



SDC's
HUMAN RIGHTS
POLICY:
TOWARDS A LIFE
IN DIGNITY
Realising rights for poor people



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SDC Distribution Centre
Telephone +41 31 322 44 12
Fax +41 31 324 13 48
E-mail info@deza.admin.ch

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governance@deza.admin.ch

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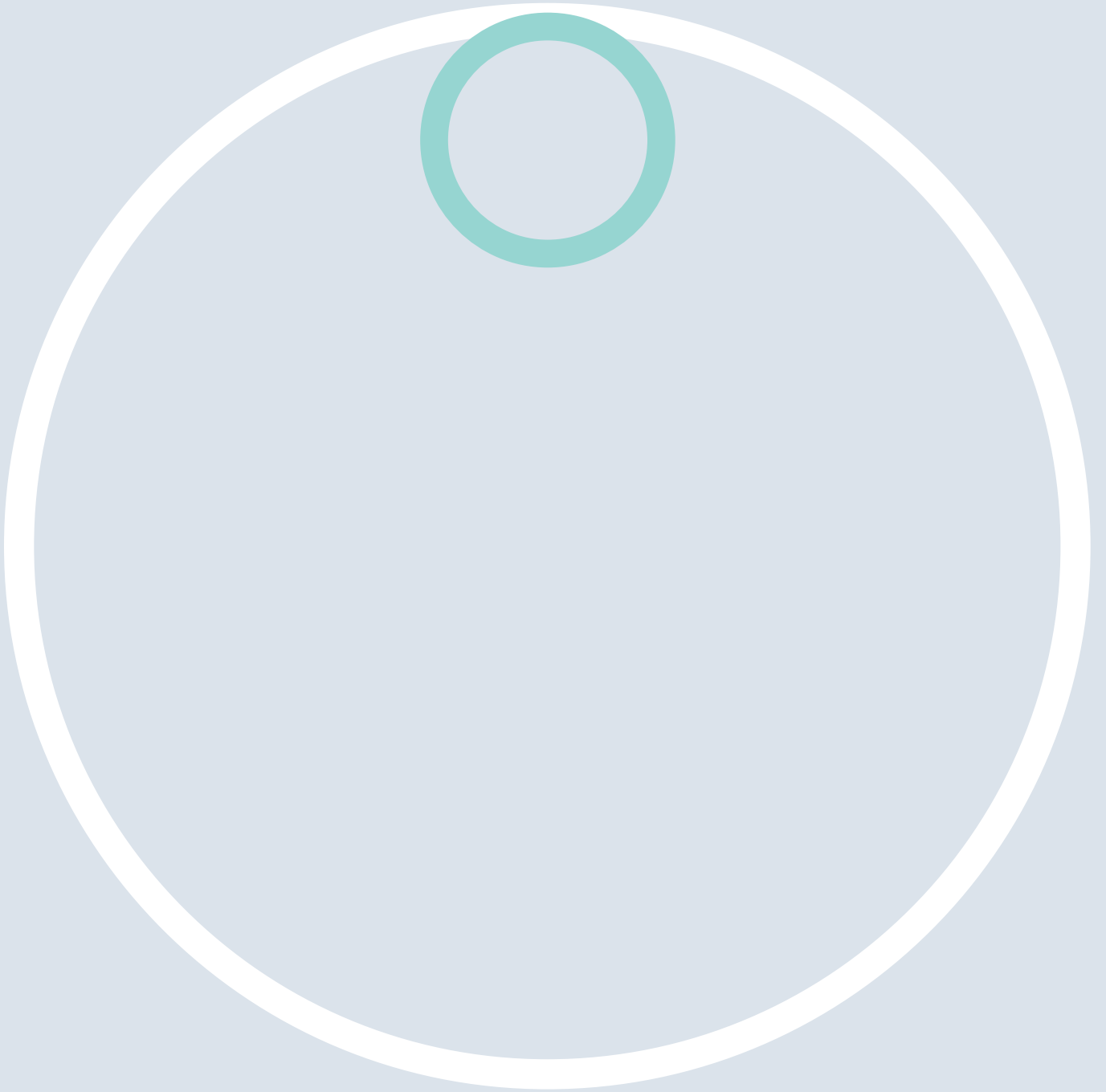
Realising rights for poor people

