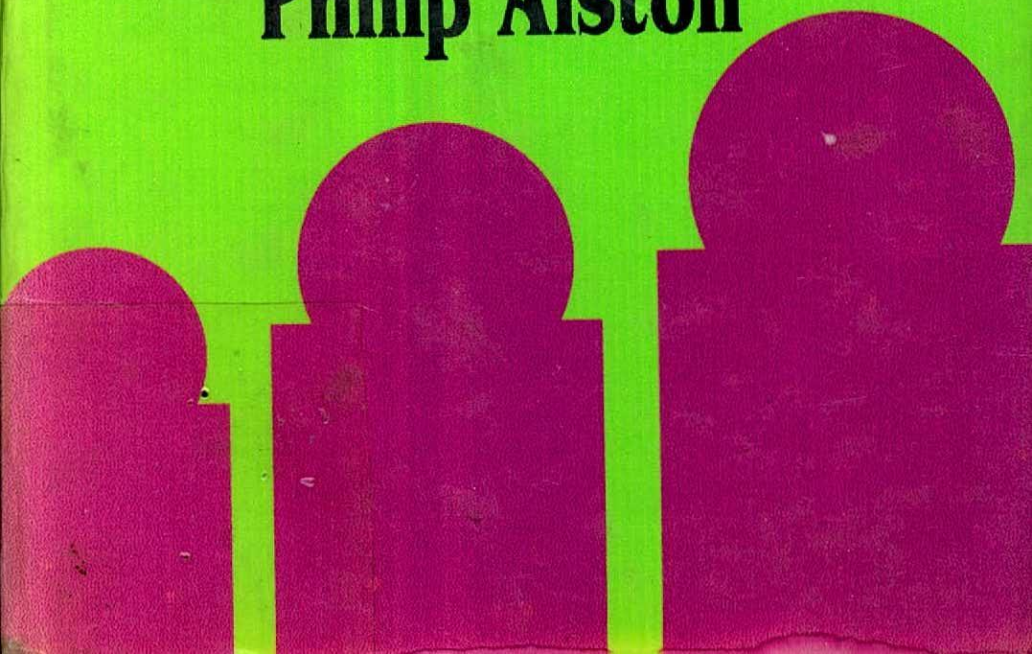


**INTERNATIONAL  
HUMAN RIGHTS  
IN CONTEXT**

**Text & Materials**

**Henry J. Steiner  
Philip Alston**



# INTERNATIONAL HUMAN RIGHTS IN CONTEXT

LAW, POLITICS, MORALS

*Text and Materials*

HENRY J. STEINER

*Jeremiah Smith, Jr. Professor of Law and Director of Law School  
Human Rights Program, Harvard University*

and

PHILIP ALSTON

*Professor of International Law, European University, Institute Director  
of Law, Australian National University*

OXFORD  
UNIVERSITY PRESS  
RONDON PRESS · OXFORD

Oxford University Press, Great Clarendon Street, Oxford OX2 0DP  
Oxford New York  
Athen Auckland Bangkok Bogota Bombay Buenos Aires  
Calcutta Cape Town Dar es Salaam Delhi Florence Hong Kong  
Istanbul Karachi Kuala Lumpur Madras Madrid Melbourne  
Mexico City Nairobi Paris Singapore Taipei Tokyo Toronto  
and associated companies in  
Berlin Ibadan

Oxford is a trade mark of Oxford University Press

Published in the United States by  
Oxford University Press Inc., New York

© In the Commentary, Notes, Questions, and in the Selection and Editing of Materials,  
Henry J. Steiner and Philip Alston 1996

First published 1996  
Reprinted 1996 (twice)

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission in writing of Oxford University Press. Within the UK, exceptions are allowed in respect of fair dealing for the purpose of research or private study, or criticism or review, as permitted under the Copyright, Designs and Patents Act, 1988, or in the case of reprographic reproduction in accordance with the terms of licences issued by the Copyright Licensing Agency. Enquiries concerning reproduction outside these terms and in other countries should be sent to the Rights Department, Oxford University Press, at the address above.

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out or otherwise circulated without the publisher's prior consent in any form of binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

British Library Cataloguing in Publication Data  
Data available

Library of Congress Cataloguing in Publication Data  
Data available

ISBN 0-19-825427-X  
ISBN 0-19-825426-1 (pbk)

Printed and bound in Great Britain  
on acid-free paper by  
Biddles Ltd, Guildford and King's Lynn

# Contents

Acknowledgements	xxxi
<b>PART A. INTRODUCTORY NOTIONS</b>	<b>1</b>
1. Global Snapshots	3
Stories about Human Rights	4
<b>PART B. HISTORICAL DEVELOPMENT AND NORMATIVE FRAMEWORK OF INTERNATIONAL HUMAN RIGHTS</b>	<b>23</b>
2. International Law Concepts and Doctrinal Background Relevant to the Human Rights Movement	26
A. BASIC CONCEPTIONS AND PROCESSES	26
Comment on the Role of Custom	27
Comment on Treaties	30
Brownlie, Principles of Public International Law	40
Schächter, International Law in Theory and Practice	42
Note	49
Koskenniemi, The Politics of International Law	50
Questions	57
B. HISTORICAL ANTECEDENTS TO CONTEMPORARY HUMAN RIGHTS	57
The Paquete Habana	60
Comment on the Humanitarian Law of War	69
Questions	71
Comment on the Law of State Responsibility and the Chattin Case	71
The Chattin Case	75
Comment on Problems in Developing an International Minimum Standard	83
Questions	85
Comment on the Minorities Regime after World War I	86
Minority Schools in Albania	89
Comment on Further Aspects of the Minority Treaties	96
Questions	98
Comment on the Nuremberg Trials	99
Judgment of Nuremberg Tribunal	102
Note	109
Views of Commentators	109
Questions	112
Henkin, International Law: Politics, Values and Functions	113
3. Evolution and Norms of the Universal Human Rights System	117
A. FOUNDATIONS OF THE SYSTEM	118
Comment on the UN Charter and the Origins of the Human Rights Movement	118

