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978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

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UN HUMAN RIGHTS TREATY BODIES

The effective implementation of human rights treaty obligations in national law is subject to increasing attention. The main responsibility for the monitoring of national implementation at the global level is entrusted to the UN human rights treaty bodies. These bodies are established by the respective human rights conventions and are composed of independent experts. This book examines these bodies from three perspectives: the legal aspects of their structure, functions and decisions; their effectiveness in ensuring respect for human rights obligations; and the legitimacy of these bodies and their decisions. Containing contributions from a variety of eminent legal experts, including present and former members of the treaty bodies, the analysis should be read in light of the ongoing effort to strengthen treaty bodies under the auspices of the UN High Commissioner for Human Rights and with the involvement of all relevant stakeholders.

HELEN KELLER is Professor of International, European and Constitutional Law at the University of Zurich. She served as a member of the UN Human Rights Committee from 2008 until 2011, when she was elected as a judge at the European Court of Human Rights.

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Law and Legitimacy

Edited by

HELEN KELLER

and

GEIR ULFSTEIN

Assisted by Leena Grover



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CONTENTS

<i>Notes on the contributors</i>	vii
<i>Preface and acknowledgements</i>	ix
<i>Table of cases</i>	xi
<i>Table of conventions and statutes</i>	xxv
<i>List of abbreviations</i>	xxvii
1 Introduction	1
HELEN KELLER AND GEIR ULFSTEIN	
2 Examination of state reports	16
WALTER KÄLIN	
3 Individual complaints	73
GEIR ULFSTEIN	
4 General Comments of the Human Rights Committee and their legitimacy	116
HELEN KELLER AND LEENA GROVER	
5 The protection of economic and social rights: a particular challenge?	199
URFAN KHALIQ AND ROBIN CHURCHILL	
6 Aspects of human rights interpretation by the UN treaty bodies	261
BIRGIT SCHLÜTTER	
7 UN treaty bodies and the Human Rights Council	320
NIGEL S. RODLEY	

Cambridge University Press
978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy
Edited by Helen Keller and Geir Ulfstein
Frontmatter
[More information](#)

vi	CONTENTS
8	The legal status of decisions by human rights treaty bodies in national law 356
	ROSANNE VAN ALEBEEK AND ANDRÉ NOLLKAEMPER
9	Conclusions 414
	HELEN KELLER AND GEIR ULFSTEIN
	<i>Bibliography</i> 426
	<i>Index</i> 446

Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

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Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

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Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

PREFACE AND ACKNOWLEDGEMENTS

In a modern world with a growing number of international organisations and entities acquiring ever greater powers and competences, a study of the bodies that monitor the implementation of human rights conventions merits particular attention. Established decades ago by states seeking to confer upon them a modest mandate, human rights treaty bodies today form the centrepiece of the international human rights regime and seek to perform their functions at a time when human rights are in the mainstream and expectations correspondingly run high.

We are grateful to Cambridge University Press for making this study of human rights treaty bodies the inaugural volume in its prestigious new series *Studies on Human Rights Conventions*. It is hoped that this volume will be of interest to scholars, legal practitioners and students seeking a deeper understanding of these bodies' mandates, their work product and the challenges they and others face in promoting the national implementation of human rights standards.

The idea for this book was born out of a larger research project led by Andreas Føllesdal and Geir Ulfstein called 'Should states ratify human rights conventions?', at the Centre for Advance Study, Norway. This book project was funded and hosted by the Centre, where the authors met twice to discuss its concept and draft chapters. The Centre created a wonderful atmosphere for an exchange of ideas among colleagues from around the world. We are particularly grateful for the co-leadership of the research project and the insights and ideas provided by Andreas Føllesdal as well as the hospitality that the Centre, under Scientific Director Gro Steinsland and Office Manager Maria M.L. Sætre, extended to all of the contributors.

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Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

X

PREFACE AND ACKNOWLEDGEMENTS

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Helen Keller and Geir Ulfstein
Zürich/Oslo, June 2011

TABLE OF CASES

INTERNATIONAL

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN:

- A.S. v. Hungary*, Communication No. 4/2004, 14 August 2006, UN Doc. CEDAW/C/36/D/3/2004. 234, 234 n127
- A.T. v. Hungary*, Communication No. 2/2003, 26 January 2005, UN Doc. CEDAW/C/32/D/2/2003. 233 n124, 234, 235 n129
- B.J. v. Germany*, Communication No. 1/2003, 14 July 2004, UN Doc. A/59/38, Annex III. 233 n124
- Dayras et al. v. France*, Communication No. 13/2007, 4 August 2009, UN Doc. CEDAW/C/44/D/13/2007. 234 n124
- G.D. and S.F. v. France*, Communication No. 12/2007, 4 August 2009, UN Doc. CEDAW/C/44/D/12/2007. 234 n124
- Goekce (deceased) v. Austria*, Communication No. 5/2005, 6 August 2007, UN Doc. CEDAW/C/39/D/5/2005. 234 n124
- Muñoz-Vargas y Sainz de Vicuña v. Spain*, Communication No. 7/2005, 9 August 2007, UN Doc. CEDAW/C/39/D/7/2005. 234 n124
- N.S.F. v. United Kingdom*, Communication No. 10/2005, 30 May 2007, UN Doc. CEDAW/C/38/D/10/2005. 234 n124
- Nguyen v. The Netherlands*, Communication No. 3/2004, 14 August 2006, UN Doc. CEDAW/C/36/D/3/2004. 234, 234 n124
- Ragan Salgado v. United Kingdom*, Communication No. 11/2006, 22 January 2007, UN Doc. CEDAW/C/37/D/11/2006. 234 n124
- Rahime Kayhan v. Turkey*, Communication No. 8/2005, 27 January 2006, UN Doc. CEDAW/C/34/D/8/2005. 234
- Tayag Vertido v. The Philippines*, Communication No. 18/2008, 16 July 2010, UN Doc. CEDAW/C/46/D/18/2008. 234, 234 n124, 236 n132
- Yildirim (deceased) v. Austria*, Communication No. 6/2005, 6 August 2007, UN Doc. CEDAW/C/39/D/6/2005. 234 n124
- Zheng v. The Netherlands*, Communication No. 15/2007, 27 October 2008, UN Doc. CEDAW/C/42/D/15/2007. 234 n124

COMMITTEE ON THE ELIMINATION
 OF RACIAL DISCRIMINATION:

B.M.S. v. Australia, Communication No. 8/1996, 12 March 1999, UN Doc. CERD/C/54/D/8/1996. 239 n139

