

MARUAH

A Comparison of Non-judicial Human Rights Mechanisms

This document provides an overview of the following human rights mechanisms:

UN Charter-based Bodies:

- United Nations Commission on Human Rights
- Human Rights Council
- Sub-Commission on the Promotion and Protection of Human Rights

UN Treaty-based Bodies:

- Human Rights Committee
- Committee on Economic, Cultural and Social Rights
- Committee on the Elimination of Racial Discrimination
- Committee on the Elimination of Discrimination against Women
- Committee Against Torture
- Committee on the Rights of the Child
- The Committee on Migrant Workers

Regional Bodies:

- Inter-American Commission on Human Rights
- African Commission on Human and People's Rights
- European Convention on Human Rights and Council of Europe

	UN Charter-based Bodies		
	United Nations Commission on Human Rights (U.N.C.H.R)	Human Rights Council (H.R.C)	Sub-Commission on the Promotion and Protection of Human Rights (S.C.H.R)
Functions / Objectives	<ul style="list-style-type: none"> Examine, monitor and publicly report on human rights situations in specific countries or regions; and Examine, monitor and publicly report on any trends of concern on a worldwide scale 	<ul style="list-style-type: none"> Be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all Address situations of violations and make recommendations Be guided by the principles of universality, impartiality, objectivity and non selectivity, constructive international dialogue and cooperation Promote human rights education and learning Provide advisory services, technical assistance and capacity building Serve as a forum for dialogue on thematic issues on all human rights Make recommendations to the General Assembly for further development of international human rights laws Promote the full implementation of human rights obligations and follow-up to related goals and commitments Undertake a universal periodic review Through dialogue and cooperation, prevent human rights violations and respond to human rights emergencies Work in close cooperation with governments, regional organisations and national human rights institutions to promote and protect human rights Review and improve processes and procedures put in place by the (now defunct) Commission of Human Rights. 	<p>“To undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities”</p>
Composition	Comprised of representatives drawn from 53 member states, elected by the members of Economic and Social Council (ECOSOC). There were no permanent members; each year (usually in May) approximately a third of the seats of the Commission would come up for election, and the representatives were appointed for a three-year	<ul style="list-style-type: none"> 47 seats geographically distributed Members are elected for 3-year terms. No country may serve more than 2 consecutive terms. Members must be approved individually and directly by a majority of the members of the 	<p>26 human rights experts</p> <ul style="list-style-type: none"> Generally elected for a term of four years Several posts up for elections bi-yearly Candidates were selected from the UN Member states to provide a proportional representation from the continents

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	<p>term.</p> <p>Seats on the Commission were apportioned generally by region</p>	<p>General Assembly (Secret ballot)</p> <ul style="list-style-type: none"> Each member is tasked with "Upholding the highest standards in the promotion and protection of human rights" <ul style="list-style-type: none"> Each council member will be subject to periodic review Can be suspended by a 2/3 vote of the General Assembly. 	
Powers			
<ul style="list-style-type: none"> Promotion 	<p>1947 – 1967 The Commission focused on promoting human rights and helping states elaborate treaties but did not investigate nor condemn violators.</p> <p>1967 Took a greater interventionist stance and adopted the policy of investigating and producing reports on violations. Also put in place geographically oriented workgroups.</p>	<p>They conduct periodic reviews of all 192 UN Member states</p> <p>These reports are debated and recommendations made to further human rights protection in the respective countries.</p>	<p>The working groups appear to be essentially research bodies aimed at making appropriate recommendations to the H.R.C for their adoption in policy reviews.</p>
<ul style="list-style-type: none"> Enforcement 		<p>Empowered to appoint special investigators for countries where human rights records are of particular concern.</p> <p>With regard to enforcement, I have yet to find any precise statement of how these rights are enforced, it seem like the whole plan is to bring it into the forefront of the General Assembly discussions and to use diplomatic leverage to effect change on a domestic level in each country.</p> <ul style="list-style-type: none"> Looking at the Israel example (the only country to be specifically condemned to date) 	
Miscellaneous (incl criticisms)	<p>Primary criticism was that member states used their membership in the commission as a cover to claim human rights awareness despite gross violations in their own countries. (i.e. Libya)</p>	<ul style="list-style-type: none"> US declined to seek a seat on the council, though they provide financial support <ul style="list-style-type: none"> Felt they would be more effective working unilaterally Also repeated condemnation on the H.R.C's stand on Israel (which has been echoed by other Member states including Kofi Annan) 	