Note	122
Questions	123
Comment on Relationships between the Universal Declaration and the ICCPR	123
Note	126
Questions	127
Van Boven, Distinguishing Criteria of Human Rights	128
Note	130
Questions	131
Note	131
B. THE CONTINUING ROLE OF CUSTOM AND THE SIGNIFICANCE OF UN RESOLUTIONS	132
Jennings and Watts, Oppenheim's International Law	132
Schachter, International Law in Theory and Practice	134
Higgins, Problems and Process	140
Views of Scholars	141
Question	145
Restatement (Third), Foreign Relations Law of the United States	145
Note	147
Questions	148
C. HUMAN RIGHTS CHALLENGE TO CONCEPTIONS OF SOVEREIGNTY AND DOMESTIC JURISDICTION	148
Gross, The Peace of Westphalia	148
Walker and Mendiovitiz, Interrogating State Sovereignty	151
Views of Scholars	154
Steiner, The Youth of Rights	155
Reisman, Sovereignty and Human Rights in Contemporary International Law	157
Tunis-Morocco Nationality Decrees	160
Comment on Domestic Jurisdiction	162
Note	164
Questions	165
4. What are Rights, Are They Everywhere, and Everywhere the Same?: Cultural Relativism	166
A. THE NOTION OF 'RIGHTS': ORIGINS AND RELATION TO 'DUTIES'	167
Weston, Human Rights	167
Sidorsky, Contemporary Reinterpretations of the Concept of Human Rights	170
Kamenka, Human Rights, Peoples' Rights	172
Taylor, Human Rights: The Legal Culture	173
Questions	176
Klare, Legal Theory and Democratic Reconstruction	177
Note	179
Questions	180
Note	180
Cover, Obligation: A Jewish Jurisprudence of the Social Order	181
Kenyatta, Facing Mount Kenya: The Tribal Life of the Gikuyu	184

Questions	186
Comment on Some Characteristics of the Liberal Political Tradition	187
<b>B. UNIVERSALISM AND CULTURAL RELATIVISM</b>	192
Comment on the Universalist-Relativist Debate	192
Note	194
Hatch, Culture and Morality: The Relativity of Values in Anthropology	194
American Anthropological Association, Statement on Human Rights	198
Questions	200
Note	200
Pannikar, Is the Notion of Human Rights a Western Concept?	201
An-Na'im, Human Rights in the Muslim World	210
Note	218
Questions	220
Howard, Dignity, Community, and Human Rights	221
Schachter, Human Dignity as a Normative Concept	223
Question	225
<b>C. CONTEMPORARY DEBATE BETWEEN THE WEST AND SOME ASIAN STATES</b>	226
Kausikan, Asia's Different Standard	226
Note	232
Information Office of State Council, Beijing, Human Rights in China	237
Note	238
Questions	238
Ghai, Human Rights and Governance: The Asia Debate	239
Donnelly, Universal Human Rights in Theory and Practice	241
<b>D. ILLUSTRATION: THE DEBATE OVER FEMALE CIRCUMCISION</b>	241
Views of Commentators about Female Circumcision	241
Note	254
Questions	258
<b>5. Economic and Social Rights</b>	258
<b>A. OVERVIEW AND HISTORICAL BACKGROUND</b>	258
Comment on Historical Origins	258
Annotations on the Texts of the Draft International Covenants on Human Rights	261
Comment on the ICESCR	263
United Nations Development Programme, Human Development Report	265
Statement to World Conference on Human Rights of ICESCR Committee	267
<b>B. THE CHALLENGE OF ECONOMIC AND SOCIAL RIGHTS</b>	267
Comment on Objections to Economic and Social Rights	267
Drèze and Sen, Hunger and Public Action	270
Henkin, International Human Rights and Rights in the United States	271
Questions	272
Note	273

C. AN OBLIGATIONS-BASED APPROACH	274
Comment on Differences between the Two Covenants	274
Kant, The Doctrine of Virtue	275
Campbell, The Left and Rights	277
Questions	278
Van Hoof, The Legal Nature of Economic, Social and Cultural Rights	279
Committee on Economic, Social and Cultural Rights, General Comment No. 3	283
Questions	286
D. THE STATE OF THE INDIVIDUALS	287
Note	287
Weiner, The Child and the State in India	287
United Nations Development Programme, Human Development Report	290
The Economist, Pakistan's Real Poverty	291
Birdsall, Pragmatism, Robin Hood, and Other Themes	292
Questions	295
Note	297
Question	298
E. THE QUESTION OF JUSTICIABILITY	298
Committee on Economic, Social and Cultural Rights, General Comment No. 3	298
Note	299
Questions	300
Note	300
Jackman, Constitutional Rhetoric and Social Justice	301
Questions	304
Note	306
Constitution of India	306
Note	307
Baxi, Judicial Discourse: Dialectics of the Face and the Mask	308
Questions	310
F. DEVELOPMENT BY STATES OF A PROGRAMMATIC APPROACH	311
Cassese, Clapham and Weiler, 1992—What Are Our Rights?	311
Note	313
Drèze and Sen, Hunger and Public Action	314
Question	316
G. INTERNATIONAL SUPERVISION BY THE ICESCR COMMITTEE: CASE STUDY OF HOUSING	316
Committee on Economic, Social and Cultural Rights, Reporting Guidelines	317
Committee on Economic, Social and Cultural Rights, General Comment No. 4	318
Committee on Economic, Social and Cultural Rights, Observations on Report of Dominican Republic	320
Questions	322

H. INTERNATIONAL ENFORCEMENT: IDENTIFYING VIOLATORS	323
Tomuschat, The Right to Health in Guatemala	323
Question	324
Van der Stoep, Situation of Human Rights in Iraq	324
Questions	327
PART C. HUMAN RIGHTS INSTITUTIONS AND PROCESSES	329
6. The Need for Institutions: Introductory Ideas	331
Schermers, International Institutional Law	332
Comment on Relations between Norms and Institutions	335
Claude, Swords into Plowshares	336
Haas, When Knowledge is Power	338
Kennedy, A New Stream of International Law Scholarship	339
Note	343
Reisman, Amending the UN Charter: The Art of the Feasible	344
7. Intergovernmental Enforcement of Human Rights Norms: The UN System	347
A. DEVELOPMENT OF THE UN HUMAN RIGHTS SYSTEM	347
Comment on Enforcement and the UN Organs Involved	347
Henkin, International Law: Politics, Values and Functions	350
Alston, Appraising the United Nations Human Rights Regime	354
Note	356
Alston, The Commission on Human Rights	357
B. THE WANING OBSTACLE OF DOMESTIC JURISDICTION	364
Note	364
Sohn, Interpreting the Law	365
Note	369
Statement by the Representative of Poland	370
Note	371
Questions	372
C. THE UN COMMISSION'S MAIN PROCEDURES FOR RESPONDING TO VIOLATIONS	374
1. The 1503 Procedure: Pros and Cons of Confidentiality	376
ECOSOC Resolution 1503	376
Sub-Commission Resolution 1	377
Question	379
Alston, The Commission on Human Rights	380
Report of the Secretary-General on Uruguay	382
Question	385
Alston, The Commission on Human Rights	385
Newman and Weissbrodt, International Human Rights	387
Questions	388
2. The 1235 Procedure: Processes and Participants	388
a. The Process and its Outcomes	388



