals, parallel to the gradual conferment or assertion of the capacity to take action of international supervisory organs. The gradual realization by States of the *subsidiary* nature of international proceedings of settlement of alleged violations of human rights helped considerably to render progress in this area possible. Furthermore, human rights treaties were to contain clauses aiming at their compatibilization with domestic law, sometimes with an express reference to the constitutional precepts and the internal laws of the State for bringing them in harmony with treaty provisions and rendering effective the rights guaranteed.

International supervisory organs set up under human rightss conventions have had their attributions and powers *conferred upon* them by those treaties, which specify their mandates. International supervisory organs set up by international organizations by instruments other than treaties (resolutions) have had at times *to assert* their capacity to take action - the extent of their attributions and powers - in the field of human rights.

The two last decades have witnessed the multiplication of international supervisory organs *established by the respective human rights treaties* as they entered into force, e.g.: the Human Rights Committee provided for by the 1966 U.N. Covenant on Civil and Political Rights, the Committee on the Elimination of All Forms of Racial Discrimination (CERD) called for by the 1965 U.N. Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of All Forms of Discrimination against Women set up by the 1979 U.N. Convention on the Elimination of All Forms of Discrimination against Women, the "Group of Three" provided for by the 1973 U.N. Convention on th Suppression and Punishment of the Crime of*Apartheid*, the Committee against Torture set up by the 1984 U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Commission and Court of Human Rights established by the 1950 European Convention on Human Rights (the Committee of Ministers antedating the Convention, having been established by the 1949 Statute of the Council of Europe), the Inter-American Commission and Court of Human Rights provided for by the 1969 American Convention on Human Rights (the original Inter-American Commission antedating the Convention, *infra*), the African Commission on Human and Peoples' Rights called for by the 1981 African Charter on Human and Peoples' Rights.

The establishment of the above-mentioned supervisory organs is, as indicated, provided for in the human rights treaties themselves, which regulate their functions and powers. Besides the above organs, there are also those concerned with human rights *on the basis of the constituent instruments of international organizations*. At global level, in addition to the possibilities of action in the field of human rights of the U.N. main political organs (General Assembly and Security Council), reference can be made of the Inter-American Commission on Human Rights (created one decade before the conclusion in 1969 of the American Convention on Human Rights), which, as from the Protocol of Reforms of the OAS Charter of 1967 (in force from 1970 onwards), was erected asone of the organs of the Organization of American States itself, besides being an organ set up by the American Convention (*supra*). Both the U.N. Trusteeship Council and the Inter-American Commission on Human Rights (under the amended OAS Charter) rank among the principal organs of the respective international organizations.

There are, furthermore, human rights supervisory organs which *derive their capacity to take action from instruments other than treaties, namely, resolutions of international organs,* e.g.: the Committee on Economic, Social and Cultural Rights (current supervisory organ of the 1966 U.N. Covenant on Economic, Social and Cultural Rights, which, in 1985, replaced the Sessional Working Group of Governmental Experts on the Implementation of the Covenant, established in 1978 by ECOSOC), the U.N. Commission on Human Rights (set up by ECOSOC in 1946) and its Sub-Comission on Prevention of Discrimination and Protection of Minorities, the Inter-American Comission on Human Rights (originally provided for in a resolution of 1959 of the V Meeting of Consultation of Ministers of Foreign Affairs).

Whether functions and powers have been conferred upon international supervisory organs by human rights treaties in specific terms, or have rather had their extent gradually shaped in practice by organs which have derived their capacity to take action from instruments other than treaties, there is always present the role played by the element or process or *interpretation* (which has proven liberal and ample) in their evolution. This may appear not seldom more decisive in the latter than in the former in justifying the course of action pursued. It seems no coincidence that two striking illustrations are provided by the gradual and considerable expansion of the attributions of precisely the U.N. Commisssion on Human Rights and the Inter-American Commission on Human Rights (this latter, prior to the conclusion and entry into force of the American Convention on Human Rights). In any case, in the law of international institutions organizational practice has at times served as an element of interpretation in the determination of the powers conferred upon international organs; human rights supervisory organs seem to form no exception to that.

The multiplication of international human rights instruments had the purpose and consequence of *enlarging* the extent of protection to be accorded to the alleged victims. It was clear, from the beginnings and early developments of the process of generalization of human rights protection, that the conceptual unity of human rights, which all inhere in the human person, transcended the distinct formulations of recognized rights in different instruments as well as the variations in the respective multiple mechanisms or procedures of implementation devised over the last four decades. In fact, as from the "legislative" phase, of elaboration of human rights instruments, the proposed categorizations of recognized rights could not hide the fundamental unity of conception, nor could they hinder the increasing search, in recent years, for more effective means of implementation (e.g., of economic and social rights, parallel to civil and political rights).

The continuous and considerable expansion in the last four decades of the law on the international protection of human rights is reflected in the aforementioned multiplication of international procedures (characteristic of human rights protection in our days), within a larger framework of the expansion of the very conception of human rights to encompass new new values, from which the study of methods of implementation cannot be dissociated. It is a most significant phenomenon that, out of the distinctive formulations of certain rights under various human rights instruments, there emerges today, as a definitive achievement of civilization, a common core of some fundamental rights which admitt no derogation (e.g., U.N. Covenant on Civil and Political Rights, Article 4 (2);

European Convention on Human Rights, Article 15(2); American Convention on Human Rights, Article 27). Such common core of non-derogable fundamental rights (e.g., the right to life, the right not to be subjected to torture or slavery, the right not to be held guilty in retroactive application of penalties) emerges out of a comparative survey of their incidence in human rights instruments (the texts themselves), further enhanced by the jurisprudential construction ensuing therefrom as well as by the process of interpretation of those corresponding provisions with distinct formulations.

Human rights, despite distinct classifications accorded to them, variations in their formulation, and the multiplicity of co-existing mechanisms and procedures devised for their protection at global and regional levels, disclose a fundamental conceptual unity, in that they all in the human person, in whom they (also) find their ultimate point of convergence. There is a certain logic in proceeding from the often-asserted indivisibility of human rights to the endeavours to reach a common core of fundamental rights, the minimum universally or generally recognizable. As to these latter, once it becomes accepted that certain basic rights have an imperative character as they are recognized as non-derogable by human rights treaties, the day may be foreseeable (in a more "integrated" international legal order) when those basic rights may reversely come to be taken as non-derogable *because of* their imperative character.