Durmic v. Serbia and Montenegro, Communication No. 029/2003, 6 March 2006, UN Doc. CERD/C/68/D/29/2003. 275 n61, 291 n133

Er v. Denmark, Communication No. 040/2007, 8 August 2007, UN Doc. CERD/C/71/D/40/2007. 280 n82, 287 n117, 308 n204

Farah Jama v. Denmark, Communication No. 041/2008, 21 August 2009, UN Doc. CERD/C/75/D/41/2008. 287 n118, 291 n133

Hagan v. Australia, Communication No. 26/2002, 20 March 2003, UN Doc. CERD/C/62/D/26/2002. 265 n20, 286 n105, 296, 296 n154

Koptova v. Slovak Republic, Communication No. 13/1998, 8 August 2000, UN Doc. CERD/C/57/D/13/1998 (2000). 239 n139

L.R. et al. v. Slovakia, Communication No. 31/2003, 7 March 2005, UN Doc. CERD/C/66/D/31/2003. 239, 239 n142

Sadic v. Denmark, Communication No. 025/2002, 16 April 2002, UN Doc. CERD/C/62/D/25/2002. 275 n62

The Jewish Community of Oslo; the Jewish Community of Trondheim; Rolf Kirchner; Julius Paltiel; the Norwegian Antiracist Centre; and Nadeem Butt v. Norway, Communication No. 030/2003, 15 August 2005, UN Doc. CERD/C/67/D/30/2003. 275 n62

Yilmaz-Dogan v. The Netherlands, Communication No. 1/1984, 10 August 1988, UN Doc. CERD/C/36/D/1/1984 (1988). 239, 239 n140, 284 n95

Zentralrat Deutscher Sinti und Roma et al. v. Germany, Communication No. 38/2006, 3 March 2008, UN Doc. CERD/C/72/D/38/2006. 308, 308 n202

COMMITTEE AGAINST TORTURE:

A.H. v. Sweden, Communication No. 265/2005, 21 November 2006, UN Doc. CAT/C/37/D/265/2005. 283 n94, 290 n129

A.R.A. v. Sweden, Communication No. 305/2006, 1 May 2007, UN Doc. CAT/C/38/D/270 & 271/2005. 283 n94

Agiza v. Sweden, Communication No. 233/03, 24 May 2005, UN Doc. CAT/C/34/D/233/2003. 283 n94, 287, 287 n115, 389 n146

Ahmad Dar v. Norway, Communication No. 249/2004, 16 May 2007, UN Doc. CAT/C/38/D/2004. 386 n135

Brada v. France, Communication No. 195/02, 24 May 2005, UN Doc. CAT/C/34/D/195/2002. 389, 389 n146

C.T. and K.M. v. Sweden, Communication No. 279/2005, 22 January 2007, UN Doc. CAT/C/37/D/279/2005. 290 n129

TABLE OF CASES

xiii

- Dzemajl et al. v. Yugoslavia*, Communication No. 161/2000, 21 November 2002, UN Doc. CAT/C/29/D/161/2000. 275 n62, 283 n94, 287 n115
- E.J. et al. v. Sweden*, Communication No. 306/2006, 14 November 2008, UN Doc. CAT/C/41/D/306/2006. 290 n129, 291 n130, n133
- G.K. v. Switzerland*, Communication No. 219/2002, 7 May 2003, UN Doc. CAT/C/30/D/219/2002. 283 n94, 308 n201
- H.B.H. et al. v. Switzerland*, Communication No. 192/2001, 29 April 2003, UN Doc. CAT/C/30/D/192/2001. 290 n129
- Haydin v. Sweden*, Communication No. 101/1997, 7 December 1997, UN Doc. CAT/C/21/D/101/1997. 291 n130
- J.A.M.O. v. Canada*, Communication No. 293/2006, 15 May 2008, UN Doc. CAT/C/40/D/293/2006 (2008). 290 n129
- J.H.A. on behalf of P.K. et al. v. Spain*, Communication No. 323/2007, 11 November 2008, UN Doc. AT/C/41/D/323/2007. 290 n129
- L.J.R. v. Australia*, Communication No. 316/2007, 26 November 2008, UN Doc. CAT/C/41/D/316/2007. 316, 316 n235
- M.F. v. Sweden*, Communication No. 326/2007, 14 November 2008, UN Doc. CAT/C/41/D/326/2007. 290 n129, 291 n133
- M.S.P. v. Australia*, Communication No. 138/1999, 30 April 2002, UN Doc. CAT/C/28/D/138/1999. 290 n129
- O.R., M.M. and M.S. v. Argentina*, Communication Nos. 1/1988, 2/1988 and 3/1988, 22 November 1989, UN Doc. CAT/C/19/D/28/1995. 282, 283 n89
- Osmani v. Serbia*, Communication No. 261/2005, 8 May 2009, UN Doc. CAT/C/42/D/261/2005. 275 n62, 277, 277 n71
- P.E. v. France*, Communication No. 193/2001, 21 November 2002, UN Doc. CAT/C/29/D/193/2001. 283 n94, 286 n105
- Pelit v. Azerbaijan*, Communication No. 281/2005, 29 May 2007, UN Doc. CAT/C/38/D/281/2005. 301, 301 n176
- Ristic v. Yugoslavia*, Communication No. 113/1998, 11 May 2001, UN Doc. CAT/C/26/D/113/1998. 369, 369 n58
- Roitman Rosenmann v. Spain*, Communication No. 176/2000, 30 April 2002, UN Doc. CAT/C/28/D/176/2000. 275 n62, 283 n93
- Singh Sogi v. Canada*, Communication No. 297/2006, 16 November 2007, UN Doc. CAT/C/39/D/297/2006. 372 n70
- T.P.S. v. Canada*, Communication No. 99/1997, 16 May 2000, UN Doc. CAT/C/24/D/99/1997. 389 n146
- Tebourski v. France*, Communication No. 300/2006, 11 May 2007, UN Doc. CAT/C/38/D/300/2006. 283 n92, n94
- V.L. v. Switzerland*, Communication No. 262/2005, 22 January 2007, UN Doc. CAT/C/37/D/262/2005. 290 n129, 301 n177
- V.X.N. and H.N. v. Sweden*, Communications Nos. 130/1999 and 131/1999, 15 May 2000, UN Doc. CAT/C/24/D/130 & 131/1999. 265 n20, 283 n94, 297 n155

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Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

xiv

TABLE OF CASES

Z.K. v. Sweden, Communication No. 301/2006, 9 May 2008, UN Doc.
CAT/C/40/D/301/2006. 291 n133

HUMAN RIGHTS COMMITTEE:

- A. v. Australia*, Communication No. 560/1993, 30 April 1997, UN Doc.
CCPR/C/59/D/560/1993. 383 n116
- A. v. New Zealand*, Communication No. 754/1997, 3 August 1999, UN Doc. CCPR/C/66/D/754/1997. 274 n55, 308 n200
- Aarela et al. v. Finland*, Communication No. 779/1997, 24 October 2001, UN Doc.
CCPR/C/73/D/779/1990. 361 n17
- Ahani v. Canada*, Communication No. 1051/2002, 29 March 2004, UN Doc.
CCPR/C/80/D/1051/2002. 286, 286 n110, 373 n75, 380, 380 n101, n102,
392 n156, 396 n165
- Amirov v. Russian Federation*, Communication No. 1447/2006, 22 April 2009, UN Doc.
CCPR/C/95/D/1447/2006. 290 n128
- Arhuaco v. Colombia*, Communication No. 612/1995, 14 March 1996, UN Doc.
CCPR/C/56/D/612/1995. 365, 365 n33
- Arredondo v. Peru*, Communication No. 688/1996, 1 February 2001,
UN Doc. A/55/40, vol. II Annex IX E. 341 n72
- Ashby v. Trinidad and Tobago*, Communication No. 580/1994, 21 March 2002,
UN Doc. CCPR/C/74/D/580/1994. 388 n139
- Aumeeruddy-Cziffra and 19 Other Mauritian Women v. Mauritius*,
Communication No. 35/1978, 9 April 1981, UN Doc. CCPR/C/12/D/35/
1978. 304, 304 n187
- Babkin v. Russian Federation*, Communication No. 1310/2004, 24 April 2008,
UN Doc. CCPR/C/92/D/1310/2004. 273 n55, 308 n200
- Bandaranayake v. Sri Lanka*, Communication No. 1376/2005, 4 August 2008, UN Doc.
CCPR/C/93/D/1376/2005. 275 n60
- Bautista de Arellana v. Colombia*, Communication No. 563/1993, 27 October 1995,
UN Doc. CCPR/C/55/D/199. 364, 364 n32
- Bickaroo v. Trinidad and Tobago*, Communication No. 555/1993, 29 October 1997,
UN Doc. CCPR/C/61/D/555/1993. 281 n84
- Boucherv v. Algeria*, Communication No. 1196/2003, 30 March 2006, UN Doc.
CCPR/C/86/D/1196/2003. 300 n173
- Bradshaw v. Barbados*, Communication No. 489/1992, 19 July 1994, UN Doc.
CCPR/C/51/D/489/1992. 380, 380 n100, 388, 393, 393 n157
- Broeks v. The Netherlands*, Communication No. 172/1984, 9 April 1987,
UN Doc. CCPR/C/OP/2. 253, 253 n195, 254, 254 n197, 255
- Brooks v. The Netherlands*, Communication No. 172/1984, 9 April 1987, UN Doc.
CCPR/C/29/D/172/1984. 300, 300 n170

Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

TABLE OF CASES

XV

- Brychta v. Czech Republic*, Communication No. 1618/2007, 27 October 2009, UN Doc. CCPR/C/97/D/1618/2007. 290 n128
- C.B.D. v. The Netherlands*, Communication No. 394/1990, 22 July 1992, UN Doc. CCPR/C/45/D/394/1990. 311 n211
- Celiberti de Casariego v. Uruguay*, Communication No. 56/1979, 29 July 1981, UN Doc. CCPR/C/13/D/56/1979. 54 n172
- Choi and Yoon v. Republic of Korea*, Communication No. 1321–1322/2004, 3 November 2006, UN Doc. CCPR/C/88/D/1321–1322/2004 (2007). 58 n203, 280 n80, 282, 282 n86, 294, 294 n144, 312 n212, 314 n222, 318
- Correia De Matos v. Portugal*, Communication No. 1123/2002, 18 April 2006, UN Doc. CCPR/C/86/D/1123/2002. 275 n59
- Danning v. The Netherlands*, Communication No. 180/1984, 9 April 1987, UN Doc. CCPR/C/OP/2. 253 n195, 300 n170
- Derksen v. The Netherlands*, Communication No. 976/2001, 1 April 2004, UN Doc. CCPR/C/80/D/976/2001. 255, 255 n201
- Elgueta v. Chile*, Communication No. 1536/2006, 7 September 2009, UN Doc. CCPR/C/96/D/1536/2006. 285, 285 n103, 287
- Foin v. France*, Communication No. 666/1995, 9 November 1999, UN Doc. CCPR/C/67/D/666/1995. 311 n211
- Gbondo Sama v. Germany*, Communication No. 1771/2008, 7 September 2009, UN Doc. CCPR/C/96/D/1771/2008. 290 n128
- Gonçalves et al. v. Portugal*, Communication No. 1565/2007, 18 March 2010, UN Doc. CCPR/C/98/D/1565/2007. 255 n198
- Gridin v. Russian Federation*, Communication No. 770/1997, 20 July 2000, UN Doc. CCPR/C/69/D/770/1997. 372, 372 n70
- Gutierrez Vivanco v. Peru*, Communication No. 678/1996, 26 March 2002, UN Doc. CCPR/C/74/D/678/1996. 362, 362 n19, n21, 391, 391 n153
- Haraldsson and Sveinsson v. Iceland*, Communication No. 1306/2004, 14 December 2007, UN Doc. CCPR/C/91/D/1306/2004. 378, 378 n93, n95, 386, 386 n132
- Hertzberg et al. v. Finland*, Communication No. R.14/61, 2 April 1982, UN Doc. CCPR/C/OP/1, 124 (1985). 125 n51, 306, 306 n193
- Hill and Hill v. Spain*, Communication No. 526/1993, 2 April 1997, UN Doc. CCPR/C/59/D/526/1993. 379 n97
- Hudoyberganova v. Uzbekistan*, Communication No. 931/2000, 5 November 2004, UN Doc. CCPR/C/82/D/931/2000. 290 n128
- J.B. et al. v. Canada*, Communication No. 118/1982, 18 July 1986, UN Doc. A/41/40, Supp. No. 40. 251 n188
- J.P.K. v. The Netherlands*, Communication No. 401/1990, 7 November 1991, UN Doc. CCPR/C/43/D/401/1990. 311 n211
- Jarvinen v. Finland*, Communication No. 295/1988, 25 July 1988, UN Doc. CCPR/C/39/D/295/1988. 311 n211

Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

- Jiménez Vaca v. Colombia*, Communication No. 859/1999, 25 March 2002, UN Doc. CCPR/C/74/D/859/1999. 370, 370 n63
- Johnston v. Jamaica*, Communication No. 588/1994, 22 March 1996, UN Doc. CCPR/C/56/D/588/1994. 281, 281 n83, 291 n131
- Joseph v. Sri Lanka*, Communication No. 1249/2004, 21 October 2005, UN Doc. CCPR/C/85/D/1249/2004. 376, 376 n87
- Judge v. Canada*, Communication No. 829/1998, 20 October 2003, UN Doc. CCPR/C/78/D/829/1998 (2003). 164 n284, 221 n83, 265 n20, 275, 276, 276 n63, 282 n87, 289 n126, 293, 293 n140, 294, 296, 296 n153, 297 n157, 316
- Jung, Oh, Yeom, Nah, Yu, Lim, Jin, Lim, Lim, Lim and Goh v. Republic of Korea*, Communication Nos. 1593–1603/2007, 23 March 2010, UN Doc. CCPR/C/98/D/1593–1603/2007. 266 n25, 312 n212, 316 n228
- Kalamiotis v. Greece*, Communication No. 1486/2006, 5 August 2008, UN Doc. CCPR/C/93/D/1486/2006. 368, 368 n56
- Kavanagh v. Ireland*, Communication No. 819/1998, 4 April 2001, UN Doc. CCPR/C/76/D/1114/2002/Rev.1. 374, 374 n81, 375
- Kennedy v. Trinidad and Tobago*, Communication No. 845/1999, 2 November 1999, UN Doc. CCPR/C/67/D/845/1999. 285, 285 n100
- Khuseynova and Butaeva v. Tajikistan*, Communication Nos. 1263/2004 and 1264/2004, 30 October 2008, UN Doc. CCPR/C/94/D/1263–1264/2004. 287, 287 n112
- Kibale v. Canada*, Communication No. 1562/2007, 31 July 2008, UN Doc. CCPR/C/93/D/1562/2007. 275, 275 n60
- Kindler v. Canada*, Communication No. 470/1991, 11 November 1993, UN Doc. CCPR/C/48/D/470/1991 (1993). 164 n284, 276 n67, 293, 293 n139, 387, 387 n139
- Kitok v. Sweden*, Communication No. 197/85, 27 July 1998, UN Doc. CCPR/C/33/D/197/1985. 244 n152
- Kurbanov v. Tajikistan*, Communication No. 1208/2003, 16 March 2003, UN Doc. CCPR/C/79/D/1096/2002. 273 n55, 308 n200, 363 n24
- L.G. Danning v. The Netherlands*, Communication No. 180/1984, 9 April 1987, UN Doc. CCPR/C/OP/2. 253 n195
- L.T.K. v. Finland*, Communication No. 185/1984, 9 July 1985, UN Doc. CCPR/C/OP/2. 312 n212, n213
- Laptsevich v. Belarus*, Communication No. 780/1997, 13 April 2000, UN Doc. CCPR/C/68. 361 n17
- Länsman et al. v. Finland*, Communication No. 511/1992, 26 October 1994, UN Doc. CCPR/C/52D/511/1992. 304 n186, 305, 305 n191, 307
- La Vende v. Trinidad and Tobago*, Communication No. 554/1993, 29 October 1997, UN Doc. CCPR/C/55/D/554/1993. 281 n84
- López Burgos v. Uruguay*, Communication No. 52/1979, 29 July 1981, UN Doc. CCPR/C/OP/1 (1984). 54 n172
- Love v. Australia*, Communication No. 983/2001, 28 April 2003, UN Doc. CCPR/C/77/D/983/2001. 300 n172

Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

TABLE OF CASES

xvii

- Lukyanchik v. Belarus*, Communication No. 1392/2005, 3 December 2009, UN Doc. CCPR/C/97/D/1392/2005. 290 n128, 307 n198
- M.G. v. Germany*, Communication No. 1482/2006, 2 September 2008, UN Doc. CCPR/C/93/D/1482/2006. 370, 370 n60
- Madoui v. Algeria*, Communication No. 1495/2006, 1 December 2008, UN Doc. CCPR/C/94/D/1495/2006. 280 n81, 300 n174
- Maille v. France*, Communication No. 689/1996, 10 July 2000, UN Doc. CCPR/C/69/D/689/1996. 311 n211
- Mansaraj v. Sierra Leone*, Communication Nos. 839, 840 and 841/1998, 16 July 2001, UN Doc. CCPR/C/72/D/839/1998. 388 n142
- Marcellana and Gumanoy v. The Philippines*, Communication No. 1560/2007, 17 November 2008, UN Doc. CCPR/C/94/D/1560/2007. 290 n128
- Mavlonov and Sa'di v. Uzbekistan*, Communication No. 1334/2009, 19 March 2009, UN Doc. CCPR/C/95/D/1334/2004. 290 n128
- Mukong v. Cameroon*, Communication No. 458/91, 10 August 1994, UN Doc. CCPR/C/51/D/458/1991. 252, 252 n191
- Park v. Republic of Korea*, Communication No. 628/1995, 3 November 1998, UN Doc. CCPR/C/64/D/628/1995. 311 n211
- Pauger v. Austria*, Communication No. 716/1996, 30 April 1999, UN Doc. CCPR/C/65/D/716/1996. 375, 375 n85
- Piandiong et al. v. The Philippines*, Communication No. 869/1999, 19 October 2000, UN Doc. CCPR/C/70/D/869/1999. 100 n73, 388, 388 n140
- Polay Campos v. Peru*, Communication No. 577/1994, 6 November 1997, UN Doc. CCPR/C/61/D/577/1994. 371, 371 n67
- Poma Poma v. Peru*, Communication No. 1457/2006, 24 April 2009, UN Doc. CCPR/C/95/D/1457/2006. 291 n132, 370, 307 n197, 310 n209, 319
- Quispe Roque v. Peru*, Communication No. 1125/2002, 17 November 2005, UN Doc. CCPR/C/85/D/1125/2002. 377, 377 n90
- R.A.V.N. et al. v. Argentina*, Communication No. 291/1988, 5 April 1990, UN Doc. CCPR/C/38/D/291/1988. 368 n52
- Roberts v. Barbados*, Communication No. 504/1992, 29 July 1994, UN Doc. CCPR/C/51/D/504/1. 393 n157
- S.H. v. Norway*, Communication No. 121/1998, 1 January 2000, UN Doc. A/55/44, Annex VIII.B.4. 343 n75
- Salikh v. Uzbekistan*, Communication No. 1382/2005, 22 April 2009, UN Doc. CCPR/C/95/D/1382/2005. 287, 287 n113
- Sarma v. Sri Lanka*, Communication No. 950/2000, 16 July 2003, UN Doc. CCPR/C/78/D/950/2000. 280 n81, 300 n174
- Sayadi and Vinck v. Belgium*, Communication No. 1472/2006, 29 December 2008, UN Doc. CCPR/C/94/D/1472/2006. 289, 289 n124, 315 n227
- Semey v. Spain*, Communication No. 986/2001, 30 July 2003, UN Doc. CCPR/C/78/D/986/2001. 291 n132