## Contents

ECOSOC Resolution 1235	389
Comment on the 1235 Procedure and its Possible Outcomes	390
<i>B. The Quest for Fact-finding Guidelines</i>	391
Valdovinos, Foreword to International Law and Fact-finding	392
U.S. State Department, Country Reports on Human Rights Practices	394
Memorandum of Understanding with the Government of Chile	395
International Law Association, Belgrade Minimal Rules	398
Note	400
Questions	401
<i>C. Case Studies of Fact-finding under the 1235 Procedure</i>	402
<i>1. Chile. The Commission on Human Rights</i>	402
Report of the Special Rapporteur on Cuba	407
Questions	411
Report of the Special Representative on Iran	411
Questions	420
<b>3. The Evolution of Techniques for Promoting Compliance:</b>	
'Thematic' Mechanisms and Beyond	420
Comment on Range of Thematic Mechanisms	420
Comment on the Disappearances Working Group	421
Cassese, Human Rights in a Changing World	423
Kramer and Weissbrodt, The 1980 UN Commission on Human Rights	424
Commission Resolution 20	427
Commission Resolution 1992/30	427
Working Group on Disappearances, Methods of Work	428
Working Group on Disappearances, The Question of Disappearances in the Former Yugoslavia	430
Note	431
Working Group on Disappearances, Case Study	432
The Economist, Abuse of Human Rights Commission	434
Report of the Working Group on Disappearances	435
Comment on On-Site Visits: The Case of East Timor	437
Comment on the Working Group on Arbitrary Detention	438
Working Group on Arbitrary Detention, Deliberation 02	441
Working Group on Arbitrary Detention, Decision No. 48/1993	443
Commission on Human Rights Resolution 1994/45	446
Preliminary Report of Special Rapporteur on Violence against Women	446
Questions	447
<b>D. OVERVIEW AND EVALUATION</b>	448
Alston, Appraising the United Nations Human Rights Regime	448
Donnelly, International Human Rights: A Regime Analysis	450
Allott, Eunomia: New Order for a New World	454
Note	454
Questions	455

8. The Role of Non-Governmental Organizations	456
A. NGOs: DIVERSITY IN CHARACTER AND WORK	457
Steiner, <i>Diverse Partners</i>	457
Neier, <i>Not All Human Rights Groups Are Equal</i>	459
Kothari, <i>Human Rights—A Movement in Search of a Theory</i>	460
Steiner, <i>Diverse Partners</i>	462
Note	467
Posner and Whittome, <i>The Status of Human Rights NGOs</i>	467
Questions	469
Note	470
Questions	471
B. INGOs AND THE UNITED NATIONS	471
Comment on INGOs	471
Farer, <i>Looking At Looking at Nicaragua</i>	473
Rodley, <i>The Work of Non-Governmental Organizations</i>	476
Questions	479
Note	480
Statute of Amnesty International	480
Baehr, <i>Amnesty International and Its Self-imposed Limited Mandate</i>	482
Note	486
Alston, <i>The Fortieth Anniversary of the Universal Declaration</i>	487
Questions	488
Arrangements for Consultation with Non-Governmental Organizations	489
Posner and Whittome, <i>The Status of Human Rights NGOs</i>	491
Report of Open-Ended Working Group on Consultation with Non-Governmental Organizations	493
Childers and Urquhart, <i>We, The Peoples</i>	494
Questions	497
9. Treaty Organs: The ICCPR Human Rights Committee	500
A. POWERS, FUNCTIONS, AND PERFORMANCE OF THE ICCPR-COMMITTEE	501
1. Introduction	501
Comment on the Formal Organization of the ICCPR Committee	501
Note	505
Question	505
2. State Reporting	505
Comment on Periodic Reports of States	506
Report of Iraq to Human Rights Committee	510
Report of Austria to Human Rights Committee	514
Comment on Changing Practice of the Committee for Reports	517
Questions	520
3. General Comments	522
Excerpts from the Committee's General Comments	522
Note	523
Questions	524
4. Individual Communications	525
Comment on Communications under the Optional Protocol	525
Opsahl, <i>The Human Rights Committee</i>	527

Rubio v. Colombia	539
Bwalya v. Zambia	541
Pauger v. Austria	543
Toonen v. Australia	545
Questions	548
Comment on Exhaustion of Remedies	548
Note	548
Questions	550
5. Evaluation	551
Opsahl, The Human Rights Committee	552
Note	552
Note and Question	554
	554
B. COMPARISONS: OTHER HUMAN RIGHTS TREATY REGIMES	556
Comment on the Reporting and Complaints Procedures for the Six Human Rights Treaty Bodies	
Questions	557
	561
10. Regional Arrangements	563
A. COMPARISON OF UNIVERSAL AND REGIONAL SYSTEMS	563
Claude, Swords into Plowshares	565
Regional Promotion and Protection of Human Rights	567
Note	569
Questions	570
B. THE EUROPEAN CONVENTION SYSTEM: THE PARAMOUNT ROLE OF THE COURT	571
1. Introduction	571
Comment on Background to the Convention	571
Comment on Rights Recognized by the Convention	572
2. The Broad European Institutional Context	574
Comment on Three European Organizations	574
3. Other Human Rights Conventions Adopted by the Council of Europe	580
Comment on Three Conventions	580
Questions	583
4. The European Convention's Implementation Machinery: Article 25 Individual Petitions	583
Comment on the Commission and Court	584
5. Responses of States to Findings of Violations	586
Dzrzmeczewski and Meyer-Ladewig, Principal Characteristics of the New ECHR Control Mechanism	586
Tomuschat, Quo Vadis, Argentoratum? The Success Story of the European Convention on Human Rights—and a Few Dark Stains	588
Question	589
6. Reforming the Convention System	540
Dzrzmeczewski and Meyer-Ladewig, Principal Characteristics of the New ECHR Control Mechanism	591
Questions	593
7. The Inter-State Procedure: Article 24	594
Robertson and Merrills, Human Rights in Europe	596
Questions	597

9

★ 8. The European Court in Action: Some Illustrative Cases	598
Merrills, The Development of International Law by the European Court of Human Rights	599
Note	600
Brogan v. United Kingdom	601
Note	610
Questions	611
Note	612
Question	614
Handyside Case	615
Note	617
Norris v. Ireland	618
Note	622
Bowers v. Hardwick	623
Note	626
Van Dijk and Van Hoof, Theory and Practice of the European Convention on Human Rights	627
Views of Commentators on the Margin of Appreciation	631
Views of Commentators about Dynamic Interpretation and Consensus	634
Questions	635
Comment on Powers and Jurisdiction of International Tribunals	636
Questions	638
C. THE INTER-AMERICAN SYSTEM: PROMOTING DEMOCRACY	640
1. Background and Protected Rights	640
Comment on Development of the Inter-American System	640
Comment on Rights Recognized in the American Declaration and Convention	642
2. Institutional Arrangements	644
Medina, The Inter-American Commission and the Inter-American Court: Reflections on a Joint Venture	644
Note	648
3. The Court in Action	650
Velásquez Rodríguez Case	650
Note	656
Questions	657
4. Democratic Government in the Inter-American System	658
a. <i>Background in Theory and State Practice</i>	658
Comment on Relationships between the Human Rights Movement and Democratic Government	658
Steiner, Political Participation as a Human Right	661
Franck, The Emerging Right to Democratic Governance	672
Note	676
b. <i>The Commission, Political Participation and Democracy</i>	676
Comment on Provisions on Democracy in Inter-American Documents	677
Final Report on Cases of Mexico	678