Chapter II: THE PROPER AND EVOLUTIONARY INTERPRETATION OF HUMAN RIGHTS TREATIES AND THEIR OVERRIDING IDENTITY OF PURPOSE

In the evolution and expansion of the law on the international protection of human rights a key role, as already indicated, has been reserved to, and played by, the element of *interpretation*. This is hardly surprising, as experiments on the international protection of human rights are living instruments. The question of the proper interpretation of human rights treaties thus deserves special attention, as one moves from the earlier "legislative" phase to the historically more recent and evolved stage of their actual implementation. Like in other fields of international law, in the domain of the international obligations in the free exercise of their sovereignty, and once they have done so they cannot invoke difficulties of internal or constitutional order to try to justify non-compliance with those obligations. One may recall the provision of the 1969 Vienna Convention on the Law of Treaties to this effect (Article 27). There can hardly remain any doubt as to the impossibility of States Parties invoking sovereignty as an element of *interpretation* of treaties.

Whilst in general international law the elements for the interpretation of treaties evolved primarily as guidelines for the process of interpretation by the Contracting Parties themselves, human rights treaties, on their turn, establish systems of *protection* at global and regional levels, and call for an objective interpretation of their provisions given the essentially objective character of the obligations contracted by the States Parties. Such obligations aim at the protection of human rights and not at the establishment of subjective and reciprocal rights for the Contracting Parties: this would amount to an intepretation in search of the accomplishment of the ultimate purposes of those treaties.

In fact, the draftsmen of the 1969 American Convention on Human Rights deemed it advisable to insert a provision into the Convention (Article 29) containing guidelines of interpretation: these could not be stated in clearer terms, in expressly rejecting an interpretation of the provisions of the Convention which could suppress or restrict the enjoyment or exercise of rights recognized in the Convention, in the laws of States or in other conventions to which the said States are Parties. General international law itself bears witness of the principle whereby the interpretation is to enable a treaty to have appropriate effects, a principle which - apparently subsumed under the general rule of interpretation of Article 31 of the 1969 Vienna Convention on the Law of Treaties - is invoked particularly against eventual calls for an unduly restrictive interpretation.

Human rights treaties are distinct from treaties of the classic type which incorporate restrictively reciprocal concessions and compromises; human rights treaties prescribe obligations of an essentially objective character, to be guaranteed or implemented collectively, and stress the predominance of considerations of a general interest or *ordre public* which transcend the individual interests of Contracting Parties. The harmonization of their norms with the municipal law of States Parties as well as the position which they may come to occupy within this latter will thus depend not only on considerations of internal constitutional order but also on developments entrusted to the international organs set up by the human rights treaties.

It is reassuring to detect today a *convergence* of views, in the evolving jurisprudential construction of distinct supervisory organs, as to the objetive character of obligations and the necessity to accomplish the object and purpose of the human rights treaty at issue: reference can be made to *dicta*, to this effect, of the European Court of Human Rightss in the *Wemhoff* (1968) and *Belgian Linguistics* (1968) cases, of the European Commission of Human Rights in the *Austria v. Italy* (1961) and the *Golder v. United Kingdom* (1971-1975) cases, of the Inter-American Court of Human Rights in the cases of *Restrictions to the Death Penalty* (1983), of *"Other Treaties" Subject to the Advisory Jurisdiction of the Court* (1982), and of *Effect of Reservations on the Entry into Force of the American Convention* (1982). the autonomous meaning of the terms of the U.N. Covenant on Civil and Political Rights was stressed by the Human Rights Committee in 1982, in the adoption of its views on the *Van Duzen versus Canada* case (communication nº 50/1979); the Committee noted that its interpretation and application of the Covenant ought to be "based on the priciple that the terms and concepts of the Covenant are independent of any particular national system of law and of all dictionary definitions. Although the terms of the Covenant are derived from long traditions within many nations, the Committee must now regard them as having an autonomous meaning". In those pronoucements of distinct international supervisory organs on the special or distinctive character of human rights treaties, the convergence of views on the fundamental issue of their proper interpretation is the natural result of a phenomenon which can clearly be perceived: those treaties, despite incorporating distinct mechanisms of protection, disclose an overriding identity of purpose.

Human rights treaties, given the essentially objective character of the obligations they incorporate and their special or distinctive or autonomous character, entail an interpretation of their own. This interpretation is an essentially dynamic process, as human rights treaties are taken to be living instruments. The evolution

of human rights law through intepretation is a phenomenon not to pass unnoticed. Moreover, given the multiplicity of human rights in our days, it comes as little or no surprise that the interpretation and application of certain provisions of one human rights treaty have at times been resorted to as orientation for the interpretation of corresponding provisions of another (usually newer) human rights treaty. As illustrations of the seemingly interaction of human rights instruments in the process of intepretation, reference can be made to *dicta*, to this effect, of the European Comission of Human Rights in , e.g., *inter aalia*, the *Iversen v. Norway case* (1963), *Swedish Engine Drivers' Union* case (1974), *Belgian National Police Union* cases (1972-1975), and of the Inter-American Commission of Human Rights in its 1978 report on the human rights situation in *Panama*.

With regard to the process of interpretation *per se*, the pertinent provisions of the African Charter on Human and Peoples' Rights seem to go even further in respect of possible interaction with other human rights instruments. The African Charter includes among the functions of the African Commission on Human and Peoples' Rights the interpretation of all of its provisions at the request of a State Party, of an institution of the Organization of African Unity (OAU) or of an African organization recognized by the OAU (Article 45 (3). The Charter adds, significantly, that the African Commission is to "draw inspiration" also from the UN and OAU Charters, the Universal Declaration of Human Rights, "other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights" as well as "the provisions of various instruments adopted within the specialized agencies of the United Nations" of which the Parties to the African Charter are members (Article 60). there is here clearly room for interpretative interaction between the African Charter and other human rights instruments.

There has been judicial recognition of the necessarily *restrictive* interpretation of permissible limitations or restrictions to the exercise of guaranteed rights and of permissible derogations: such necessarily restrictive interpretation of restrictions was acknowledged by the Inter-American Court of Human Rights in its Advisory Opinions of 1986 on the *Word "Laws" in Article 30 of the American Convention on Human Rights*, and on the *Enforceability of the Right to Reply or Correction* cases. In its Judgment of 1975 in the *Golder* case, the European Court of Human Rights stated that there was no room for implied limitations (*limitations implicites*) to the rights recognized in the Convention; the restrictive interpretation of restrictions to the exercise of proclaimed rights is supported by a *jurisprudence constante* under the European Convention. In this connection, in a very recent case, concerning the observance by the Federal Republic of Germany of the 1985 ILO Discimination (Employment and Occupation) Convention (nº 111), the Commission of Inquiry (appointed under Article 26 of the ILO Constitution) had in fact occasion to clarity (report of 1987) that no exceptions were admissible under ILO Convention nº 111, other than those provided for in the Convention itself, and no "implied exception" could be read into the Convention draw from other (distinct) human rights treaties or instruments.