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	UN Treaty-based Bodies		
	Human Rights Committee	Committee on Economic, Cultural and Social Rights	Committee on the Elimination of Racial Discrimination
Functions / Objectives	The Human Rights Committee (HRC) monitors implementation International Covenant on Civil and Political Rights (ICCPR).	The Committee on Economic, Social and Cultural Rights (CESCR) monitors implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR).	The Committee on the Elimination of Racial Discrimination (CERD) monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
Composition	<ul style="list-style-type: none"> The Committee is made up of 18 members, who are elected by the member states but act on an individual basis and not as representatives of their countries. They serve four-year terms, with one-half of their number elected every second year at the General Assembly. Members meet three times a year to consider the five-yearly reports submitted by UN member states. 	<ul style="list-style-type: none"> The Committee is composed of 18 independent experts who are persons of high moral character and recognized competence in the field of human rights. Members are elected for a term of four years by States parties. Members serve in their personal capacity and may be re-elected if nominated. Normally holds two sessions per year, consisting of a three-week plenary and a one-week pre-session working group. 	<ul style="list-style-type: none"> The Committee is composed of 18 independent experts who are persons of high moral standing and acknowledged impartiality. Members are elected for a term of four years by States parties. Elections for nine of the eighteen members are held every two years. Members serve in their personal capacity and may be re-elected if nominated. Normally holds two sessions per year consisting of three weeks each.
Powers			
<ul style="list-style-type: none"> Promotion 	<ul style="list-style-type: none"> The HRC examines reports and rules on individual communications pertaining only to the ICCPR. It remains disputed whether the HRC's in principle non-binding final views qualify as decisions of a quasi-judicial body or simply constitute authoritative interpretations on the merits of the cases brought before them for the members of the Optional Protocol. 	<ul style="list-style-type: none"> The Committee also publishes its interpretation of the provisions of the Covenant, known as general comments. 	<ul style="list-style-type: none"> CERD publishes its interpretation of the content of human rights provisions, known as general recommendations (or general comments), on thematic issues and organizes thematic discussions.
<ul style="list-style-type: none"> Enforcement 	<ul style="list-style-type: none"> Only States that have signed the First Optional Protocol have agreed to allow persons within the member state to obtain an opinion from the HRC in relation to violations of that Covenant. This allows the HRC to function as a mechanism for the international redress of human rights abuses, similar to the regional mechanisms afforded by the Inter-American Court of Human Rights or the European Court of 	<ul style="list-style-type: none"> All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially within two years of accepting the Covenant and thereafter every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations". The Committee cannot consider individual 	<ul style="list-style-type: none"> All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every two years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

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	<p>Human Rights.</p> <p><u>Individual Petitions</u></p> <ul style="list-style-type: none"> • An individuals can bring complaints if his country is a party to the Optional Protocol. • Description of procedure can be found at: http://www2.ohchr.org/english/bodies/hrc/procedure.htm <p><u>Inter-State Complaints</u></p> <ul style="list-style-type: none"> • Articles 41-43 ICCPR set out a more elaborate procedure for the resolution of disputes between States parties over a State's fulfillment of its obligations under the relevant Convention/Covenant through the establishment of an ad hoc Conciliation Commission. The procedure applies only to States parties to the ICCPR which have made a declaration accepting the competence of the Committee in this regard. 	<p>complaints, although a draft Optional Protocol to the Covenant is under consideration which could give the Committee competence in this regard. However, it may be possible for another committee with competence to consider individual communications to consider issues related to economic, social and cultural rights in the context of its treaty.</p>	<ul style="list-style-type: none"> • In addition to the reporting procedure, the Convention establishes three other mechanisms through which the Committee performs its monitoring functions: the early-warning procedure, the examination of inter-state complaints and the examination of individual complaints. <p><u>Individual Petitions</u></p> <ul style="list-style-type: none"> • An individual or a group of persons claiming to be the victim of racial discrimination to lodge a complaint with the Committee. • Description of procedure can be found at: http://www2.ohchr.org/english/bodies/cerd/procedure.htm <p><u>Inter-State Complaints</u></p> <ul style="list-style-type: none"> • Articles 11-13 ICERD set out the procedure for the resolution of disputes between States parties over a State's fulfillment of its obligations through the establishment of an ad hoc Conciliation Commission.
Miscellaneous (incl criticisms)	<p><u>Follow-up to concluding observations</u></p> <ul style="list-style-type: none"> • HRC has systematically applied a follow-up procedure whereby the Committee identifies a number of specific recommendations in its concluding observations as requiring immediate attention, and requests the State party to provide additional information on their implementation within a set period (usually one year 	<p><u>Follow-up to concluding observations</u></p> <ul style="list-style-type: none"> • CESCR may, in its concluding observations, make a specific request to a State party to provide more information or statistical data prior to the date on which the next periodic report is due. • 	<p><u>Follow-up to concluding observations</u></p> <ul style="list-style-type: none"> • CERD has a long-standing procedure, whereby the Committee may request further information or an additional report concerning, inter alia, action taken by States parties to implement the Committee's recommendations.