Sharifova, Safarov and Burkhonov v. Tajikistan, Communication Nos. 1209, 1231/2003 and 1241/2004, 24 April 2008, UN Docs. CCPR/C/92/D/1209, 1231/2003 & 1241/2004. 275 n59

Sharma v. Nepal, Communication No. 1469/2006, 6 November 2008, UN Doc. CCPR/C/94/D/1469/2006. 280 n81, 300 n174

Shin v. Korea, Communication No. 926/2000, 16 March 2004, UN Doc. CCPR/C/80/D/926/2000. 376, 376 n88

Shukurova v. Tajikistan, Communication No. 1044/2002, 26 April 2006, UN Doc. CCPR/C/86/D/1044/2002. 388 n142

Singarasa v. Sri Lanka, Communication No. 1033/2001, 23 August 2004, UN Doc. CCPR/C/81/D/1033/2001. 376, 376 n86

Sohn v. Republic of Korea, Communication No. 518/1992, 19 July 1995, UN Doc. CCPR/C/54/D/518/1992. 374, 374 n79

Sprenger v. The Netherlands, Communication No. 395/90, 31 March 1992, UN Doc. CCPR/C/44/D/395/1990. 255 n200

Stewart v. Canada, Communication No. 538/1993, 1 March 1996, UN Doc. CCPR/C/58/D/538/1993 (1996). 152, 152 n213, 275 n59

Svetik v. Belarus, Communication No. 927/2000, 25 August 2004, UN Doc. CCPR/C/81/D/927/2000. 379, 379 n96

Toonen v. Australia, Communication No. 488/1992, 31 March 1994, UN Doc. CCPR/C/50/D/488/1992. 55 n182, n183, 274 n58

Torres v. Finland, Communication No. 291/1988, 2 April 1990, UN Doc. CCPR/C/38/D/291/1988. 368, 368 n54

Turaeva v. Uzbekistan, Communication No. 1284/2004, 3 December 2009, UN Doc. CCPR/C/100/D/1449/2006. 290 n128

Uteeva v. Uzbekistan, Communication No. 1150/2003, 13 November 2007, UN Doc. CCPR/C/91/D/1150/2003. 388 n142

Van Alphen v. The Netherlands, Communication No. 305/1988, 23 July 1990, UN Doc. CCPR/C/39/D/305/1988. 372, 372 n72

Van Duzen v. Canada, Communication No. 50/1979, 7 April 1982, UN Doc. A/37/40 Supp. (No. 40), 150 (1982). 288, 289 n123

Venier and Nicolas v. France, Communication Nos. 690/1996 and 691/1996, 1 August 2000, UN Doc. CCPR/C/69/D/690/1996. 312 n211, 398, 398 n171

Vojnovic v. Croatia, Communication No. 1510/2006, 28 April 2009, UN Doc. CCPR/C/95/D/1510/2006. 290 n128

Vuolanne v. Finland, Communication No. 265/1987, 2 May 1989, UN Doc. CCPR/C/35/D/265/1987. 280 n80, 281 n84, 368, 368 n51

Weiss v. Austria, Communication No. 1086/2002, 24 May 2002, UN Doc. CCPR/C/77/D/1086/2002. 373, 373 n75, 375, 375 n84

Westerman v. The Netherlands, Communication No. 682/1996, 3 November 1999, UN Doc. CCPR/C/67/D/682/1996. 312 n212, 314 n219

Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

TABLE OF CASES

xix

- Winata v. Australia*, Communication No. 930/2000, 26 July 2001, UN Doc. CCPR/C/72/D/930/2000. 306, 306 n195, 310
- Young v. Australia*, Communication No. 941/2000, 6 August 2003, UN Doc. CCPR/C/78/D/941/2000 (2003). 55 n182
- Zoolfia v. Uzbekistan*, Communication No. 1585/2007, 21 August 2009, UN Doc. CCPR/C/96/D/1585/2007. 290 n128
- Zwaan-de Vries v. The Netherlands*, Communication No. 182/1984, 9 April 1987, UN Doc. CCPR/C/OP/2. 51, 51 n159, 52, 253 n195, 281 n84, 300 n171

INTERNATIONAL COURT OF JUSTICE:

- Aegean Sea Continental Shelf Case (Greece v. Turkey)* ICJ Reports (1978) 3. 286 n109
- Avena and Other Mexican Nationals (Mexico v. United States of America)* (Merits) ICJ Reports (2004) 12. 262 n3, 390 n152, 393, 393 n159, n160, 394, 394 n162, n163, 395
- Barcelona Traction Light and Power Company (Belgium v. Spain)* ICJ Reports (1970) 3. 264 n16
- Case Concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)* 30 November 2010 (not reported). 94 n60, 98 n69, 108 n112, 159 n251, 264 n15, 418 n3
- Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* ICJ Reports (2005) 168. 54 n176
- Case Concerning Maritime Delimitation between Qatar and Bahrain (Qatar v. Bahrain)* ICJ Reports (2001) 40. 296 n149, 298 n161
- Case Concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (The Republic of Indonesia v. Malaysia)* ICJ Reports (2002) 625. 262 n3
- Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* ICJ Reports (2007) 43. 262 n3
- Case Concerning the Arrest Warrant of 11 April 2000 (Belgium v. Congo)* ICJ Reports (2002) 3. 264 n17
- Case Concerning the Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada v. United States of America)* ICJ Reports (1984) 246. 296 n149, 298 n161
- Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)* ICJ Reports (2002) 303. 295 n149
- Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* ICJ Reports (1986) 14. 58 n204, 271 n44
- Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)* ICJ Reports (1980) 3.
- Effect of Awards of Compensation Made by the U.N. Administrative Tribunal*, Advisory Opinion, ICJ Reports (1954) 47. 88, 88 n40
- Frontier Dispute (Benin v. Niger)* ICJ Reports (2005) 90. 295 n149, 297 n161, 298 n162
- Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)* ICJ Reports (1997) 7. 298 n164

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,
 Advisory Opinion, ICJ Reports (2004) 136. 31 n71