Recent efforts (in expert writing) to formulate interpretative principles relating to both limitation and derogation provisions in the U.N. Covenant on Civil and Political Rights clearly endorse the above trend of restrictive interpretation of provisions which limit or restrict the exercise of recognized human rights (cf., e.g., UN/ECOSOC doc. E/CN.4/1985/4, Annex, pp. 1-12). The Covenant itself

contains a warning to the effect that none of its provisions - including those on derogation and limitations - may be used to destroy any of the rights recognized therein or to limit them to a greater extent than is provided for therein (Article 5(1)). The possibility has beeen admitted that normative advances in one human rights treaty may have a direct impact upon the application of other human rights treaties, to the effect of enlarging or strengthening the States Parties' obligations and ensuring a wider degree of protection to the alleged victims. Limitation clauses of one human rights treaty are not to be interpreted to restrict the exercise of any human rights protected to a greater extent by another human rights treaty (to which the State concerned is also a Party). The aim of the draftsmen of newer or more recent human rights treaties cannot possibly have been "to lower" the existing degree of protection accorded by other human rights treaties. The proper and evolutionary interpretation of human rights treaties, inspired by their overriding identity of purpose, can only come to assist the alleged victims, in search and need of protection.

Chapter III: METHODS OF INTERNATIONAL IMPLEMENTATION OF HUMAN RIGHTS: INTERRELATIONSHIP OF PETITIONING PROCEDURES

The individuals' right to set in motion international procedures of protection (petitioning system) and the international supervisory organs' power to receive and examine complaints (petitioning system) as well as to take action or exercise control *ex officio* (reporting and fact-finding systems) go together, as methods commonly utilized by mechanisms of human rights protection at global and regional levels. Endeavours of their co-ordination in the present context may assume distinct meanings with regard to each method of protection, namely, the petitioning system (avoidance of duplication or of conflict of jurisdiction or interpretation), the reporting system (standardization and consolidation of uniform guidelines), the fact-finding and inquiry system (consultations and exchange of information). The issue of the co-existence and co-ordination of mechanisms of human rights protection (at global and regional levels) can thus be examined in respect of such distinct methods of their operation (petitioning, reporting and fact-finding systems). As to the petitioning system, where it has attracted special attention, the authority of international supervisory organs - aimed at by endeavours of co-ordination - is to be preserved in conformity with the ultimate and overriding purpose of the human rights treaties and instruments which have created them: the effective protection of the recognized human rights.

Petitioning systems comprise individual applications or communications or complaints (right of individual petition) as well as applications or communications or complaints from States (inter-State petitions). Conditions for their use, and of their admissibility, are set forth in distinct human rights instruments wherein they are provided for. Worthy of special attention are the petitioning procedures under human rights instruments which have been in force for some time or under which a "case-law" or practice has developed, namely: selected "general" human rights treaties, at both global level (the U.N. Covenant on Civil and Political

Rights and its Optional Protocol, and the U.N. Convention on the Elimination of All Forms of Racial Discrimination) and regional level (the European and American Conventions on Human Rights), as well as selected procedures based on instruments other than treaties (the system of ECOSOC resolution 1503 and of UNESCO Executive Board decision 3.3), besides other procedures. An analysis of the matter at issue under those instruments reveals, at first, that throughout the "legislative" phase of their elaboration (where some interaction can be perceived) there was general awareness that the question of their co-existence would be raised in due course, particularly with regard to the respective petitioning systems; yet their draftsmen preferred not to propose a premature definitive solution to the matter, deeming it more advisable to leave that for later, in the hope that adequate treatment and solution would be shaped by the evolving "case-law" or practice of international supervisory organs on the matter.

Under human rights treaties, it was furthermore felt that the nature of the procedures (e.g., petitions in search of redress, communications as source of information) might have a bearing on the approach to the issue co-existence and co-ordination of mechanisms of protection. In the seventies, with the consolidation of human rights procedures based on instruments other than treaties, it became clear that the nature of the procedures did in fact have a bearing on the matter at issue (e.g., distinction between individual or specific cases, and general situations, pertaining to human rights violations). Human rights (petitioning) procedures have, in practice, as victim-oriented experiments, re-inforced each other, thus enhancing, besides contributing to the expansion of, the international protection of human rights.

Such expansion, at international level, may be reflective of a growing acknowledment, on the part of governments at national level, that the protection of human rights does not - cannot - exhaust in the action of the State. In fact, the study of international mechanisms of human rights protection may be undertaken from the angle of the actual methods of control exercised by international supervisory organs, as well as from the angle of the protected persons themselves. This latter seems particularly suitable, given, e.g., the considerations *ratione personae* developed by supervisory organs when confronted with the question of co-existing petitioning procedures, drawing attention to the "source" of petitions or communications. In this framework, a significant development has been the evolution of the notion of "victim" - where that qualification is required of complainantts - so as to encompass direct and indirect victims as well as "potential" victims (i.e., those sustaining a recognizedly valid potential personal interest in the vindication of their rights).

In any case, the solutions given by human rights instruments to the condition of the complainant (alleged victim and "author of the communication", "reasonably presumed" victim, ample or unqualified conferment of the right of individual petition, special qualifications of complainants, added to the jurisprudential evolution of the notion of "victim") seem to be linked to the nature of the procedures at issue (right of [individual] petition or application or communication or representation). However, in spite of differences in the legal nature and effects of distinct human rights procedures, each one has contributed, in its own way, to the gradual strengthening of the position of the complainant. And, - what is equally significant -, differences in the legal nature of those procedures have not been an impediment for the development along similar lines of the "case-law" or practice of distinct

international supervisory organs, converging in the trend towards more effective protection to be accorded to the alleged victims. Moreover, the marked tendency or those organs to enlarge the circle of persons who may submit complaints of alleged human rights violations, pursuant to distinct procedural devices or solutions, is related to the concrete results achieved to date under co-existing human rights instruments which have surely thereby benefited far more people than the complainants themselves.