	UN Treaty-based Bodies			
	Committee on the Elimination of Discrimination against Women (CEDAW)	Committee Against Torture (CAT)	Committee on the Rights of the Child (CRC)	The Committee on Migrant Workers
Functions / Objectives	The Committee on the Elimination of Discrimination against Women (CEDAW) monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).	The Committee Against Torture (CAT) monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.	The Committee on the Rights of the Child (CRC) monitors implementation of the Convention on the Rights of the Child and its optional protocols.	The Committee on Migrant Workers (CMW) monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC)
Composition	<ul style="list-style-type: none"> The Committee is made up of 23 experts from different UN member states. Terms are four years and are renewable. The terms of half of the Committee members are subject to elections at the biennial. The Committee meets twice a year in NY to review reports on compliance with the Convention's provisions that the signatory nations are required to submit every four years. 	<ul style="list-style-type: none"> The Committee Against Torture is composed of 10 independent experts. Members are elected for a term of four years by States parties. Members serve in their personal capacity and may be re-elected if nominated. The Committee meets in Geneva and normally holds two sessions per year consisting of a plenary (of three weeks in May and two weeks in November) and a one-week pre-session working group. 	<ul style="list-style-type: none"> The Committee is made up of 18 members. Members act in a personal capacity and do not represent their countries' governments or any other organization to which they might belong. Members are elected to a four-year term and can be re-elected if nominated. The Committee meets in Geneva and normally holds three sessions per year consisting of a three-week plenary and a one-week pre-session working group. In 2006, the Committee considered reports in two parallel chambers of 9 members each, "as an exceptional and temporary measure", in order to clear the backlog of reports. 	<ul style="list-style-type: none"> The Committee on Migrant Workers is currently composed of 10 independent experts. Membership of the Committee will increase to 14 experts once the Convention has forty-one States parties. Members are elected for a term of four years by States parties. Members serve in their personal capacity and may be re-elected if nominated. The Committee meets in Geneva and normally holds one session per year.
Powers				
<ul style="list-style-type: none"> Promotion 	<ul style="list-style-type: none"> The Committee also formulates general recommendations and suggestions. General recommendations are directed to States and concern articles or themes in the Conventions. 	<ul style="list-style-type: none"> The Committee also publishes its interpretation of the content of human rights provisions, known as general comments on thematic issues. 	<ul style="list-style-type: none"> The Committee also publishes its interpretation of the content of human rights provisions, known as general comments on thematic issues and organizes days of general discussion. 	<ul style="list-style-type: none"> The Committee will also publish its interpretation of the content of human rights provisions, known as general comments on thematic issues.

