

1. Key Training Concepts

Learning Goals

The participants will gain a basic knowledge of:

- the UN and international institutions related to disability and human rights;
- the basic concepts of human rights legislation and culture.

1.1 Introduction to Human Rights

1.1.1 The history of human rights and the Universal Declaration of Human Rights

1.1.1.1 Brief history of the concept of human rights

The history of the concept of “human rights” reveals its historical evolution and political and social use from the Second World War until the Universal Declaration of Human Rights (1948). Since then the international instruments protecting human rights have broadened and developed, including at the regional level. The universality, indivisibility, interdependence and interrelation of all human rights and fundamental freedoms are universally accepted. Disability is a new area of action in the protection of human rights.

1.1.1.2 The human rights context at the level of the continent and national culture

Declarations and conventions have multiplied, affecting different cultures and institutions and various continents (Europe, the Americas, Africa, the Middle East and North Africa region, Asia and the Pacific region).

1.1.2 The cultural, political and legal motivations that form the basis for the protection of human rights

1.1.2.1 Protection of people at risk of human rights violations

Protection mechanisms derive from the realization that discrimination and human rights violations affect various specific groups, which the United Nations have recognized as women, immigrants, children and people with disabilities.

1.1.2.2 Development of standards for an equitable treatment of people
The United Nations international Convention has become a leading human rights protection mechanism, with a corpus of norms and sentences representing the evolution of international law produced by national and international courts

1.1.2.3 Development of a universal human rights protection system
The international human rights system has been evolving and spreading to the various continents (e.g. international and regional legal mechanisms and special courts of justice). International bodies exist to control and monitor the application of the norms of the various conventions.

1.2 International Institutions Based on Human Rights and their Operation

1.2.1 Brief history of the United Nations and its structure

1.2.1.1 UN General Assembly, Security Council and Economic and Social Council

The United Nations was formed in 1946 and is based on three pillars: the United Nations General Assembly, currently made up of 191 countries; the Security Council, made up of five countries with the right of veto (China, France, the United Kingdom, Russia and the United States of America) and 10 other countries in rotation; and the Economic and Social Council which involves different regional offices and various responsibilities.

1.2.1.2 United Nations agencies: ILO, WHO, UNESCO and UNICEF

Over time the United Nations agencies have been created, each with specific responsibilities. The brief history of the International Labour Organization, World Health Organization, United Nations Educational, Scientific and Cultural Organization and UNICEF shows how responsibilities concerning disability have been progressively developed.

1.2.2 Brief history of other relevant regional institutions

The regional institutions that either have responsibility for human rights or have approved documents in this field are the European Communities, Council of Europe, Organization of American States, League of Arab States, Organization of African Unity/African Union and Association of Southeast Asian Nations (ASEAN).

1.3 The United Nations Conventions

1.3.1 Brief history of the conventions approved by the United Nations

1.3.1.1 The motivations for a convention on human rights

The conventions came about because of the documentation of human rights violations against people with certain characteristics who were the object of social stigma. Awareness of the need for international human rights protection mechanisms became clear after the Second World War, when the horrors of the Nazi regime against people with disabilities (the T4 Program), the Romany people and the Jews became well-known. At that time the United Nations approved the Universal Declaration of Human Rights (1948), which in 30 articles lays out the set of human rights requiring protection. Human rights violations against people with disabilities have been highlighted by studies, research and legal charges laid.

1.3.1.2 Procedures for approval and operation

The establishment of a human rights convention is based on the maximum consensus possible between the Member States of the UN; it is discussed in bodies defined by the General Assembly. When there is agreement on a text it is put before the General Assembly for approval and the ratification process begins. This consists of the signing of the convention and the process of absorbing the convention into national legislation, after having verified that its norms are consistent with national laws. A convention enters into force when a certain number of countries have ratified it. At that point an international body is nominated with the task of monitoring application and supporting the implementation process. These bodies receive periodical national reports on the monitoring and implementation of conventions by the ratifying states.

1.3.1.3 Brief description of the seven UN Conventions on human rights

- Convention on the Elimination of All Forms of Racial Discrimination (1965)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- Convention on the Rights of the Child (1989)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

1.3.2 International bodies for the protection of human rights

1.3.2.1 Treaty monitoring bodies

UN Conventions generally have a system for monitoring and controlling the implementation of the norms contained within them. This system is based on “treaty bodies”: these are generally independent committees, made up of experts, which follow the application of the various conventions. Not all UN conventions have treaty bodies. The convention monitoring system is currently undergoing reform.