Inter-American Commission on Human Rights. Annual Report	684
Questions	688
<b>THE AFRICAN SYSTEM, RIGHTS AND DUTIES</b>	689
Comment on the Organization of African Unity	690
Comment on Comparisons between the African Charter and other Human Rights Instruments	691
Questions	693
Comment on Duties and their Implications in the African Charter	693
Questions	695
Commentators' Evaluations of the Charter's Duties	696
Comment on Institutional Implementation: The African Commission	699
Questions	702
Commentators' Evaluations of the Early Years of the Commission's Work	703
Note	704
<b>PART D. STATES AS PROTECTORS AND ENFORCERS OF HUMAN RIGHTS</b>	707
<b>11. Interpenetration of International and National Systems: Internal Protection of Human Rights by States</b>	709
<b>A. THE SPREAD OF STATE CONSTITUTIONS IN THE LIBERAL MODEL</b>	710
Comment on Constitutions and Constitutionalism	710
Henkin, Constitutionalism and Human Rights	714
Note	715
Question	716
Note	716
Ghai, The Theory of the State in the Third World.	717
Coomaraswamy, Uses and Usurpation of Constitutional Ideology	720
Sajó and Losonci, Rule by Law in East Central Europe	722
<b>B. HUMAN RIGHTS TREATIES WITHIN STATES' LEGAL AND POLITICAL ORDERS</b>	725
<b>1. Basic Notions: Illustrations from Different States</b>	726
Leary, International Labour Conventions and National Law	726
Bernhardt, The Convention and Domestic Law	728
Polakiewicz and Jacob-Foltzer, The European Human Rights Convention in Domestic Law	730
Clapham, Human Rights in the Private Sphere	734
Comment on Australian Responses to the Toonen Case	739
Question	741
Comment on Treaties in the United States	742
Reid v. Covert	743
Comment on Self-Executing Treaties	745
Sei Fujii v. State	747
Questions	750
<b>2. Ratification by the United States of the ICCPR</b>	750
Sohn and Buergenthal, International Protection of Human Rights	751
Note	754

Comment on the Internal Effect of the ICCPR	755
Comment on Treaty Reservations	756
Senate Hearings on International Human Rights Treaties	758
Questions	766
Letter from President Bush to Senate Committee	766
Proposals by Bush Administration of Reservations	767
Note	771
Questions	772
Note	773
General Comment No. 24 of Human Rights Committee	774
Questions	777
Comment on the U.S. Ratification of CERD	777
Questions	778
C. JUDICIAL ENFORCEMENT OF CUSTOMARY NORMS: THE ALIEN TORT STATUTE	779
Filartiga v. Pena-Irala	779
Questions	788
Comment on the Tel-Oren Case, the Act-of-State Doctrine, and Sovereign Immunity	789
Forti v. Suarez-Mason	794
Note	799
Questions	800
Torture Victim Protection Act	801
Senate Report on the Torture Victim Protection Act	802
Questions	805
Comment on Criminal Prosecution under Convention against Torture	805
Comment on Relevance of International Law to Constitutional Litigation over the Death Penalty	807
Questions	809
12. Enforcement by States against Violator States	811
A. NATIONAL INTEREST AND HUMAN RIGHTS	812
Morgenthau, Human Rights and Foreign Policy	813
Huntington, American Ideals versus American Institutions	815
Questions	817
B. HUMAN RIGHTS CONDITIONALITY FOR U.S. SECURITY AND DEVELOPMENT ASSISTANCE	818
Henkin, The Age of Rights	818
U.S. Legislation on Military and Economic Aid	822
Questions	826
Secretary of State Vance, Speech on Human Rights and Foreign Policy	826
State Department, Country Reports on Human Rights Practices	829
Note	830
Cohen, Conditioning U.S. Security Assistance on Human Rights Practices	830
LCHR, Linking Security Assistance and Human Rights	837
Mutua and Rosenblum, Zaire: Repression as Policy	839
Fleischman, The Liberian Tragedy	842
Questions	844

C. CASE STUDY: MOST FAVORED NATION TREATMENT AND THE PEOPLE'S REPUBLIC OF CHINA	845
Comment on Most Favored Nation Treatment	845
Drinar and Kuo, The 1991 Battle for Human Rights in China	846
Note	849
Sullivan, Discarding the China Card	850
Note	851
State Department, Country Reports on Human Rights Practices	851
Subsequent Developments about China-U.S. Trade: Newspaper Accounts	853
Questions	861
D. A COMPARISON: THE EUROPEAN COMMUNITY (UNION)	862
Marantis, Human Rights, Democracy, and Development: The European Community Model	862
Questions	869
E. CODES OF CONDUCT FOR FOREIGN OPERATIONS OF U.S. BUSINESS FIRMS	870
Orentlicher and Gelatt, Public Law, Private Actors: The Impact of Human Rights on Business Investors in China	870
A.S.I.L., Panel: Human Rights, Business and International Financial Institutions	880
Note	882

## PART E. AN ILLUSTRATIVE STUDY 885

13. Women's Rights	887
A. BACKGROUND TO CEDAW: SOCIO-ECONOMIC CONTEXT	888
Initial Report of Guatemala to CEDAW Committee	888
Patten and Ward, Empowering Women to Stop AIDS in Côte d'Ivoire and Uganda	892
Comment on Women's Social and Economic Conditions	894
Sen, More than 100 Million Women Are Missing	896
Charlesworth, Chinkin and Wright, Feminist Approaches to International Law	900
B. CEDAW: PROVISIONS AND COMMITTEE	902
Comment on Protection of Women under Conventions Prior to CEDAW	902
Note	906
Question	906
Comment on CEDAW's Substantive Provisions	907
Questions	909
Note	910
Byrnes, The 'Other' Human Rights Treaty Body	911
Comment on the CEDAW Committee and Socio-Economic Factors Impairing Women's Rights	917
Questions	918
Comment on Reservations to the Convention	918
Reservations of Parties to CEDAW	920