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<ul style="list-style-type: none"> Enforcement 	<ul style="list-style-type: none"> States parties are obliged to submit regular reports to the Committee on how the rights of the Convention are implemented. During its sessions the Committee considers each State party report and addresses its concerns and recommendations to the State party in the form of concluding observations. In accordance with the Optional Protocol to the Convention, the Committee is mandated to : (1) receive communications from individuals or groups of individuals submitting claims of violations of rights protected under the Convention to the Committee and (2) initiate inquiries into situations of grave or systematic violations of women's rights. These procedures are optional and are only available where the State concerned has accepted them. <p><u>Individual Petitions</u></p> <ul style="list-style-type: none"> Private individuals, in certain circumstances, have the right to lodge with the Committee. Description of procedure can be found at: http://www2.ohchr.org/english/aw/cedaw-one.htm <p><u>Inquiries</u></p> <ul style="list-style-type: none"> The Committee may, on their own initiative, initiate inquiries if they have received reliable 	<ul style="list-style-type: none"> All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every four years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations". The Convention also establishes three other mechanisms through which the Committee performs its monitoring functions: the Committee may also, under certain circumstances, consider individual complaints or communications from individuals claiming that their rights under the Convention have been violated, undertake inquiries, and consider inter-state complaints. The Optional Protocol provides for the establishment of "a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment," to be overseen by a Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment <p><u>Individual Petitions</u></p> <ul style="list-style-type: none"> Private individuals, in certain circumstances, have the right to 	<ul style="list-style-type: none"> All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially two years after acceding to the Convention and then every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations". The Committee reviews additional reports which must be submitted by States who have acceded to the two Optional Protocols to the Convention. The Committee cannot consider individual complaints, although child rights may be raised before other committees with competence to consider individual complaints. 	<ul style="list-style-type: none"> All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every five years. The Committee will examine each report and address its concerns and recommendations to the State party in the form of "concluding observations". The Committee will also, under certain circumstance, be able to consider individual complaints or communications from individuals claiming that their rights under the Convention have been violated. (These provisions will become operative when 10 states parties have made the necessary declaration.) <p><u>Inter-State Complaints</u></p> <ul style="list-style-type: none"> Article 74 CMW set out a procedure for the relevant Committee itself to consider complaints from one State party which considers that another State party is not giving effect to the provisions of the Convention. This procedure applies only to States parties who have made a declaration accepting the competence of the Committee in this regard.
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	<p>information containing well-founded indications of serious or systematic violations of the conventions in a State party.</p> <ul style="list-style-type: none"> States parties to the CEDAW Optional Protocol may similarly exclude the competence of the Committee by making a declaration under article 10. <p><u>Resolution of inter-State disputes concerning interpretation or application of a convention</u></p> <ul style="list-style-type: none"> Article 29 CEDAW provides for disputes between States parties concerning interpretation or application of the Convention to be resolved in the first instance by negotiation or, failing that, by arbitration. One of the States involved may refer the dispute to the International Court of Justice if the parties fail to agree arbitration terms within six months. States parties may exclude themselves from this procedure by making a declaration at the time of ratification or accession, in which case, in accordance with the principle of reciprocity, they are barred from bringing cases against other States parties. 	<p>lodge with the Committee.</p> <ul style="list-style-type: none"> Description of procedure can be found at: http://www2.ohchr.org/english/bodies/cat/procedure.htm <p><u>Inquiries</u></p> <ul style="list-style-type: none"> The Committee may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of the conventions in a State party. States parties to CAT may opt out, at the time of ratification or accession, by making a declaration under article 28. <p><u>Inter-State Complaints</u></p> <ul style="list-style-type: none"> Article 21 CAT set out a procedure for the relevant Committee itself to consider complaints from one State party which considers that another State party is not giving effect to the provisions of the Convention. This procedure applies only to States parties who have made a declaration accepting the competence of the Committee in this regard. <p><u>Resolution of inter-State disputes concerning interpretation or application of a convention</u></p> <ul style="list-style-type: none"> Article 30 CAT provides for disputes between States parties concerning interpretation or application of the Convention to be resolved in the first instance by negotiation or, failing that, by 	<p><u>Resolution of inter-State disputes concerning interpretation or application of a convention</u></p> <ul style="list-style-type: none"> Article 92 provides for disputes between States parties concerning interpretation or application of the Convention to be resolved in the first instance by negotiation or, failing that, by arbitration. One of the States involved may refer the dispute to the International Court of Justice if the parties fail to agree arbitration terms within six months. States parties may exclude themselves from this procedure by making a declaration at the time of ratification or accession, in which case, in accordance with the principle of reciprocity, they are barred from bringing cases against other States parties.
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		arbitration. One of the States involved may refer the dispute to the International Court of Justice if the parties fail to agree arbitration terms within six months. States parties may exclude themselves from this procedure by making a declaration at the time of ratification or accession, in which case, in accordance with the principle of reciprocity, they are barred from bringing cases against other States parties.		
Miscellaneous (incl criticisms)		<u>Follow-up to concluding observations</u> <ul style="list-style-type: none">• In May 2003, CAT introduced a follow-up procedure whereby the Committee requests follow-up reports within one year. A rapporteur to monitor the State party's compliance with these requests has been appointed.		