As to the problems raised by the simultaneous or successive utilization of distinct petitioning procedures (cf. considerations *supra* on the questions of co-ordination), it should be added that, in recent years, a significant indication for possible solutions has crystallized, as international supervisory organs came to be guided by considerations *ratione materiae* as well as *ratione personae* in approaching the question at issue: the configuration of the "same matter", under distinct procedures, was, for purposes of co-ordination, to require identity of the object of the complints *as well as* identity of the parties thereto.

Apart, however, from difficulties of concomitant or successive use of petitioning procedures, one point lies beyond doubt: that of the *choice or primacy of the most favourable provision* to the individuals concerned, when the same or equivalent rights are guaranteed by two or more instruments. The test or principle of application of the most favourable provision to the alleged victims is not only acknowledged by human rights treaties themselves (e.g., U.N. Covenant on Civil and Political Rights, Article 5 (2); U.N. Covenant on Economic Social and Cultural Rights, Article 5(2); 1951 Convention Relating to the Status of Refugees, Article 5; European Convention on Human Rights, Article 60; European Social Charter, Article 32; American Convention on Human Rights, Article 29(b)), but it has also found support in the practice or case-law of international supervisory organs (e.g., decision of the European Commission of Human Rights on a admissibility of application nº 235/56 (1958-1959), Advisory Opinion of the Inter-American Court of Human Rights in the case of *Compulsory Membership in an Association of Journalists* (1985)).

With regard to petitions or comunications from individuals, thus, freedom of choice of procedure subsists: it is incumbent upon the complainant, facing co-existing instruments, to select the provisions and mechanism which he deems most favourable to his case, as he will anyway himself bear the consequences; to try to condition the alleged victim's choice would be a rather patronizing and unreasonable attitude. This seems all the more clarified in tackling the issue of co-existence of human rights procedures from the standpoint of the protected persons themselves. The presumption of the compatibility of two or more human rights treaties in the application of the test of the most favourable norm to the alleged victim is in keeping with the present-day tendency at international level to extend, rather than to restrict, the protection of human rights.

It ensues, from the individual's freedom of chice and the test of primacy of the most favourable provision to his cause, that human rights procedures at global and regional levels are from his standpoint complementary to each other. This has recently met with judicial recognition (cf. Advisory Opinion of 1982 of the Inter-American Court of Human Rights on *"Other Treaties" Subject to the Advisory Jurisdiction of the Court)*. Such complementarity of human rights procedures at global and regional levels reflects the specifity of the international

protection of human rights, a domain of international law characterized as being essentially a *droit de protection*. Within the framework of multiple (petitioning) procedures, the beneficiary of protection is naturally accorded the faculty of choosing - with due regard to their conditions of use and admissibility - that which appears as the most favourable provision to him, what in turn may reduce or minimize the possibility of conflict at normative level.

Chapter IV: METHODS OF INTERNATIONAL IMPLEMENTATION OF HUMAN RIGHTS: LEGAL BASIS AND CO-ORDINATION OF REPORTING SYSTEMS

The reporting system is, despite procedural variations, a method of international implementation of human rights or control exercised *ex officio* by international supervisory organs. The reporting system has been regarded as a method particularly suitable to the implementation of economic, social and cultural rights, if not - so far - the method *par excellence* of their implementation. Out of the diversity of reports, one may, at first, distinguish *reports of States* from *reports of international organs*. Under several human rights treaties States Parties are requested to submit reports, as a procedure for checking compliance; international supervisory organs themselves, on their turn, prepare their own reports. These latter may present variations: the Inter-American Commission of Human Rights, for example, besides the usual form of annual reports, has also been engaged in the preparation - in a way linked to its fact-finding operation - of reports on the situation of human rights in certain OAS member States, and special reports or reports on individual cases. Governmental reports can be either *"periodic" (i.e., regularly submitted in "cycles"* or *submitted from time to time upon request* of international organs. It is, in fact, reports from States Parties (to human rights treaties) that call here for special attention.

At regional level, reporting duties are in fact provided for in the three regional human rights Conventions (African Charter on Human and Peoples' Rights, Article 62; European Convention on Human Rights, Article 57; American Convention on Human Rights, Articles 42-43). It is, however, at global level (U.N. and specialized agencies, and human rights treaties concluded under their auspices), that the reporting system has been most widely and often utilized. Reporting obligations find their legal basis either in the constituent instrument of the international organization concerned, or in the human rights treaty at issue, or in both.

As early as 1947 an attempt was made to establish a reporting system under Article 64 of the U.N. Charter. From 1948 onwards, both the General Assembly and the ECOSOC on some occasions requested U.N. member States to provide reports or information on human rights. In 1950 and 1953 proposals were advanced at the U.N. Commission on Human Rights to set up a scheme of annual reports, and the Comission, in fact, at its twelfth session (1956), adopted a resolution recommending to ECOSOC to request member States of the U.N. or the specialized agencies to submit annual reports on human rights to the Secretary

General. On the basis of this recomendation, ECOSOC adopted resolution 624 B(XXII), of 1956, establishing a system of periodic reports (every three years) on human rights.

The next significant step was taken by ECOSOC resolution 1074 C(XXXIX), of 1965, which requested the U.N. Commission on Human Rights to establish an *ad hoc* committee (composed of eigh of its members) to study and evaluate the periodic reports on human rights, and indicated that their continuing three-year cycle would be scheduled as follows: in the first year, information on civil and political rights; in the second year, on economic, social and cultural rights; and in the third year, on freedom information. The *Ad Hoc* Committee on Periodic Reports started meeting biennially, shortly before the session of the Commission, submitting to this latter its comments, conclusions and recommendations. The next innovation came with ECOSOC resolution 1596 (L), of 1971, which stipulated that, from then onwards, member States would be requested to submit periodic reports once every two years (rather than every year) in a continuing cycle of information on the same subjects; the presentation of reports would thus, from then onwards, cover a cycle of six, rather than three, years.