1.3.2.2 Office of the United Nations High Commissioner for Human Rights

Within the United Nations operates the Office of the High Commissioner for Human Rights (OHCHR), which is a department of the United Nations Secretariat and is mandated to promote and protect the enjoyment and full realization, by all people, of all the rights established in the Charter of the United Nations and in international human rights laws and treaties. The mandate includes preventing human rights violations, securing respect for all human rights, promoting international cooperation to protect human rights, coordinating related activities throughout the United Nations, and strengthening and streamlining the United Nations system in the field of human rights. The Office leads efforts to integrate a human rights approach within the activities carried out by United Nations agencies.

1.3.2.3 The Human Rights Council and the International Court of Justice

The human rights system is based on the Charter of the United Nations, the International Court of Justice in The Hague in the Netherlands, and the Human Rights Council. The Charter of the United Nations (1945) is based on respect for human rights. The bodies that act to ensure the protection of human rights are the UN convention treaty bodies (see 1.3.2.1) and the International Court of Justice (1945). In 2006 the Human Rights Council was appointed under the General Assembly.

1.3.2.4 Other regional bodies

At the regional level, that is, at the level of the various continents, there are other bodies in charge of human rights. Among the most important is the Council of Europe, which has its own declaration on human rights (1953) and its own Court in Strasbourg.

1.3.3 Context of the Convention on the Rights of Persons with Disabilities

The link between disability and human rights came out of criticism of the medical model of disability in the 1970s and 80s, as well as early work by the United Nations, starting in 1981 with the International Year and continuing with the Sub-commission on the human rights of people with disabilities chaired by Leandro Despouy (1992).

The Convention on the Rights of Persons with Disabilities (2006) arose from the observation that the 650 million people in the world living with disabilities are subject to continual human rights violations. Studies have shown that the previous Conventions have not protected people with disabilities, who have effectively remained second-class citizens. For this reason a new convention was required to explicitly acknowledge the human rights of people with disabilities.

1.3.4 Value and meaning of a convention

1.3.4.1 Attention to high-priority issues

The approval of a convention on human rights is an important moment of political and social recognition of the will to protect the rights of the segment of population concerned. This means that it puts a new issue on the global and national agenda, creating the conditions to change policies and legislation. Thus, the first effect regards governments, parliaments and national and local institutions.

1.3.4.2 Cultural impact and awareness-raising

Equally important is the cultural impact of a convention, which influences society as a whole and offers a new approach to society's view of the social group being subjected to human rights violations. This impact must be supported by appropriate initiatives such as public awareness-raising campaigns, mass media involvement and appropriate cultural instruments.

1.3.5 Legal and political implications of a convention on human rights

1.3.5.1 Commitment of states

A convention commits ratifying states to respect its norms within the national legislation and policies. Examples can be illustrated for other conventions. The important thing to make clear is the effect that the norms have on the country that has ratified the convention and open up forms of comparison with the relevant governments and institutions.

1.3.5.2 The legal weight of an international convention

United Nations conventions are the most binding legislation, overriding, in the case of disputes over interpretation, all other forms of legislation. The principles and norms contained in a convention must therefore be known and interpreted to ensure the highest level of human rights protection at the national and local level.

1.3.5.3 Cultural transformation and awareness-raising

The cultural transformation arising from a convention must be guided. As well as its effect on information and communication systems, the convention must also have an impact on the education system, influencing university education in the various skills areas, promoting studies and research on the themes of the conventions and facilitating at every level the acquisition of skills and knowledge consistent with the Convention.

1.4 The Structure of a Convention

1.4.1 Description of the structures of UN conventions on human rights

Human rights conventions have a predefined structure. This consists of the preamble, which includes the motivations and references to general considerations that inspired the writing of the convention, and the articles contained in the text. The articles are further divided into: general principles and obligations that apply to all the articles; specific obligations that concern particular areas; the national and international monitoring system; the procedures for entry into force; the establishment and regulation of international bodies and the amendment system. Some conventions provide for additional protocols when some obligations and procedures have not been shared by the majority of the countries.