Legal Consequences of the Continued Presence of South Africa in Namibia
Notwithstanding Security Council Resolution 276, Advisory Opinion, ICJ Reports
 (1971) 16. 286 n109, 295 n149

Nuclear Tests (New Zealand v. France) ICJ Reports (1974) 457. 286 n106

Reparations for Injuries Suffered in the Service of the United Nations, Advisory Opinion,
 ICJ Reports (1949) 174. 88 n38, 128 n67

Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning
Avena and Other Mexican Nationals (Mexico v. United States of America) ICJ
 Reports (2009) 12. 393 n159, 394

Reservations to the Genocide Convention Case, Advisory Opinion ICJ Reports
 (1951) 15. 161 n263

Territorial Dispute (Libyan Arab Jamahiriya v. Chad) ICJ Reports (1994) 61. 286 n109

INTERNATIONAL CRIMINAL COURT:

Prosecutor v. Thomas Lubanga Dyilo, Judgment on the Appeal of Mr Thomas Lubanga
 Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the
 Court pursuant to article 19(2)(a) of the Statute of 3 October 2006, 14 December
 2006, ICC-01/04–01/06–772. 132 n96

INTERNATIONAL CRIMINAL TRIBUNAL
 FOR THE FORMER YUGOSLAVIA:

Prosecutor v. Duško Tadić, Decision on the Defence Motion for Interlocutory Appeal on
 Jurisdiction, Case IT-94–1-AR72, 2 October 1995. 89 n44

PERMANENT COURT OF INTERNATIONAL JUSTICE:

Case of the SS Lotus (France v. Turkey) PCIJ Rep Series A, No. 10 (1927) 5. 271 n44

Exchange of Greek and Turkish Populations, Advisory Opinion, PCIJ Rep Series B,
 No. 10 (1925) 6; ICGJ 277. 392 n155

Greco-Bulgarian ‘Communities’, Advisory Opinion, PCIJ Rep Series B, No. 17 (1930) 4;
 ICGJ 284. 392 n155

Lighthouses Case (France v. Greece) PCIJ Rep Series A/B, No. 62 (1934) 5. 286 n109

REGIONAL

EUROPEAN COURT OF HUMAN RIGHTS:

Al-Adsani v. United Kingdom (Appl. No. 35763/97), Judgment (Grand Chamber),
 21 November 2001, ECHR 2001-XI. 279 n78, n79, 299 n166

TABLE OF CASES

xxi

- Bosphorus Hava Yolları Turizm Ve Ticaret Anonim Şirketi v. Ireland* (Appl. No. 45036/98), Judgment (Grand Chamber), 30 June 2005, ECHR 2005-VI. 279 n78, 299 n166
- Case Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium* (Appl. Nos. 1474/62; 1677/62, 1691/62, 1769/63, 1994/63, 2163/64), Judgment (Merits), 23 July 1968, Series A, No. 6. 303 n181
- De Wilde, Ooms and Versyp v. Belgium* (Appl. Nos. 2832/66; 2835/66; 2899/66), Judgment (Merits), 18 June 1971, Series A, No. 12. 303 n181
- Demir and Baykara v. Turkey* (Appl. No. 34503/97), Judgment (Grand Chamber), 12 November 2008, (2008) ECHR 1345. 272 n48, 279 n78, n79, 292 n135, 299 n166, n167
- Engel and Others v. The Netherlands* (Appl. Nos. 5100/71; 5101/71; 5102/71; 5354/72; 5370/72), Judgment (Merits), 8 June 1976, Series A, No. 22. 303 n181
- Frydlander v. France* (Appl. No. 30979/96), Judgment (Grand Chamber), 27 June 2000, ECHR 2000-VII. 292 n135
- Golder v. United Kingdom* (Appl. No. 4451/70), Judgment (Plenary), 21 February 1975, Series A, No. 18. 279 n78, 292 n135, 303 n181
- Handyside v. United Kingdom* (Appl. No. 5493/72), Judgment (Merits), 7 December 1976, Series A, No. 24. 303 n181, 304 n184
- Ireland v. United Kingdom* (Appl. No. 5310/71), Judgment (Plenary), 18 January 1978, Series A, No. 25. 263 n12
- Karner v. Austria* (Appl. No. 40016/98), 24 July 2003, ECHR 2003-IX. 55 n185
- Lautsi v. Italy* (Appl. No. 30814/06), Judgment (Grand Chamber), 18 March 2011 (not reported). 266 n25
- Mamatkulov and Askarov v. Turkey* (Appl. Nos. 46827/99; 46951/99), Judgment (Grand Chamber), 4 February 2005, ECHR 2005-I. 101 n76, 102, 102 n78, 390, 390 n150, n151
- Öcalan v. Turkey* (Appl. No. 46221/99), Judgment (Grand Chamber), 12 May 2005, ECHR 2005-IV. 292 n135
- Öneryıldız v. Turkey* (Appl. No. 48939/99), Judgment (Grand Chamber), 30 November 2004, ECHR 2004-XII. 279 n79
- Pellegrin v. France* (Appl. No. 28541/95), Judgment (Grand Chamber), 8 December 1999, ECHR 1999-VIII. 292 n135
- Russian Conservativa Party Entrepreneurs and Others v. Russia* (Appl. Nos. 55066/00 and 55638/00), Judgment (First Section) ECHR 2007. 279 n79
- Saadi v. United Kingdom* (Appl. No. 13229/03), Judgment (Grand Chamber), 27 September 2005 (not reported). 272 n48, 279 n78, 299 n166
- Sheffield and Horsham v. United Kingdom* (Appl. Nos. 22885/93, 23390/94), Judgment (Plenary), 30 July 1998, ECHR 1998-V. 272 n49
- Soering v. United Kingdom* (Appl. No. 14038/88), Judgment (Plenary), 7 July 1989, Series A, No. 161. 263 n12, 292 n135
- Stec and Others v. United Kingdom* (Appl. Nos. 65731/01 and 65900/01), Judgment (Grand Chamber), 12 April 2006, ECHR 2006-VI. 289 n125

The Sunday Times v. United Kingdom (Appl. No. 6538/74), Judgment (No. 1, Plenary),
 26 April 1979, Series A, No. 30. 292 n135
Tyrer v. United Kingdom (Appl. No. 5856/72), 25 April 1978, Series A, No. 25. 297,
 297 n156

EUROPEAN COURT OF JUSTICE:

Grant v. South-West Trains Ltd, Case No. C-249/96, 17 February 1998, [1998]
 ECR I-621. 405 n210