Questions	922
Comment on Efforts towards U.S. Ratification of CEDAW	922
Questions	924
C. PRESENT PROPOSALS	924
Note	925
Question	926
Comment on World Conferences on Women's Issues	926
Vienna Declaration and Programme of Action	928
Report of International Conference on Population and Development	930
Question	931
D. VIOLENCE AGAINST WOMEN BY THE STATE AND IN THE HOME	931
Amnesty International, Rape and Sexual Abuse	932
Americas Watch, Criminal Injustice: Violence against Women in Brazil	934
Note	937
CEDAW Committee, Violence against Women	938
Comment on International Instruments on Violence against Women	941
Special Rapporteur on Violence against Women, Preliminary Report	943
Questions	944
E. THE PUBLIC-PRIVATE DIVIDE: DISCRIMINATION AND VIOLENCE BY NON-GOVERNMENTAL ACTORS	945
Velásquez Rodríguez Case	946
Méron: Human Rights Law-Making in the United Nations	949
Schneider: The Violence of Privacy	950
MacKinnon, On Torture: A Feminist Perspective on Human Rights	951
Engle, After the Collapse of the Public/Private Distinction: Strategizing Women's Rights	955
Questions	957
Comment on Conflicts between CEDAW and Religious and Customary Laws and Practices	958
Questions	959
Comment on Regulatory Reach of Human Rights Treaties	960
Questions	961
F. PARTICIPATION OF WOMEN IN POLITICAL INSTITUTIONS AND LIFE	961
Charlesworth, Chinkin and Wright, Feminist Approaches to International Law	962
Consideration by CEDAW of Country Reports: Political Participation	964
Note	966
Questions	967
<b>PART F. CURRENT TOPICS</b>	
	969
<b>14. Self-Determination and Autonomy Regimes</b>	971
<b>A. SELF-DETERMINATION: SOME HISTORY AND COMMENTARY</b>	972
Hannum, Rethinking Self-Determination	972
Tomuschat, Self-Determination in a Post-Colonial World	978
Koskenniemi, National Self-Determination Today: Problems of Legal Theory and Practice	980



Fox, Self-Determination in the Post-Cold War Era	981
Kirgis, The Degrees of Self-Determination in the United Nations Era	984
Note	986
B. AUTONOMY REGIMES	986
1. Ethnic Minorities	987
Higgins, Comments	989
Comment on Autonomy Regimes	991
Steiner, Ideals and Counter-Ideals in the Struggle over Autonomy Regimes for Minorities	994
Note	1000
Declaration on the Rights of Persons Belonging to Minorities	1001
Note	1003
Questions	1004
2. Indigenous Peoples	1006
Comments on Rights of Indigenous Peoples under International Law	1006
Note	1009
UN Draft Declaration on Rights of Indigenous Peoples	1011
Questions	1016
Lovelace v. Canada	1017
Questions	1019
15. International Crimes and Criminal Tribunals	1021
A. UNIVERSAL JURISDICTION AND INTERNATIONAL CRIMES	1021
Comment on Jurisdiction of States to Prescribe Criminal Law	1022
Restatement (Third), Foreign Relations Law of the United States	1024
Dinstein, International Criminal Law	1025
Question	1034
Comment on the Eichmann Trial	1034
Questions	1037
Note	1037
Murphy, International Crimes	1037
B. THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA	1040
Meron, The Case for War Crimes Trials in Yugoslavia	1040
Comment on Security Council Decisions	1042
Security Council Resolutions on Establishment of an International Tribunal for the Former Yugoslavia	1044
Report of the Secretary-General under Security Council Resolution 808	1046
Statute of the International Tribunal for the Former Yugoslavia	1050
Note	1057
Rules of Procedure and Evidence of the International Tribunal for the Former Yugoslavia	1058
O'Brien, The International Tribunal for Violations of International Humanitarian Law in the Former Yugoslavia	1063
Note	1069
Comment on Issues before the Tribunal	1070
Questions	1072

Note	1073
Anderson, Nuremberg Sensibility: Telford Taylor's Memoir of the Nuremberg Trials	1074
Question	1076
Szasz, The International Conference on the Former Yugoslavia and the War Crimes Issue	1077
C. PROPOSALS FOR A PERMANENT INTERNATIONAL CRIMINAL COURT	1079
Graefrath, Universal Criminal Jurisdiction and an International Criminal Court	1079
Crayford, The ILC Adopts a Statute for an International Criminal Court	1081
D. PUNISHMENT, AMNESTY, TRUTH COMMISSIONS	1084
Human Rights Watch World Report	1086
Views of Commentators	1088
Orentlicher, Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime	1090
Dworkin, Introduction to <i>Nunca Mas</i>	1093
Nejer, What Should Be Done About the Guilty?	1097
Inter-American Commission, Annual Report 1992-93	1098
Buergethal, The United Nations Truth Commission for El Salvador	1102
Zalaquett, Balancing Ethical Imperatives and Political Constraints Questions	1106
	1108
<u>16. Development and Human Rights</u>	1110
A. THE RIGHT TO DEVELOPMENT AS A NEW HUMAN RIGHT	1112
Alston, Revitalising United Nations Work on Human Rights and Development	1112
Abi-Saab, The Legal Formulation of a Right to Development	1114
Bedjaoui, The Right to Development	1117
Donnelly, In Search of the Unicorn: The Jurisprudence and Politics of the Right to Development	1121
Declaration on the Right to Development	1124
Questions	1126
B. THE INTERDEPENDENCE OF THE TWO SETS OF RIGHTS	1127
Committee on Economic, Social and Cultural Rights, Statement to the World Conference on Human Rights	1127
Sen, Freedoms and Needs	1128
Questions	1132
C. IS THERE AN OBLIGATION TO ASSIST?	1132
Alston and Quinn, The Nature and Scope of States Parties' Obligations under the ICESCR	1133
Note	1135
Griffin and Khan, Globalization and the Developing World	1136
Committee on Economic, Social and Cultural Rights, General Comment No. 2	1137
Note	1139
Questions	1139

D. THE SPREAD OF THE MARKET ECONOMY AND GLOBALIZATION: CONSEQUENCES	1140
Ghai, Human Rights and Governance: The Asia Debate	1141
Lukes, Is There an Alternative to Market Utopianism?	1142
Questions	1145
<i>Annex on Documents</i>	1147
Charter of the United Nations	1148
Universal Declaration of Human Rights	1156
International Covenant on Civil and Human Rights	1161
Protocols to the International Covenant on Civil and Political Rights	1172
International Covenant on Economic, Social and Cultural Rights	1175
Convention on the Elimination of All Forms of Discrimination against Women	1182
European Convention for the Protection of Human Rights and Fundamental Freedoms	1191
Protocols to the European Convention for the Protection of Human Rights and Fundamental Freedoms	1200
American Convention on Human Rights	1203
African Charter on Human and Peoples' Rights	1215
Vienna Convention on the Law of Treaties	1221
Constitution of the United States	1224
<i>Annex on Citations</i>	1229
<i>Annex on Bibliography</i>	1235
<i>Index</i>	1241

## Acknowledgements

We gratefully acknowledge the permissions extended by the following publishers and authors to reprint excerpts from the indicated publications.

American Anthropological Association. Permission to reprint excerpts from American Anthropological Association's Statement on Human Rights. 49 *Amer. Anthropologist*, No. 4, 539 (October-December 1947). Not for further reproduction.

American Law Institute. Permission to reprint excerpts from Restatement (Third), Foreign Relations Law of the United States. Copyright 1987 by the American Law Institute.