By then, one was, in a larger framework, gradually evolving from the legislative to implementation phase of human rights instruments. The U.N. Commission on Human Rights was attentive to that: in a resolution of 1967, shortly after the adoption of the U.N. Covenants on Human Rights (in 1966), it expressed the belief that until the Covenants and their own reporting procedures became "widely accepted", the system of periodic reports would remain of "considerable value". While the Covenants (and Optional Protocol), were to enter into force only in 1976, the 1965 U.N. Convention on the Elimination of All Forms of Racial Discrimination, embodying its own reporting system, was to enter into force in 1969, before, the Covenants and other successive human rights treaties adopted under the auspices of the United Nations. The mains features of its reporting system became significant and object of attention recently; early in the application of the Convention, they were considered in comparison with those of the reporting system of the International Labour Organization. An important subsequent step was taken by ECOSOC resolution 1988 (LX), of May 1978, which established the programme of reporting by States Parties to the Covenant on Economic, Social and Cultural Rights (in three biennial stages), and called upon U.N. specializaed agencies to report to it (ECOSOC) on the progress made in achieving the observance of the Covenant provisions falling within the scope of their activities, including "particulars of decisions and recommendations" on such implementation adopted by their competent organs; resolution 1988, furthermore, clarified that States Parties which submitted reports under that Covenant needed not submit reports on similar questions under the periodic reporting system under ECOSOC resolution 1074C (*supra*).

The reporting system, incorporated in several human rights treaties (*infra*), owes a great deal to the experience accumulated in this specific area over the years by the ILO: the system of governmental reports on ILO Conventions contributed decisively to extend and strengthen the role of ILO supervision in the last decades. The ILO Constitution itself provides the basis for the general system of periodic reports on both ratified conventions (Article 22) and on unratified conventions and recommendations (Article 19). Likewise, the

UNESCO Constitution also lays the foundation for its reporting system ((Article VIII), handled by the General Conference. Reporting obligations (periodic governmental reports) are further set up under such "specialized" treaties as, e.g., the 1958 ILO Convention (nº 111) concerning discrimination in Respect of Employment and Occupation (Article 3 (f), the 1960 UNESCO Convention against Discrimination in Education (Article 7), and (for occasional reports) the 1951 Convention Relating to the Status of Stateless Persons (Article 33).

States Parties to a human rights treaty have sometimes been called upon to fulfil their reporting obligations; furthermore, States Parties to a human rights treaty have occasionally been requested to submit reports on its application even though the treaty itself does not place them under such an obligation (as happened, e.g., in relation to the 1952 U.N. Convention on the Political Rights of Women). Still in the ambit of the United Nations, in regard to non-self-governing territories, administering powers have repeatedly been asked (under Article 73 (e) of the U.N. Charter) to provide information on the extent to which the 1948 Universal Declaration of Human Rights has been implemented in the territories under their administration.

It has been, in fact, at the United Nations, that special attention to the issue of co-existing reporting obligations has been devoted (from 1982 onwards) in relation to the reporting system of the U.N. Conventions on the Elimination of All Forms of Racial Discrimination, and of Discrimination against Women, the two U.N. Covenants on Human Rights, and the U.N. Convention on the Suppression and Punishment of the Crimen of *Apartheid*. As these, and newer, human rights treaties, embodying reporting systems, began entering into force (from the late sixties and the seventies onwards), a new impetus and dimension were given to the subject at issue. It was beyond doubt that the matter could then be approached in terms of reporting *obligations*, in contrast with the rather voluntary character of the supply of information requested from States under the above-described reporting system evolved through ECOSOC resolutions *(supra)*. Not surprisingly, the new framework has inevitably drawn closer attention to the question of the co-existence and co-ordination of the reporting systems under human rights treaties. In a report of 1983 on the matter at issue, the U.N. Secretary-General indentified two main sources of difficulties in the reporting systems under the five U.N. human rights treaties afore-mentioned: the varying or earlier entry into force of one treaty with respect to another and the consequent varying or higher level or ratifications (and varying or higher number of reports submitted by States Parties), and, mainly, the distinct periodicity for submitting reports under those five human rights instruments. The periodicity of reporting after entry into force of those five U.N. human rights conventions obeys the following pattern: for the initial report, one year, under the Conventions on the Elimination of All Forms of Racial Discrimination and of Discrimination against Women and the U.N. Covenant on Civil and Political Rights, and two years, under the Convention on the Suppression and Punishment of the Crime of *Apartheid;* thereafter, two years, under the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Supression and Punishment of the Crime of *Apartheid*; four years, under the Convention on the Elimination of All Forms of Discrimination against Women; and five years, for the U.N. Covenant on Civil and Political Rights, ECOSOC has adopted a six-year reporting cycle (in three biennieal stages for specific groups of Articles).

In order to ensure a greater degree of co-ordination in this sector among the relevant human rights supervisory organs, a meeting was convened by the U.N. Secretary-General in Geneva, in August 1984, of the chairmen of the U.N. Commission on Human Rights, the Human Rights Committee, CERD and the (then) Sessional Working Group of ECOSOC. They suggested, to that effect, the future consolidation of uniform guidelines (drawn up by the respective supervisory organs) for the sumission of reports (so as to avoid duplication) and the standardization of co-existing reporting systems. The matter was object of a report of 1985 of the U.N. Secretary-General; in 1986 the U.N. General Assembly scheduled for the biennium 1988-1989 another meeting of the chairmen of the human rights supervisory organs to reexamine the issue of co-existing reporting systems (further inter-organizational cooperation and consultations). The forthcoming years may witness, in respect of U.N. human rights treaties, further progress in this sector, which has so far been gradual, if not slow. With regard to reporting systems in general, other suggestions have been advanced. In the context of the United Nations, e.g., one has also raised the possibility of further rationalization and simplification of the reporting systems.

Chapter V: METHODS OF INTERNATIONAL IMPLEMENTATION OF HUMAN RIGHTS: MULTIPLICITY AND COMPLEMENTARITY OF INQUIRY PROCEDURES

Mechanisms of settlement of human rights cases operate either on a permanent or on an *ad hoc* basis. In the field of human rights protection, fact-finding may be undertaken in an "institutionalized form", i.e., when it is provided for on a conventional basis (e.g., the U.N. Covenants on Human Rights,, the European and American Conventions on Human Rights); it has been suggested that the periodic reporting system itself under some human rights that the periodic reporting system itself under some human rights treaties provides some degree of "indirect" fact-finding. At global level, for example, the establishment of conciliation commissions is foreseen in the U.N. Covenant on Civil and Political Rights (Article 42) and the U.N. Convention on the Elimination of All Forms of Racial Discrimination (Article 12); the establishment of commissions of inquiry is likewise provided for under the Constitution of the International Labour Organization (Article 26), and the Protocol to the UNESCO Convention against Discrimination in Education establishes (Article 1) a Conciliation and Good offices Commission, responsible for seeking the "amicable settlement" of disputes between States Parties concerning the interpretation or application of that Convention.