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SDC's HUMAN RIGHTS POLICY: TOWARDS A LIFE IN DIGNITY

Realising rights for poor people

«Humanity will not enjoy security without development, it will not enjoy development without security, and it will not enjoy either without respect for human rights»

UN-General-Secretary: In Larger Freedom: Towards Development, Security And Human Rights For All, March 2005

In 1997, the Swiss Agency for Development and Cooperation (SDC) committed itself to integrating human rights into its work and issued guidelines to assist its staff and partners. Since then, SDC has undertaken a wide range of activities. This updated policy paper builds on past experiences as well as developments within the international community, and summarises the central components of SDC's approach to human rights.

1 Why human rights in development?

In the last decade, development and human rights have come to work together. Economic, social, civil and political rights are increasingly incorporated into poverty reduction, people-centred development, conflict prevention and international security issues, in particular in promoting human security. The Millennium Declaration re-emphasises the importance of human rights promotion and protection for poverty reduction and sustainable development, highlighted by the Millennium Development Goals (Box 1). Peaceful and sound economic and social development needs political and legal systems based on non-discrimination, participation, accountability and the rule of law, at both international and national level. These governance principles are all enshrined in the human rights framework (Box 2).

While the implementation of human rights is still primarily the responsibility of states, more and more private companies come to realise their (legal, ethical, commercial) responsibilities to address human rights issues within their own operations and activities. Initiated by the UN-Secretary-General, the Global Compact unites many hundreds of companies from all regions of the world, international labour and civil society organisations, working to advance ten universal principles in the areas of human rights, labour, environment and anti-corruption.



Box 1:

Commitments in the Millennium Declaration on human rights, democracy and good governance

- To respect fully and uphold the Universal Declaration of Human Rights.
- To strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all.
- To strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights.
- To combat all forms of violence against women and to implement the Convention on the Elimination of All Forms of Discrimination Against Women.
- To take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies.
- To work collectively for more inclusive political processes, allowing genuine participation by all citizens in all our countries.
- To ensure the freedom of the media to perform their essential role and the right of the public to have access to information.

www.ohchr.org/english/law/millennium.htm

What is the international human rights framework?

During the last 50 years the international human rights system has evolved towards a broad set of internationally agreed and legally binding rights and responsibilities enshrined in various conventions and protocols as well as in international customary law. Six of the seven core conventions have been ratified by the majority of states from all over the world. State parties have thereby freely accepted to respect, protect and fulfil human rights. The progress of implementation is monitored through various international mechanisms involving states and international organisations, tribunals, expert committees and NGOs.

The value and importance of human rights for development cooperation is now widely recognised. Human rights are being used to address poverty including social, political and economic exclusion and to support the struggle for social justice at national and international level. Defining basic rights, and roles and responsibilities, human rights add an essential dimension to poverty reduction and development strategies (Box 3). Analytically, human rights bring root causes and dynamics of poverty to the fore. They can also offer operational guidance for governments, civil society and donors.

UN development agencies have started to incorporate human rights explicitly into their work by adopting a human rights-based approach to development cooperation (Box 4). Many bilateral agencies and INGOs and NGOs have also adopted rights-based approaches.