American Society of International Law. Permission to reprint excerpts from American Society of International Law, Panel: Human Rights, Business and International Financial Institutions, Proceedings of 88th Annual Meeting 1994 (1995); Hilary Charlesworth, C. Chinkin and S. Wright, Feminist Approaches to International Law, 85 *Am. J. Int. L.* 613 (1991); Stephen Cohen, Conditioning U.S. Security Assistance on Human Rights Practices, 76 *Am. J. Int. L.* 246 (1982); James Crawford, The ILC Adopts a Statute for an International Criminal Court, 89 *Am. J. Int. L.* 404 (1995); Karen Engle, After the Collapse of the Public/Private Distinction: Strategizing Women's Rights, in Dorinda Dallmeyer (ed.), *Reconceiving Reality: Women and International Law* (1993); Thomas Franck, The Emerging Right to Democratic Governance, 86 *Am. J. Int. L.* 46 (1992); Leo Gross, The Peace of Westphalia 1648-1948, 42 *Am. J. Int. L.* 20 (1948); Frederic Kirgis, Jr., The Degrees of Self-Determination in the United Nations Era, 88 *Am. J. Int. L.* 304 (1994); James O'Brien, The International Tribunal for Violations of International Humanitarian Law in the Former Yugoslavia, 87 *Am. J. Int. L.* 639 (1993); W. Michael Reisman, Amending the UN Charter: The Art of the Feasible, American Society of International Law, Proceedings of 88th Annual Meeting 1994 (1995); W. Michael Reisman, Sovereignty and Human Rights in Contemporary International Law, 84 *Am. J. Int. L.* 866 (1990); Oscar Schachter, Human Dignity as a Normative Concept, 77 *Am. J. Int. L.* (1983); Paul Szasz, The International Conference on the Former Yugoslavia and the War Crimes Issue, American Society of International Law, Proceedings of the 87th Annual Meeting 29 (1993). Copyright © 1948, 1982, 1983, 1990, 1991, 1992, 1993, 1994, 1995 by The American Society of International Law.

Amnesty International. Permission to reprint excerpts from Rape and Sexual Abuse: Torture and Ill Treatment of Woman in Detention (1992); Amnesty International Report 1994 (AI Index POL 10/02/94).

Berghahn Books. Permission to reprint excerpts from Pannikar, Is the Notion of Human Rights a Western Concept?, 120 *Diogenes* 75 (Winter 1982).

University of British Columbia Law Review. Permission to reprint excerpts

from Karl Klare, *Legal Theory and Democratic Reconstruction*, 25 *U. of Brit. Colum. L. Rev.* 69 (1991).

British Institute of International and Comparative Law. Excerpts from Martti Koskenniemi, *National Self-Determination Today: Problems of Legal Theory and Practice*, 43 *Int. & Comp. L. Q.* 241 (1994). Reprinted with permission from the British Institute of International and Comparative Law, 17 Russell Square, London WC1B 5DR.

University of California Press and Regents of the University of California. Permission to reprint excerpts from Ernst Haas, *When Knowledge is Power: Three Models of Change in International Organizations* (1990). Copyright © 1989 The Regents of the University of California.

California Western School of Law. Permission to reprint excerpts from Jack Donnelly, *In Search of the Unicorn: The Jurisprudence and Politics of the Right to Development*, 15 *Calif. Western Int. L. J.* 473 (1985).

Cambridge University Press. Permission to reprint excerpts from Louis Sohn, *Interpreting the Law*, in Oscar Schachter and Christopher Joyner (eds.), *United Nations Legal Order* 169 (1995); John Murphy, *International Crimes*, in Oscar Schachter and Christopher Joyner (eds.), *United Nations Legal Order* 993 (Vol. 2, 1995). Reprinted with permission of Cambridge University Press.

Carleton University Press, Inc. Permission to reprint excerpts from Martha Jackman, *Constitutional Rhetoric and Social Justice: Reflections on the Justiciability Debate*, in Joel Bakan and D. Schneiderman (eds.), *Social Justice and the Constitution: Perspectives on a Social Union for Canada* 17 (1992).

Centre for International and Public Law, Faculty of Law, Australian National University. Permission to reprint excerpts from Yash Ghai, *Human Rights and Governance: The Asia Debate*, 15 *Aust. Y'bk Int. L.* 1 (1994).

Columbia Human Rights Law Review. Permission to reprint excerpts from Isabelle Gunning, *Arrogant Perception, World Travelling and Multicultural Feminism*, 23 *Colum. Hum. Rts. L. Rev.* 189 (1992); Michael Posner and Candy Whittome, *The Status of Human Rights NGOs*, 25 *Colum. Hum. Rts. L. Rev.* 269 (1994).

Columbia University Press. Permission to reprint excerpts from Elvin Hatch, *Culture and Morality: The Relativity of Values in Anthropology* (1983); Louis Henkin, *Constitutionalism and Human Rights*, in Louis Henkin and Albert Rosenthal (eds.), *Constitutionalism and Rights: The Influence of the United States Constitution Abroad* 383 (1990); Louis Henkin, *The Age of Rights* (1990). Copyright © 1983, 1990 by Columbia University Press.

Connecticut Law Review. Permission to reprint excerpts from Elizabeth Schneider, *The Violence of Privacy*, 23 *Conn. L. Rev.* 973 (1992).

Dag Hammarskjöld Foundation. Permission to reprint excerpts from Erskine Childers and Brian Urquhart, *We The Peoples, in Renewing The United Nations System* 171 (1994).

Encyclopaedia Britannica, Inc. Permission to reprint excerpts from Burns Weston, *Human Rights*, 20 *Encyclopaedia Britannica* 656 (15th ed. 1992).

Reprinted with permission from *Encyclopaedia Britannica*, 15th edition. © 1992 by Encyclopaedia Britannica, Inc.

N. P. Engel Verlag. Permission to reprint excerpts from Andrew Drzemczewski and Meyer-Ladewig, *Principal Characteristics of the New ECHR Control Mechanism, As Established by Protocol No. 11*, 15 Hum. Rts. L. J. 81 (1994); Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (1993); Jorg Polakiewicz and Valérie Jacob-Foltzer, *The European Human Rights Convention in Domestic Law*, 12 Hum. Rts. L. J. 65 and 125 (1991); Christian Tomuschat, *Quo Vadis Argentoratum? The Success Story of the European Convention on Human Rights—And A Few Dark Stains*, 13 Hum. Rts. L. J. 401 (1992).

European Journal of International Law. Permission to reprint excerpts from Bernhard Graefrath, *Universal Criminal Jurisdiction And An International Criminal Court*, 1 Eur. J. Int. L. 67 (1990); Martti Koskenniemi, *The Politics of International Law*, 1 Eur. J. Int. L. 4 (1990).

Farrar, Strauss and Giroux, Inc. Permission to reprint excerpts from Ronald Dworkin, *Introduction to Nunca Más*, in *Nunca Más* (Report of the Argentine National Commission of the Disappeared) (1986). Introduction copyright © 1986 by Ronald Dworkin.

Foreign Affairs. Permission to reprint excerpts from Theodor Meron, *The Case for War Crimes Trials in Yugoslavia*, 72 For. Aff. 122 (1993). Copyright 1993 by the Council on Foreign Relations, Inc.