At regional level, for example, the European Convention (6 Article 28 (b)) as well as the American Convention) Article 48 (1) (f)) on Human Rights determine that the European and the Inter-American Commissions, respectively, shall place themselves at the disposal of the Parties concerned with a view to reaching a "friendly settlement" (*"règlement amiable"/"solución amistosa*) of the matter *on the basis of respect for the human rights* recognized in the two Covenants. And the 1981 African Charter on Human and Peoples' Rights provides that the African Commission on Human and Peoples' Rights is to prepare a report on

the facts and its findings on the cases after having obtained the necessary information and having tried all appropriate means to reach an "amicable solution" (*"solution amiable"*) on the basis of respect for human and peoples' rights (Article 52). It is to be noted that the there afore-mentioned regional Commissions on Human Rights operate here as organs of "friendly settlement" in the course of examination of petitions or communications alleging human rights violations; such function is distinct, e.g., from that of *in loco* observations or fact-finding on "general situations" of human rights undertaken by the Inter-American Commission on Human Rights (cf. *infra*).

Of the fact-finding mechanisms in "institutionalized form", i.e., endowed with a "conventional" basis, another example is provided by the 1984 U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which authorizes the Committee against Torture (provided for in Article 17) to designate one or more of its members "to make a confidential inquiry and to report to the Committee urgently" (Article 20(2)). Parallel to that, in the course of its handling of inter-State communications (Article 21) under the Convention, the Committee acts as an organ of "friendly solution" (*"solution amiable"*) of the matter *on the basis of respect for the obligations provided for in the Convention;* for this purpose, besides making available its "good offices" to the States Parties concerned, the Committee may, when appropriate, set up *ad hoc* conciliation commissions (Articles 21(1)(e) and 23). At regional level, no equivalent procedures are found in the 1985 Inter-American Convention to Prevent and Punish Torture, which limits itself to determining - in so far as international measures are concerned - that the Inter-American Commission on Human Rights will "endeavour" in its annual report "to analyze" the existing situation in OAS member States with regard to "the prevention and elimination of torture" (Article 17).

The above-mentioned are examples of procedures of settlement of human rights cases on a *conventional* basis. But as such endeavours may also be, and have also been, undertaken on an *ad hoc* basis, it becomes necessary to turn attention not only to the provisions of human rights treaties but also to the actual practice on the matter. Thus, in 1966 the U.N. Commission on Human Rights was requested by ECOSOC to examine in its next session the question of "violations of human rights". From 1967 onwards, the Commission assumed in fact new responsibilities, as it began to consider, every year, the "question of violations of human rights", for that purpose engaging itself in specific inquiries. The gravity of the human rights situation in southern Africa motivated at the time the original impetus of ECOSOC to authorize - through resolution 1235 (XLII) - the Commission to undertake a "thorough study" of situations which reveal a "consistent pattern of violations of human rights".

To the *Ad hoc* Group of Experts on Southern Africa established in 1967 others followed, in the framework of the non-confidential or public procedure for the question of "violations of human rights": the Special Committee to investigate Israeli practices in occupied territories, set up in 1969; the *Ad Hoc* Working Group on Chile, established in 1975; and subsequent procedures concerning Equatorial Guinea (1979), Bolivia (discontinued), El Salvador and Guatemala (1981), Poland (discontinued) and Iran (1982), and Afghanistan (1984). A new development in this field was to take place as from the beginning

of the current decade: parallell to the "country-oriented" approach (above), the Commission began to adopt an "issue-oriented" approach as well. As a response to the occurrence of enforced or involuntary disappearances (in Argentina and other parts of the world), a Special Working Group on missing persons was established in 1980; there followed the designation of special *rapporteurs* on mass exoduses (1981), on summary executions (1982), on torture (1985), and on religious intolerance (1986). For the development of this new "issue-oriented" approach the confidential procedure under ECOSOC resolution 1503 (XLVIII) (on situations revealing a "consistent pattern of gross violations of human rights") contributed significantly, there appearing to be in practice a certain interaction between the confidential (ECOSOC res. 1503) and the public (ECOSOC res. 1235) procedures.

As a result of the silence of ECOSOC resolution 1235 (XLII) - basis for the general "public procedure" for the "consideration of communications" which appear to reveal a "consistent pattern of gross and reliably attested violations of human rights" - as to the specific procedure to be followed if the Commission on Human Rights decides to undertake a "thorough study" of "particular situations" which appear to reveal such "consistent pattern of gross and reliably attested violations of human rights", the rules of procedure adopted by the Working Groups have presented variations from one case to another. Moreover, consent of the States concerned in practice may or may not be necessary under certain procedures: for example, ECOSOC resolution 1503 (XLVIII) determines (§§ 6(b) and 7) that *ad hoc* committees to be appointed by the Commission on Human Rights may only carry on investigations with the consent of the State concerned; on the other hand, e.g., the composition of the *Ad hoc* Group of Experts on Southern Africa, of the Special Committee to investigate Israeli practices in occupied territories, and of the *Ad hoc* Working Group on Chile was decided without consultation to the States concerned.

At global level, visits on-the-spot have in some instances been undertaken by U.N. fact-finding missions in the field of human rights, as well as by commissions of inquiry established under the procedure of Article 26 of the ILO Constitution. At regional level, while, in a period of about three decades, the European Commission of Human Rights on only few occasions deemed it necessary to conduct enquiries - on the basis of Article 28(a) of the European Convention - away from Strasbourg, the Inter-American Commission on Human Rights has, on its turn, in contrast, accumulated throughout the years a particularly large experience in this field.

In the inter-American system of human rights protection, a distinction can be drawn between the endeavours in the ascertainment of facts with a view to reaching a "friendly settlement" - foreseen in the three regional Conventions (American, European and African) on Human Rights (*supra*) - *in the course of examination of petitions or communications,* and *in loco* observations or fact-finding on a general situation of human rights in a given State. The former has its basis, as already indicated, in Article 48 of the American Convention (*supra*), whilst the latter is based on Article 18 (g) of the Inter-American Commission's Statute. The former forms part of the process of examination of communications, to which are bound all States Parties to the American Convention, what means that an eventual refusal to cooperate could amount to a violation of the Convention;

the latter, on the other hand, would require the invitation or prior consent of the respective governments. One thus finds, in that regional system of human rights protection, a co-existence of mechanisms of two kinds of *in loco* observations, namely: those pertaining to a general situation of human rights in one State, and those undertaken by the Inter-American Commission - as an organ of "friendly settlement" ("solución amistosa") - in the course of examination of communications alleging human rights violations.