Box 2:

The international human rights framework

- 1948 Universal Declaration on Human Rights (UDHR)
- The seven core conventions are:
 - 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR, ratified by 151 states*)
 - 1966 International Covenant on Civil and Political Rights (ICCPR, ratified by 154 states)
 - 1965 Convention on the Elimination of All Forms of Racial Discrimination (CERD, ratified by 170 states)
 - 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW, ratified by 180 states)
 - 1984 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, ratified by 139 states)
 - 1989 Convention on the Rights of the Child (CRC, ratified by 192 states)
 - 1990 Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ratified by 34 states)

The international human rights framework also includes the International Labour Organisation (ILO), which has established a number of treaties setting norms and standards that particularly concern labour rights. Moreover the International Criminal Court is dealing with individual responsibility for massive human rights violations, namely «crimes against humanity».

www.ohchr.org/english/law/index.htm

(*state of ratifications 2005)



Box 3:

Key human rights include:

- The rights to life, liberty, and security of person
- The right to equal treatment and non-discrimination
- The right to be recognised as a person before the law
- The right to a standard of living – food, water and housing – adequate for health and well-being
- The right to the highest attainable standard of physical and mental health
- The right to work and to just and favourable conditions of work
- The right to education
- Freedom of thought, conscience, religion
- Freedom of opinion, expression, association and the right to participate in the political process
- The right to participate in cultural life
- The right to privacy and family life
- Freedom from slavery and servitude
- The right to a fair trial and to be free from arbitrary arrest or imprisonment
- Freedom from torture and from cruel, inhuman or degrading treatment or punishment



Box 4:

UN Common Understanding on a human rights-based approach

1. All programmes of development cooperation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.
4. The human rights principles identified in this agreement are: universality and inalienability; indivisibility; inter-dependence and inter-relatedness; equality and non-discrimination; participation and inclusion; accountability and rule of law.

2 SDC's human rights commitment

Swiss foreign policy: promoting human rights and fighting poverty
Swiss foreign policy has a constitutional mandate and a political commitment to promote human rights, the rule of law and democracy as well as to alleviate need and poverty in the world. In 1997 SDC was amongst the first bilateral donors to adopt guidelines on human rights in development cooperation which set human rights as both means and end of development cooperation. SDC's strategy 2010 adopted in 2000 defines 'Good Governance', including human rights, as one of its thematic priorities. At policy level and in partner countries, SDC has supported a range of interventions to promote and protect different aspects of human rights (Box 5).

Box 5:

SDC's recent activities to promote and protect different aspects of human rights in policy making and programming:

- SDC has promoted gender equality, inclusive participation of minorities and the empowerment of marginalised groups through fighting discrimination.
- The Gender policy makes an explicit reference to women's rights and the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW).
- Human Rights promotion is an essential part of SDC's governance programmes. SDC is involved in a large number of projects with a focus on civil and political rights promotion and protection, such as through the rule of law and access to justice interventions, democratisation or media initiatives.
- The policies on HIV/Aids and Health explicitly refer to health as a human right, which leads to fighting against discrimination of people living with HIV/Aids and emphasising the right to equal access to basic health care services. SDC's new water strategy also sets a rights-based approach to water to the fore.
- SDC has contributed to the growing sensitivity towards human rights issues in multilateral and international development fora, such as in the elaboration of the voluntary guidelines on the right to food and in promoting a human rights-based approach in UN organisations.

SDC's goals

Building on the 1997 guidelines and taking into account recent developments at international level and SDC's experience from multilateral and bilateral programmes, this policy statement reaffirms SDC's commitment towards integrating human rights in development cooperation.

SDC will:

- Integrate human rights in its multidimensional conception of poverty elimination. Discrimination and exclusion contribute to poverty, preventing marginalised groups from accessing rights, economic resources and opportunities, markets, and public services, and excluding them from power and decision making.
- Further human dignity of poor and marginalised groups. Combating economic, social and political exclusion of marginalised groups will draw on the human rights standards and principles set out in the international human rights framework.
- Promote empowerment of the powerless and their active participation in the development process. Beneficiaries act as active citizens and responsible rights-holders, realising their rights without discrimination.
- Strengthen accountability and capacity of state actors at all levels to respect, protect and fulfil the rights of individuals and groups set out in the human rights framework. This is particularly important when working with fragile states where political will and/or capacity are lacking.
- Use binding human rights treaties and mechanisms voluntarily agreed upon by most donor and partner countries as a legitimate common basis for action-oriented partnership and political dialogue at the bilateral and multilateral level.