Foreign Policy. Permission to reprint excerpts from Roger Sullivan, *Discarding the China Card*, 86 For. Pol. 3 (Spring 1992); Bilhari Kausikan, *Asia's Different Standard*, 92 For. Pol. 24 (Fall 1993). Copyright 1992 and 1993 by the Carnegie Endowment for International Peace.

Foundation Press. Permission to reprint several judicial decisions in the edited form appearing in, and to reprint parts of several Notes appearing in, Henry Steiner and Detlev Vagts, *Transnational Legal Problems* (3d ed. 1986). Copyright by the Foundation Press, Inc.

Greenwood Publishing Group, Inc. Excerpts from Philip Alston, *The Fortieth Anniversary of the Universal Declaration*, in Jan Berting et al. (eds.), *Human Rights in a Pluralist World: Individuals and Collectivities 1* (1990). Reprinted with permission of Greenwood Publishing Group, Inc., Westport, CT. Copyright © 1990.

HarperCollins College Publishers. Permission to reprint excerpts from Samuel Huntington, *American Ideals Versus American Institutions*, in G. John Ikenberry (ed.), *American Foreign Policy: Theoretical Essays* 223 (1989). Copyright © 1989 by G. John Ikenberry.

HarperCollins Publishers. Permission to reprint excerpts from Immanuel Kant, *The Doctrine of Virtue*, English translation copyright © 1964 by Mary J. Gregor.

Harvard Human Rights Journal (earlier, *Harvard Human Rights Yearbook*). Permission to reprint excerpts from Abdullahi Ahmed An Na'im, *Human Rights in the Muslim World*, 3 Harv. Hum. Rts. J. 13 (1990); Kenneth

Anderson, Nuremberg Sensibility: Telford Taylor's Memoir of the Nuremberg Trials, 7 *Harv. Hum. Rts. J.* 281 (1994); Demetrios Marantis, Human Rights, Democracy, and Development: The European Community Model, 7 *Harv. Hum. Rts. J.* 1 (1994); Wendy Patten and J. Andrew Ward, Empowering Women to Stop AIDS in Cote d'Ivoire and Uganda, 6 *Harv. Hum. Rts. J.* 210 (1993); Henry Steiner, Political Participation as a Human Right, 1 *Harv. Hum. Rts. Y'Bk* 77 (1988). Copyright © 1988, 1990, 1993, 1994, by the President and Fellows of Harvard College.

Harvard Law Review. Permission to reprint excerpts from Henry Steiner, The Youth of Rights, 104 *Harv. L. Rev.* 917 (1991). Copyright 1991 by the Harvard Law Review Association.

Harvard Law School Human Rights Program. Permission to reprint excerpts from Henry Steiner, *Diverse Partners: Non-Governmental Organizations in the Human Rights Movement* (1991); Jack Tobin and Jennifer Green, *Guide to Human Rights Research* (1994). Copyright © 1991 and 1994 by the President and Fellows of Harvard College.

Harvard School of Public Health. Permission to reprint excerpts from Nancy Birchall, *Paternalism, Robin Hood, and Other Themes: Good Government and Social Well-Being in Developing Countries*, in Lincoln Chen, Arthur Kleinman, and Norma Ware (eds.), *Health and Social Change in International Perspective* (1994). © 1994, Lincoln Chen and Harvard School of Public Health, Boston, Massachusetts.

Harvard Women's Law Journal. Permission to reprint excerpts from Kay Boulware-Miller, Female Circumcision: Challenges to the Practice as a Human Rights Violation, 8 *Harv. Women's L. J.* 155 (1985). Copyright © 1985 by the President and Fellows of Harvard College.

Hastings Law Journal. Permission to reprint excerpts from José Zalaquett, Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations, 43 *Hastings L. J.* 1425 (1992). © 1992 by University of California, Hastings College of Law.

Human Rights Watch. Permission to reprint excerpts from Women's Rights Project and American Watch, *Criminal Injustice: Violence Against Women in Brazil* (1991); Human Rights Watch World Report 1993 (1994); Human Rights Watch World Report 1994 (1995).

Indian Law Institute. Permission to reprint excerpts from Upendra Baxi, Judicial Discourse: Dialectics of the Face and the Mask, 35 *J. of Ind. L. Inst.* 1 (1993).

The Jewish Publication Society. Permission to reprint excerpts from David Sidorsky, *Contemporary Reinterpretations of the Concept of Human Rights*, in Sidorsky (ed.), *Essays on Human Rights* 88 (1979).

Johns Hopkins University Press. Permission to reprint excerpts from Philip Alston and Gerard Quinn, The Nature and Scope of States Parties' Obligations under the ICESCR, 9 *Hum. Rts. Q.* 156 (1987); David Kramer and David Weissbrodt, The 1980 UN Commission on Human Rights and the Disappeared, 3 *Hum. Rts. Q.* 18 (1981); Tom Farer, *Looking at Looking at*

Nicaragua: The Problematique of Impartiality in Human Rights Inquiries, 10 *Hum. Rts. Q.* 141 (1988); Cecilia Medina, The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights: Reflections on a Joint Venture, 12 *Hum. Rts. Q.* 439 (1990); Robert Drinan and Teresa Kuo, The 1991 Battle for Human Rights in China, 14 *Hum. Rts. Q.* 21 (1992).

*Journal of Law and Religion*. Permission to reprint excerpts from Robert Cover, *Obligation: A Jewish Jurisprudence of the Social Order*, 5 *J. of Law and Relig.* 65 (1987). Permission granted by Professor Robert Destro, The Catholic University of America.

Kluwer Academic Publishers. Permission to reprint excerpts from: Mohamed Bedjaoui, The Right to Development, in M. Bedjaoui (ed.), *International Law: Achievements and Prospects* 1177 (1991); Rudolph Bernhardt, The Convention and Domestic Law, in R. St. J. MacDonald, F. Matscher and H. Petzold (eds.), *The European System for the Protection of Human Rights* 25 (1993); Antonio Cassese, A. Clapham and J. Weiler, 1992—What Are Our Rights?: Agenda for a Human Rights Action Plan, in A. Cassese et al. (eds.), *Human Rights and the European Community: Methods of Protection I* (1991); Yoram Dinstein, *International Criminal Law*, 5 *Israel Y'bk. on Hum. Rts.* 55 (1975); Louis Henkin, *International Law: Politics, Values and Functions*, in 216 *Collected Courses of the Hague Academy of International Law* 13 (Vol. IV 1989); Rosalyn Higgins, Comments, in Catherine Brölman, R. Lefèber and M. Zieck (eds.), *Peoples and Minorities in International Law* 29 (1993); Virginia Leary, *International Labour Conventions and National Law* (1982); Catherine MacKinnon, On Torture: A Feminist Perspective on Human Rights, in Kathleen Mahoney and P. Mahoney (eds.), *Human Rights in the Twenty-First Century* 21 (1993); Oscar Schachter, *International Law in Theory and Practice* (1991); Christian Tomuschat, Self-Determination in a Post-Colonial World, in Tomuschat (ed.), *Modern Law of Self-Determination I* (1993); Nicholas Valticos, Foreword to B. G. Ramcharan (ed.), *International Law and Fact-Finding in the Field of Human Rights* (1982); P. van Dijk and G. J. H. Hoof, *Theory and Practice of the European Convention on Human Rights* (2nd ed. 1990); G. J. H. van Hoof, The Legal Nature of Economic, Social and Cultural Rights: A Rebuttal of Some Traditional Views, in Philip Alston and Katarina Tomasevski (eds.), *The Right to Food* 97 (1984). Kluwer Law and Taxation Publishers; Peter Baehr, Amnesty International and its Self-Imposed Mandate, 12 *Neth. Q. H. R.* 5 (1994). Sitjhoff and Noordhoff Publishers; Georges Abi-Saab, The Legal Formulation of a Right to Development, in *Hague Academy of International Law, The Right to Development at the International Level* 159 (1979); Henry Schermers, *International Institutional Law* (1980). Reprinted by permission of Kluwer Academic Publishers.