NATIONAL

Australia, Federal Court, *Minister for Foreign Affairs and Trade v. Magno* (1992) 37 FCR
 298; 112 ALR 528. 401 n194, 408 n229
 Australia, Federal Court, *Minister for Immigration v. Al Masri* [2003] FCAFC 70. 401
 n195
 Australia, High Court, *Nudd v. The Queen* (2006) 225 ALR 161; (2006) 80 ALJR 614;
 (2006) 162 A Crim R 301, ILDC 527 (AU 2006). 399 n180
 Australia, High Court, *Vasiljkovic v. Australia and Others* (2006) HCA 40; 80 ALJR
 1399; (2006) 228 ALR 447, ILDC 530 (AU 2006). 399 n180
 Belize, Supreme Court, *Aurelio Cal et al. v. Attorney General of Belize*, Claim No. 171/
 2007, 3 April 2007. 400 n184
 Belize, Supreme Court, *Cal and Others and Coy and Others v. Attorney-General of Belize
 and Minister of Natural Resources and Environment* (2007) 135 ILR 77. 400 n182
 Canada, Ontario Court of Appeal, *Ahani v. Canada (Attorney General)* (2002) 58 OR
 (3d) 107. 286, 286 n110, 373 n75, 380, 380 n101, n102, 392 n156, 396 n165
 Canada, Supreme Court, *Canadian Foundation for Children, Youth and the Law v. Canada
 (Attorney-General)* [2004] 1 SCR 76; 2004 SCC 4; ILDC 177 (CA 2004). 401 n188
 Canada, Supreme Court, *Suresh v. Canada* [2002] 1 SCR 3; 2002 SCC 1. 399,
 400 n181, 401 n192
 Colombia, Constitutional Court, *Revision Decision*, Case No. T-335/05, 12 March
 2003. 371 n65
 Colombia, Supreme Court of Justice, *Appeal Decision*, Case No. 1100122030002003–
 00976–01, 26 January 2004. 370 n64
 France, Council of State, *Hauchemaille v. France*, ILDC 767 (FR 2001). 398 n172
 Greece, Special Supreme Court, Case Nos. AED 13/2006; AED 17/2006; StE 909/
 2007. 369 n57
 Hong Kong, Court of Appeal, *R v. Sin Yau-ming* (1991) 1 HKPLR 88. 402 n198
 Ireland, Supreme Court, *Kavanagh v. Governor of Mountjoy Prison* [2002] IESC 13
 (2002); ILDC 488 (IE 2002); 132 ILR 380. 374 n82, 379, 379 n99, 396 n164
 Israel, Supreme Court, *Marab and Others v. Israel Defence Force Commander in the
 West Bank and Another*, HCJ 3239/02 (2003); 133 ILR 332. 400 n186

Cambridge University Press

978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy

Edited by Helen Keller and Geir Ulfstein

Frontmatter

[More information](#)

TABLE OF CASES

xxiii

- Japan, Osaka High Court, *Yun Chang-Yol v. The State of Japan and the Prefecture of Kyoto*, 38 Japanese Annual of International Law (1995) 118. 408 n231
- Japan, Tokyo District Court, *Judgment*, 15 March 2001, 1784 Hanrei Jiho 67. 398 n173
- New Zealand, Court of Appeal, *Nicholls v. Registrar of the Court of Appeal* [1998] 2 NZLR 385. 402 n197
- New Zealand, Court of Appeal, *Quilter v. Attorney General* [1998] 1 NZLR 523. 402 n197
- New Zealand, Court of Appeal, *R v. Goodwin (No. 2)* [1993] 2 NZLR 390. 402, 402 n197
- New Zealand, Court of Appeal, *Wellington District Legal Services Committee v. Tangiora* [1998] 1 NZLR 129. 398 n170
- New Zealand, Privy Council, *Tangiora v. Wellington District Legal Services Committee* [2000] 1 NZLR 17. 405 n210
- Norway, Supreme Court, *A. v. The Norwegian Immigration Appeals Board*, Case No. HR-2008–681-A, ILDC 1326 (NW 2008). 386 n135
- Public Prosecutor v. Kristjánsson and Others*, Appeal Judgment, Case No. 12/2000, H (2000) 1534; ILDC 67 (IS 2000). 378 n95
- South Africa, Constitutional Court, *Du Toit and Another v. Minister of Welfare and Population Development and Others*, Case No. CCT40/01, [2002] ZACC 20, available at www.saflii.org/za/cases/ZACC/2002/20.html (last visited on 13 April 2011). 55 n185
- South Africa, High Court Witwatersrand, *Residents of Bon Vista Mansions v. Southern Metropolitan Local Council*, 2002 (6) BCLR 625 (W). 401, 402 n196
- Spain, Constitutional Court, *Judgment*, Case No. STC 70/2002, 3 April 2002. 398 n170
- Sri Lanka, Supreme Court, *Special Case: Supreme Court on Nallaratnam Singarasa*, S.C. SpL(LA) No. 182/99, 15 September 2006, ILDC 518 (LK 2006). 376 n86
- Switzerland, Federal Supreme Court (Bundesgerichtshof), *A and B v. Regierungsrat des Kantons Zürich*, 22 September 2000, partly published as BGE 126 I 242; ILDC 350 (CH 2000). 400 n182
- The Netherlands, Central Appeals Tribunal, *Appellante v. de Raad van Bestuur van de Sociale Verzekeringsbank*, 21 July 2006, LJN: AY5560. 402 n199
- The Netherlands, District Court of Maastricht, *Judgment*, 24 February 2009, LJN: BH4127. 401 n187
- The Netherlands, District Court of The Hague, *Prosecutor v. Joseph M.*, 23 March 2009, LJN: BK0520. 399 n180
- The Netherlands, District Court of The Hague, *Test Trial Fund Clara Wichmann and Others v. The Netherlands*, 7 September 2005, NJ 2005/473; AB 2005/398; NJCM 2005/30(8); ILDC 221 (NL 2005). 400 n182
- The Netherlands, Supreme Court, 18 April 1995, NJ 1995/611. 413 n247
- The Netherlands, Supreme Court, *Barelds & Pasman B.V. v. BLG Hypotheekbank N.V.*, 8 June 2007, LJN: AY9933; NJ 2007/419. 413 n248

Cambridge University Press
978-1-107-00654-6 - Un Human Rights Treaty Bodies: Law and Legitimacy
Edited by Helen Keller and Geir Ulfstein
Frontmatter
[More information](#)