3 Strategic orientations – a human rights-based approach to development cooperation

To live up to this commitment, SDC will adopt a human rights-based approach, which means starting from the standards set out in the human rights framework, integrating human rights principles in its policies and programmes, and empowering rights-holders and strengthening duty-bearers.

Integrating human rights principles

Together with its governmental and non-governmental partners, SDC will integrate human rights principles into the design, implementation and monitoring of development policies, programmes and projects at multilateral and bilateral level. The following human rights principles represent fundamental values inherent to human dignity and underpin the international human rights framework:

- **Equality and non-discrimination:** Policies, programmes and practices will not, intentionally or unintentionally, reinforce social, political or economic inequalities. On the contrary, they will consciously aim at promoting equality and non-discrimination.
- **Participation and empowerment:** Activities will aim at empowering people to participate fully in decision-making processes that affect their lives – and at making state institutions capable of responding to the opinions expressed and of balancing conflicting interests in ways which conform to human rights.
- **Accountability and the rule of law:** Human rights link participation and empowerment of rights-holders with the responsibilities of state authorities to respect, protect and fulfil their human rights duties. SDC will particularly strengthen accountability mechanisms at the national and local level.
- **Indivisibility and universality:** All human rights belong to all, and no set of rights is superior to another. The realisation of one right often depends essentially on other interlinked rights. Though policy making requires the prioritisation/sequencing of certain objectives and human rights must be realised progressively, SDC will engage in development processes which avoid doing harm to any human right, stressing that there can be no trade off between different rights.

The abstract definition of human rights leaves considerable space for interpretation and implementation with due regard to the particular cultural context. SDC will employ strategies of promoting and respecting cultural identity and diversity within the partner countries with a view to ensuring the whole range of rights and freedoms for every person in any country.

 **Empowering rights-holders and strengthening duty-bearers**

In its development cooperation, SDC will empower rights-holders to realise their rights and strengthen duty-bearers to comply with their human rights obligations and duties:

- **Rights-holders:** Human rights translate basic needs into rights and responsibilities. This changes the status of beneficiaries of development assistance; they become rights-holders who know their rights and are aware of their responsibilities. According to particular priorities of the poor and marginalised groups, SDC will promote their access to political decision making, to public services and justice as well as to economic resources and opportunities.
- **Duty-bearers:** Under the human rights framework, states are primarily responsible for implementing human rights. Various state authorities (parliaments, governments, tribunals) at central and decentralised level have complex duties with a view to realising human rights. The private sector (and citizens in general) can also be involved in these responsibilities, particularly where the private sector is acting on behalf of the state or where the national legal framework concretises the state obligation to protect vulnerable groups from abuse.

● Areas and methods of intervention

• Sectoral and transversal approaches

SDC has already explored various ways and methods of empowering rights-holders and strengthening duty-bearers at a policy as well as an operational level. SDC will continue to work in two ways:

- Sectoral approach as part of governance activities in partner countries, through particular actions aiming at promoting the respect, protection and fulfilment of human rights. These activities are carefully coordinated with PD IV.
- Transversal approach by integrating human rights into the design, implementation and monitoring of overall and sectoral policies, its country strategies, and individual programmes and projects.

• Adopting a human rights-based approach at different levels

- *Normative*: SDC will rely on the human rights framework and principles at the normative level. Human rights thinking/terminology will be taken into consideration for defining visions, goals, objectives and outcomes of policies and programmes in all sectors of activities. This means for example that policy goals on aid harmonisation, international partnership and aid effectiveness will take into account the human rights principles.
- *Analytical*: SDC will include human rights and human rights monitoring at the analytical level. Human rights issues and problems will be explicitly addressed in the analysis of the context and impact of SDC's activities. Analysis from human rights monitoring bodies will be systematically taken into account.
- *Operational*: SDC will use a human rights-based approach as guidance at the operational level. In particular:
 - Tackling discrimination, exclusion and power abuse will become an objective of all development processes.
 - The focus on empowering rights-holders and strengthening duty-bearers may shift SDC's perception of adequate partners, working methods, and bilateral dialogue.
 - Supporting accountability and national ownership will be promoted by strengthening national and local actors responsible for action.
 - Human rights standards will serve as a basis for developing measurable targets for development progress. SDC will use human rights standards for monitoring and evaluating progress and the impact of development cooperation.