Lawyers Committee for Human Rights. Permission to reprint excerpts from Makau Mutua and Peter Rosenblum, *Zaire: Repression as Policy* (1990): *Linking Security Assistance and Human Rights* (1990).



Lokayan. Permission to reprint excerpts from Rajni Kothari, *Human Rights—A Movement in Search of a Theory*, in Smitu Kothari and Harsh Sethi, *Rethinking Human Rights: Challenges for Theory and Action* (1989).

Longman Group. Permission to reprint excerpts from Robert Jennings and Arthur Watts (eds.), *Oppenheim's International Law*, Vol. 1 (9th ed. 1992).

Manchester University Press. Permission to reprint excerpts from J. G. Merrills, *The Development of International Law by the European Court of Human Rights* (2nd ed. 1993); H. Robertson, and J. G. Merrills, *Human Rights in Europe: A Study of the European Convention on Human Rights* (3rd ed. 1993).

Melbourne University Law Review. Permission to reprint excerpts from Philip Alston, *Revitalising United Nations Work on Human Rights and Development*, 18 *Melb. U. L. Rev.* 216 (1991).

MIT Press. Permission to reprint excerpts from Jack Donnelly, *International Human Rights: A Regime analysis*, 40 *Int. Org.* 599 (1986). © 1986 by The World Peace Foundation and the Massachusetts Institute of Technology.

Michigan Journal of International Law. Permission to reprint excerpts from Gregory Fox, *Self-Determination in the Post-Cold War Era: A New Internal Focus?*, 16 *Mich. J. Int. L.* 727 (1995).

Minority Rights Group International. Permission to reprint excerpts from Report 923/3, *Female Genital Mutilation. Proposals for Change*.

The New Republic. Permission to reprint excerpts from Amartya Sen, *Freedom and Needs*, *The New Republic* 31 (Jan. 10 and 17, 1994). © 1994, The New Republic, Inc.

The New York Review of Books. Permission to reprint excerpts from Aryeh Neier, *What Should be Done About the Guilty?*, February 1, 1990; Amartya Sen, *More Than 100 Million Women Are Missing*, December 20, 1990. Copyright © 1990, Nyrev., Inc.

The New York Times. Permission to reprint excerpts from *For Many Brides in India, A Dowry Buys Death*, 12/30/93, p. 4; *U.S. Prods Indonesia on Rights*, 1/19/94, p. D1; *China Rejects Call from Christopher for Rights Gains*, 3/13/94, p. A1; *Gauging the Consequences of Spurning China*, 3/21/94, p. D1; *U.S. Signals China It May End Annual Trade-Rights Battles*, 3/24/94, p. A1; *Many in U.S. Back Singapore's Plan to Flog Youth*, 4/5/94, p. A6; *U.S. Is To Maintain Trade Privileges for China's Goods*, 5/27/94, p. A1; *Rights Issues Aside, Asia Deals Rise*, 5/1/94, p. D1; *Israel Resumes Sealing of Houses as Punishment*, 12/4/94, p. D1; *President Imposes Trade Sanctions on Chinese Goods*, 2/5/95, p. A1; *China Warns of New Peril to U.S. Ties*, 2/23/95, p. A9; *U.N. Investigator Tells of 'Huge' Rights Violations in Iraq*, 2/28/95, p. A6; *U.N. Rights Panel Declines to Censure China*, 3/9/95, p. A5; *Argentine Tells of Dumping 'Dirty War' Captives into Sea*, 3/13/95, p. 1; *A Prophet Tests the Honor of His Own Country*, 3/14/95, p. A4; *Clinton to Urge a Rights Code for Business Dealing Abroad*, 3/27/95, p. D1; *Kenya Crackdown is Aimed at*

Committee on the Elimination of Discrimination Against Women, 14 Yale J. of Int'l L. 1 (1989).

Yale Law Journal. Permission to reprint excerpts from Diane Orentlicher, *Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime*, 100 Yale L. J. 2537, 2568-76 (1991). Reprinted by permission of the Yale Law Journal Company and Fred B. Rothman & Company.

The authors express their appreciation for the contributions made to the research for this book and to its preparation for publication by Madelaine Chiam, Meredith Hoffmann, Deborah Isser, Kerry Rittich, James Vázquez-Azpiri, and Norma Wasser.

This coursebook examines the world of contemporary human rights—legal norms, international institutions and processes, national and international actors, rhetoric, political bases and context, moral ideals, and so on. Over a mere half century, the human rights movement that grew out of World War II has become an indelible part of our legal, political and moral landscape. The book uses this term 'movement' to include governmental and intergovernmental as well as non-governmental developments since 1945, unlike some contemporary usage that restricts it to non-governmental activities.

The three dimensions of law, politics and morals are interrelated, indeed inseparable whether one thinks of the movement in theoretical or instrumental terms. The political and moral aspects of human rights are self-evident; it is the international legal aspect that is novel. The rules and standards of contemporary human rights are expressed not only through states' constitutions, laws and practices, but also through international custom and treaties, and the work products (decisions about action, forms of adjudication, studies, investigative reports, recommendations) of a range of international institutions and organs. Of course a movement of such breadth and complexity involves many aspects of life and thought, so that the book necessarily includes materials from a range of disciplines that bear on its themes.

Throughout, the materials underscore the youth of this movement, and the task of students committed to its ideals to see themselves not as novices within an established, even frozen, framework of ideas and institutions, but rather as moulders and architects of the movement's ongoing development. Put another way, the book's goal is not only to train the student to work effectively within the present structure and boundaries of the human rights movement. The materials also seek to impart a broad and critical understanding of that movement, as well as ideas about the directions in which it may or ought to be heading.

The Preface sets forth the book's pedagogical goals, conceptual structure and formal organization. Students may wish to read it now.