Trinidad and Tobago, Privy Council, *Thomas and Hilaire v. Baptiste and the Attorney General of Trinidad and Tobago* [1999] 3 WLR 249. 396, 396 n165
UK, House of Lords, *Jones v. Saudi Arabia* [2006] UKHL 26, (2007) 1 AC 270. 398, 398 n174, 399 n176
United States of America, United States District Court for the Eastern District of New York, *Maria v. McElroy*, 68 F Supp 2d 206 (EDNY 1999). 401 n193
United States of America, Supreme Court, *Medellín v. Texas*, 552 US 491; ILDC 947 (US 2008). 393, 394 n161

TABLE OF CONVENTIONS AND STATUTES¹

Aarhus Convention on Access to Information, Public Participation in
 Decision-making and Access to Justice in Environmental Matters, 2161 UNTS 447,
 entered into force 30 October 2001, ratified by 44 states. 84

African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21
 ILM 58 (1982), entered into force 21 October 1986, ratified by 53 states. 18 n13

American Convention on Human Rights, 1144 UNTS 123, entered into force 18 July
 1978, ratified by 25 states (but denounced by Trinidad and Tobago). 89

Arab Charter on Human Rights, reprinted in 12 Int'l Hum. Rts. Rep. 893 (2005),
 entered into force 15 March 2008, ratified by 10 states. 18 n13

Charter of the United Nations, 1 UNTS XVI, entered into force 24 October 1945. 1, 35,
 54 n174, 298, 322

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
 Punishment, 1465 UNTS 85, entered into force 26 June 1987, ratified by 147
 states. 1, 73, 261, 323

Convention for the Protection of Human Rights and Fundamental Freedoms
 (European Convention on Human Rights (as amended)), ETS 005, entered into
 force 3 September 1953, ratified by 47 states. 14, 89, 111

Convention on the Elimination of All Forms of Discrimination against Women, 1249
 UNTS 13, entered into force 3 September 1981, ratified by 186 states. 1, 73, 233
 n121, n122, 235, 323

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of
 Anti-Personnel Mines and on Their Destruction, 2056 UNTS 211, entered into
 force 1 March 1999, ratified by 156 states. 18 n12

Convention on the Rights of Persons with Disabilities, UN Doc. A/61/611, entered into
 force 3 May 2008, ratified by 99 states. 22, 57, 69, 73, 83, 360

Convention on the Rights of the Child, 1577 UNTS 3, entered into force 2 September
 1990, ratified by 193 states. 73, 157, 220, 323

First Optional Protocol to the International Covenant on Civil and Political Rights, 999
 UNTS 302, entered into force 23 March 1976, ratified by 113 states. 94, 107–109

Framework Convention for the Protection of National Minorities, ETS 157, entered
 into force 1 February 1998, ratified by 39 states. 18 n13

¹ The number of state ratifications is current as of 31 March 2011.

xxvi TABLE OF CONVENTIONS AND STATUTES

- International Covenant on Civil and Political Rights, 999 UNTS 171, entered into force 23 March 1976, ratified by 167 states.
- International Covenant on Economic, Social and Cultural Rights, 993 UNTS 3, entered into force 3 January 1976, ratified by 160 states. 1, 73, 202, 220, 250, 251, 254, 255
- International Convention for the Protection of All Persons from Enforced Disappearance, UN Doc. A/61/488, entered into force 23 December 2010, ratified by 23 states. 18, 73, 300, 360
- International Convention on the Elimination of All Forms of Racial Discrimination, 660 UNTS 195, entered into force 4 January 1969, ratified by 174 states. 1, 73, 121, 261, 322, 360
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2220 UNTS 3, entered into force 1 July 2003, ratified by 44 states. 73, 82, 202, 242, 360
- Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2375 UNTS 237, entered into force 22 June 2006, ratified by 57 states.
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 2131 UNTS 83, entered into force 22 December 2000, ratified by 102 states. 233 n121
- Optional Protocol to the Convention on the Rights of Persons with Disabilities, UN Doc. A/61/611, entered into force 3 May 2008, ratified by 61 states.
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, UN Doc. A/63/435, not yet entered into force, ratified by 3 states. 217 n70, n71, n72
- Rome Statute of the International Criminal Court, 2187 UNTS 90, entered into force 1 July 2002, ratified by 114 states. 74, 81, 213, 300
- Statute of the International Court of Justice, 3 Bevans 1179; 59 Stat. 1031; TS 993; 39 AJIL Supp. 215 (1945), entered into force 24 October 1945, ratified by 192 states. 74, 79, 80, 82, 160 n259, n260, 193 n489, 268 n31, 293 n136, 407 n227, 408, 410, 410 n238, 411
- Universal Declaration of Human Rights, UN GA Resolution 217A (III), UN Doc. A/810 at 71 (1948), adopted 10 December 1948. 1, 37, 38, 116, 121, 244 n154, 247, 255, 300, 301, 322, 328 n22
- Vienna Convention on the Law of Treaties, 1155 UNTS 331, entered into force 27 January 1980, ratified by 111 states.

ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ACtHPR	African Court on Human and Peoples' Rights
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT Committee	Committee against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	Committee on the Elimination of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CERD Committee	Committee on the Elimination of Racial Discrimination
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CMW Committee	Committee on Migrant Workers
CoM	Committee of Ministers
CRC	Convention on the Rights of the Child
CRC Committee	Committee on the Rights of the Child
CPED	Convention on the Protection of All Persons from Enforced Disappearance
CPED Committee	Committee on the Protection of All Persons from Enforced Disappearance
CRPD	Convention on the Rights of Persons with Disabilities
CRPD Committee	Committee on the Rights of Persons with Disabilities
EC	European Commission
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights (as amended))

ECtHR	European Court of Human Rights
ECommHR	European Commission of Human Rights
ECJ	European Court of Justice
ECOSOC	Economic and Social Council
ECSR	European Committee of Social Rights
ETS	European Treaty Series
HRC	Human Rights Committee
HR Council	Human Rights Council
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICESCR Committee	Committee on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICJ Statute	Statute of the International Court of Justice
ILA	International Law Association
ILC	International Law Commission
ILM	International Legal Materials
ILO	International Labour Organization
ITLOS	International Tribunal for the Law of the Sea
NGO	Non-governmental organisation
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
PCIJ	Permanent Court of International Justice
Rome Statute	Rome Statute of the International Criminal Court
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN Charter	Charter of the United Nations
UN GA	United Nations General Assembly
UN GAOR	United Nations General Assembly Official Records
UNHCR	United Nations High Commissioner for Refugees
UN SC	United Nations Security Council
UNTS	United Nations Treaty Series
UPR	Universal Periodic Review
VCLT	Vienna Convention on the Law of Treaties
WGAD	Working Group on Arbitrary Detention
WGEID	Working Group on Enforced or Involuntary Disappearances
WTO	World Trade Organization