• **Working with different partners**

SDC will use the international human rights framework as a legitimate basis for policy dialogues with partner countries and institutions. In defining its goals and scope, SDC will cooperate with other actors involved in Swiss foreign policymaking. It will coordinate closely with PD IV, which has the main responsibility for international human rights policy and concentrates, *inter alia*, on standard setting and international monitoring mechanisms, the fight against torture and human rights dialogues in some selected countries.

- The *governments of partner countries* are primarily responsible for implementing human rights as well as for designing and implementing development policies in their countries. In close cooperation with other competent services of the Swiss administration, SDC will particularly provide assistance to strengthen the capacity of various state authorities at national or decentralised level.
- *Multilateral institutions* increasingly deal with human rights issues in their cooperation activities. SDC financially supports a number of UN agencies and participates actively in their governing bodies. UN agencies are in the process of applying the UN Common Understanding; SDC will follow closely and systematically these efforts in the various bodies. SDC will also address more systematically human rights issues in international financial institutions, with a view to promoting the integration of human rights and poverty reduction concerns into their activities.
- *Civil society* capacity in Switzerland and in partner countries will be strengthened, so as to support vulnerable individuals and groups in realising their rights, and to participate and cooperate constructively with governments in designing development policies.
- *Private sector*: When working in partnership with the private sector, the responsibilities of partners according to human rights standards are taken into account.

4 Implementation measures – roles and responsibilities

Whereas SDC's management has the overall responsibility for implementing and monitoring the integration of human rights into SDC's activities, the human rights policy will be implemented in different ways along internal organisational responsibilities.

- **Instruments and tools** will be adapted with a view to integrating human rights into SDC's activities on all levels. The challenges and risks linked to the operationalisation of the new approach will be analysed, and ways and means will be developed with a view to responding to these challenges. Roles and responsibilities for a coherent implementation of the human rights commitments within SDC's working instruments and methods will be clarified.
- A **communication strategy** will be developed to make SDC's units aware of the commitment, and its implications for their work. This will include editing and translating: the updated policy; a working paper; frequently asked questions; and a brochure on human rights that is accessible for practitioners.
- **Synergies and linkages** with other SDC's priorities and policies will be explored and developed (e.g. human rights in promoting access to public services such as health care, to water; human rights in conflict prevention) as well as with other actors in the Swiss administration.
- **SDC's capacity** to understand and promote human rights will be strengthened. Experience will be capitalised on more systematically, in order to profit as much as possible from lessons learnt in particular country contexts. Training will be adapted to the various needs of the participants.
- In order to monitor SDC's progress and challenges in integrating human rights into its activities, a **plan of action** will be elaborated and progress will be **evaluated regularly**.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it 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,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

THE GENERAL ASSEMBLY

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Art 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Art 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Art 3: Everyone has the right to life, liberty and the security of person.

Art 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Art 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Art 6: Everyone has the right to recognition everywhere as a person before the law.

Art 7: All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Art 8: Everyone has the right to an effective remedy

by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Art 9: No one shall be subjected to arbitrary arrest, detention or exile.

Art 10: Everyone is entitled in full equality to a fair, and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Art 11: 1. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Art 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Art 13: 1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Art 14: 1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Art 15: 1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Art 16: 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

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

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Art 17: 1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Art 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Art 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Art 20: 1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Art 21: 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Art 22: Everyone, as a member of society, has the right to social security and is entitled to realization,

through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Art 23: 1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Art 24: Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25: 1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Art 26: 1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Art 27: 1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Art 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Art 29: 1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Art 30: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