Not surprinsingly, on some occasions certain human rights "situations" have attracted the attention of more than one international supervisory organ. As illustrations, some cases may be recalled, e.g.: the study of the human rights situation in *El Salvador* (by the Special Representative of th U.N. Commission on Human Rights and by the Inter-American Commission on Human Rights, 1983-1985); the study of the human rights situation in *Bolivia* (by the Special Envoy of the U.N. Commission on Human Rights, 1982-1983); the *Dominican Republic* case (inquiries by the Inter-American Commission on Human Rights and by the Special Representative of the U.N. Secretary-General, mid-1965); the *Greek* case (handled by the European Commission of Human Rights, the International Labour Organization, the International Committee of the Red Cross, the U.N. Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, 1967-1970); the *Chilean* case (investigated by the U.N. *Ad hoc* Working Group on Chile, later replaced by the U.N. Special *Rapporteur* on Human Rights in Chile, as well as by the International Labour Organization and the Inter-American Commission on Human Rights, 1974-1979). those cases illustrate the appropriateness and importance of the concomitant operation, in a complementary manner, of parallel and co-existing procedures of fact-finding or investigation at global and regional levels. Its appropriateness is disclosed by the fact that the distinct organs have been aware of each other's findings, which procedurally has enhanced their own position. Its importance is stressed by the fact that, where the government at issue seemed "less receptive" to the work of one fact-finding organ or mission, the functioning of another such organ or mission constituted an additional guarantee of the continuity of the supervisory work in the safeguard of human rights.

By such multiplicity of procedures, most of which on an *ad hoc* basis, turned to human rights *general situations* (rather than individual grievances), continuous and more extensive fact-finding has been secured. Such procedures developed throughout the years as *responses* to generalized violations of human rights, of distinct kinds and in various countries or regions of the world. The question of the co-existence of inquiry procedures in the settlement of human rights cases has actually been raised also *within* the ambit of the United Nations itself, as pertinently illustrated by, e.g., the *Cyprus* case (investigated by the U.N. Working Group on Enforced or Involuntary Disappearances, 1977-1983). In the absence, so far, of a more integrated of centralized or universal structure of protection, and given the lack of more effective means to prevent or put an end to human rights violations, the multiplication or inquiry procedures (under distinct rules and terms of reference) has taken place throughout the years to render it possible to exert pressure upon those resposible for human rights violations and to render them accountable for their actions; this may explain why an organization like the United Nations has devised and set up such a variety of

procedures - "country-oriented", "issue-oriented" and confidential to tackle situations of alleged generalized violations of human rights. Inquiry procedures, turned to human rights *situations*, have in their own multiplicity benefited the cause of the protection of the human person.

In conclusion, it is a distinctive trait of the rationale of human rights treaties and instruments that they are directed to protection of human beings and that the settlement of complaints in this field ought thus to be guided by, and to be based on, respect for human rights. In the implementation of those treaties and instruments, directed to the protection of the ostensibly weaker party (the alleged victims), the element of common or general "public interest" or *ordre public* plays a prominent role. Those experiments complement each other in the discharge of their functions and the accomplishment of their common purpose of ensuring an increasingly extensive and *effective* protection to the aggrieved individuals. The focus of main attention is thus shifted from the traditional issue of delimitation of competences to that of the degree or quality of the protection to be accorded to the injured persons.

One has in the present context reached a stage of development where one can witness, at *substantive* level, the reassuring search for a common core of non-derogable fundamental rights, whereas, concomitantly, at *procedural* level, the absence of "hierarchy" between distinct mechanisms of protection continues to prevail. As already indicated, such mechanisms have in practice reinforced each other, displaying or sharing an essentially complementary nature (evidenced, e.g., by the incidence in this framework of the test of primacy of the most favourable provision to the alleged victims). The historical process, throughout the last four decades, of generalization and expansion of international protection of human rights has been marked by the phenomenon of multiplication of instruments of distinct legal nature and effects. The diversity of means of protection has been accompanied by their overriding identity of purpose and the years conceptual unity of human rights, and has, furthermore, over the years had the purpose and consequence of enlarging the extent of protection to be accorded to the alleged victims. International law has been made use of, in the present context, in order to improve and strengthen the degree of protection of recognized rights.

SELECT GENERAL BIBLIOGRAPHY

ANTONOPOULOS, N., *La jurisprudence des organes de la Convention européenne des droits de l'homme*, Leyde, Sijthoff, 1967;

BUERGENTHAL, Th., "International and Regional Human Rights Law and Institutions: Some Examples of Their Interaction", 12 *Texas International Law Journal* (1977) pp. 321-330;

BUERGENTHAL, Th., and Norris, R.E. (e.d.), *Human Rights - The Inter-American System*, Dobbs Ferry N.Y., Oceana, 1984;

CANÇADO TRINDADE, A.A., *The Application of the Rule of Exhaustion of Local Remedies in International Law*, Cambridge, Cambridge University Press, 1983;

CANÇADO TRINDADE, A.A., "Co-existence and Co-ordination of Mechanisms of International Protection of Human Rights (At Global and Regional Levels)", 202 *Recueil des Cours de l'Académie de Droit International* (1987) pp. 21-428;

CASSESE, A., "The Admissibility of Communications to the United Nations of Human Rights Violations", 5 *Revue des droits de l'homme / Human Rights Journal* (1972) pp. 375-393;

CASSIN, R., "La Déclaration Universelle et la mise en oeuvre des droits de l'homme", 79 *Recueil des Cours de l'Académie de Droit International* (1951) pp. 241-365;

CASTBERG, F., *The European Convention on Human Rights*, Leiden/ N.Y., Sijthoff/Oceana, 1974;

DANELIUS, H., "Conditions of Admissibility in the Jurisprudence of the European Commission of Human Rights", 2 *Revue des droits de l'homme/Human Rights Journal* (1969) pp. 284-336;

DE MEYER, J., *La Convention européenne des droits de l'homme et le Pacte International relatif aux droits civils et politiques*, Heule, Ed. UGA, 1969;

DIJK, P. van, and HOOF, G.J.H. van, *Theory and Practice of the European Convention on Human Rights*, Deventer, Kluwer, 1984;

DROST, P.N., *Human Rights as Legal Rights*, Leyden, Sijthoff, 1965;

DRZEMCZEWSKI, A.Z., *European Human Rights Convention in Domestic Law - A Comparative Study*, Oxford, Clarendon Press, 1983;

EIDE, A., and SCHOU, A. (ed.), *International Protection of Human Rights - Proceedings of the VII Nobel Symposium* (Oslo, 1967), Stockholm, Almqvist & Wiksell, 1968;

ERMACORA, F., "International Enquiry Commissions in the Field of Human Rights", 1 *Revue des drotis de l'homme / Human Rights Journal* (1968) pp. 180-206;

EUSTATHIADES, C. Th., "La Convention européenne des droits de l'homme et le Statut du Conseil de l'Europe", 52-53 *Die Friedens-Warte* (1953-1955) pp. 332-362, and (1955-1956) pp. 47-69;

EVRIGENIS, D., "Institutionnalisation des droits de l'homme et droit universel", *Internationales Colloqium über Menschenrechte* (Berlin, 1966), Berlin, Deutsche Gesellschaft für die Vereinten Nationen, 1966, pp. 26-34;

EZEJIOFOR, G., *Protection of Human Rights under the Law*, London, Butterworths, 1964;

FAWCETT, J.E.S., *The Application of the European Convention on Human Rights*, Oxford, Clarendon Press, 1969;

GANJI, M., *International Protection of Human Rights, Geneva, Droz, 1962;*

GOLSONG, H., "Implementation of International Protection of Human Rights", 110 Recueil des Cours de l'Académie de Droit International (1963) pp. 7-151;

GROS ESPIELL, H., "Le système interaméricain comme régime régional de protection internationale des droits de l'homme", 145 *Recueil des Cours de l'Académie de Droit International* (1975) pp. 7-53;

GROS ESPIELL, H. *Los Derechos Económicos, Sociales y Culturales*, San José, Libro Libre, 1986;

HANNUM, H. (ed.), *Guide to International Human Rights Practice*, Philadelphia, University of Pennsylvannia Press, 1984;

HUMPHREY, J.P., *Human Rights and the United Nations: A Great Adventure*, Dobbs Ferry N.Y., Transnational Press, 1984;

JACOBS, F.G., *The European Convention on Human Rights*, Oxford, Clarendon Press, 1975;

JENKS, C.W., *Human Rights and International Labour Standards*, London/N.Y., Stevens / Praeger, 1960;

KISS, A.Ch., "Permissible Limitations and Derogations to Human Rights Conventions", *in* International Institute of Human Rights, *Collection of Lectures: Texts and Summaries - XIV Study Session, Strasbourg, IIHR, 1983, pp. 1-26;*

LAUTERPACHT, H., *International Law and Human Rights,* London, Stevens, 1950;

LUARD, E. (ed.), The International Protection of Human Rights, London, Thames and Hudson, 1967;

MARIE, J.-B., *La Commission des Droits de l'Homme de l'ONU,* Paris, Pédone, 1975;

MERON, Th., *Human Rights Law-Marking in the United Nations,* Oxford, Clarendon Press, 1986;

MERON, Th. (ed.), *Human Rights in International Law: Legal and Policy Issues,* vols. I-II, Oxford, Clarendon Press, 1984;

MIEHSLER, H., and PETZOLD, H. (ed.), *European Convention on Human Rights - Texts and Documents,* vol. I, Köln, C. Heymanns, 1982;

MIKAELSEN, L., *European Protection of Human Rights,* Alphen aan den Rijn, Sijthoff & Noordhoff, 1980;

MONCONDUIT, F., *La Commission européenne des droits de l'homme,* Leyden, Sijthoff, 1965;

NAY-CADOUX, A.-M., *Les conditions de recevabilité des requêtes individuelles devant la Comission européenne des droits de l'homme (Étude de jurisprudence),* Paris/Torino, LGDJ/ Giappichelli, 1966;

NIKKEN, P., *La Protección Internacional de los Derechos Humanos: Su Desarrollo Progresivo,* San José, Instituto Interamericano de Derechos Humanos/Ed. Civitas, 1987;

RAMCHARAN, B.G. (ed.), *International Law and Fact-Finding in the Field of Human Rights,* The Hague, M. Nijhoff, 1982;

RAMCHARAN, B.G. (ed.), *Human Rights: Thirty Years after the Universal Declaration,* The Hague, M. Nijhoff, 1979;

ROBERTSON, A.H. (ed.), *Human Rights in National and International Law,* Manchester, University Press/Oceana, 1970;

ROBERTSON, A.H. (ed.), *Human Rights in Europe, 2nd. ed.,* Manchester, University Press 1977;

SCHREIBER, A.P., *The Inter-American Commission on Human Rights,* Leyden, Sijthoff, 1970

SCREIBER, M., " La practique récente des Nations Unies dans le domaine de la protection des droits de l'homme", 145 *Recueil des Cours de l'Académie de Droit International* (1975) pp. 303-398;

SCHWELB, E., "Civil and Political Rights: The International Measures of Implementation", 62 *American Journal of International Law* (1968) pp. 827-868;

SCHWELB, E., "The International Convention on the Elimination of All Forms of Racial Discrimination", 15 *International and Comparative Law Quaterly* (1966) pp. 996-1059;

SIEGHART, P., *The International Law of Human Rights,* Oxford, Clarendon Press, 1983;

SOHN, L.B., and BUERGENTHAL, Th., *International Protection of Human Rights,* N.Y., Bobbs-Merrill Co., 1973;

TARDU, M.E., *Human Rights - The International Petition System,* binders 1-3, Dobbs Ferry N.Y., Oceana, 1979-1985;

URIBE VARGAS, D., *Los Derechos Humanos y El Sistema Interamericano,* Madrid, Ed. Cultura Hispánica, 1972;

VARIOUS AUTHORS, *Actes du cinquième colloque international sur la Convention européenne des droits de l'homme* (Frankfurt, 1980), Paris, Pédone, 1982, pp. 35-400;

VASAK, K. (ed.) *Les dimensions internationales des droits de l'homme",* Paris, UNESCO, 1978;

VASAK, K., "Le droit international des droits de l'homme" *140 Recueil des Cours de l'Académie de Droit International* (1974) pp. 333-416;

VERDOODT, A., *Naissance et signification de la Déclaration universelle des droits de l'homme,* Louvain, Ed. Nauwelaerts, s/d;

ZUIJDWIJK, T.J.M., *Petitioning the United Nations - A Study in Human Rights,* N.Y., Gower/St. Martin's Press, 1982.

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