	Regional Bodies		
	Inter-American Commission on Human Rights ("IACHR")	African Commission on Human and Peoples' Rights ("ACHPR")	European Convention on Human Rights and Council of Europe
Functions / Objectives	The main task of the IACHR is to promote the observance and defence of human rights in the Americas.	The Commission has three broad areas of responsibility: <ul style="list-style-type: none"> Promoting human and peoples' rights Protecting human and peoples' rights Interpreting the African Charter on Human and Peoples' Rights ("Charter") 	<ul style="list-style-type: none"> Establishment of an European organisation to safeguard and promote the rule of law, human rights and democracy – COE ECHR – one of the main treaties on human rights.
Composition	<p>The IACHR's ranking officers are its seven commissioners.</p> <p>The commissioners are elected by the OAS General Assembly, for four-year terms, with the possibility of re-election on one occasion, for a maximum period in office of eight years.</p> <p>They serve in personal capacity and are not considered to represent their countries of origin but rather "all the member countries of the Organization" (Art. 43 of the American Convention on Human Rights; the "Convention"). The Convention (Art. 42) says that they must "be persons of high moral character and recognized competence in the field of human rights". No two nationals of the same member state may be commissioners simultaneously (Art. 37), and commissioners are required to refrain from participating in the discussion of cases involving their home countries.</p>	<p>The ACHPR is made up of eleven members, elected by secret ballot at the Organisation of African Unity ("OAU") Assembly of Heads of State and Government (subsequently, by the African Union's Assembly). These members, who serve six-year renewable terms, are "chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights" (Charter, Art. 31) and, in selecting these personalities, particular consideration is given "to persons having legal experience".</p> <p>The members are to enjoy full independence in discharging their duties and serve on a personal basis (i.e., not representing their home states); however, no member state may have more than one of its nationals on the Commission at any given time. The members choose, from among their own number, a chairperson and a vice chairperson, who each serve two-year renewable terms.</p>	<ul style="list-style-type: none"> Regional Court (Commission no longer exists) – 45 judges each appointed by a member state Grand Chambers – 17 judges Chambers – 7 judges (Court divided into 5 Sections – geographical and gender balance)
Powers			
<ul style="list-style-type: none"> Promotion 	<ul style="list-style-type: none"> Recommends to the member States of the OAS the adoption of measures which would contribute to human rights protection Stimulates public consciousness regarding human rights in the Americas. To that end, carries out and publishes studies on specific 	<ul style="list-style-type: none"> Collect documents, undertake studies and researches on African problems in the field of human and peoples and their rights Organize seminars, symposia and conferences Disseminate information, encourage national 	

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	<p>subjects, such as: measures to be taken to ensure greater independence of the judiciary; the activities of irregular armed groups; the human rights situation of minors and women, and; the human rights of indigenous peoples.</p> <ul style="list-style-type: none"> • Organizes and carries out conferences, seminars and meetings with representatives of Governments, academic institutions, non-governmental groups, etc... in order to disseminate information and to increase knowledge regarding issues relating to the inter-American human rights system • Observes the general human rights situation in the member States and publishes special reports regarding the situation in a specific State, when it considers it appropriate. 	<p>and local institutions concerned with human and peoples' rights</p>	
<ul style="list-style-type: none"> • Enforcement 	<ul style="list-style-type: none"> • Requests States to adopt specific "precautionary measures" to avoid serious and irreparable harm to human rights in urgent cases • The Commission may also request that the Court order "provisional measures in urgent cases which involve danger to persons, even where a case has not yet been submitted to the Court • Submits cases to the Inter-American Court and appears before the Court in the litigation of cases • Requests advisory opinions from the Inter-American Court regarding questions of interpretation of the American Convention) • Carries out on-site visits to countries to engage in more in-depth analysis of the general situation and/or to investigate a specific situation. These visits usually result in the preparation of a report regarding the human rights situation observed, which is publishes and sent to the General Assembly • Receives, analyzes, and investigates individual petitions alleging violations of specific human rights protected by the American Convention 	<ul style="list-style-type: none"> • Should the case arise, give its views or make recommendations to governments • Prepare cases for submission to the Court's jurisdiction • In a July 2004 decision, the African Union Assembly resolved that the future Court on Human and Peoples' Rights would be integrated with the African Court of Justice. • To formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation • To cooperate with other African or, International institutions concerned with the promotion and protection of human and peoples' rights • To consider the periodic reports of States on the legislative or other measures adopted to give effect to the rights and freedoms recognized and guaranteed in the African Charter 	<ul style="list-style-type: none"> • Binding decisions on domestic courts. • Enforcement done by Committee of Ministers (appointed under Treaty of London)

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	on Human Rights		
Miscellaneous (incl criticisms)	<p>The IACHR has established three specialized mandates to monitor OAS states' compliance with inter-American human rights treaties in the following areas:</p> <ul style="list-style-type: none"> • OAS Special Rapporteur for Freedom of Expression • Special Rapporteur on Migrant Workers and their Families • Special Rapporteur on the Rights of Women 	<p>The Commission has 6 Special Mechanisms, or Special Rapporteurs that address specific human rights issues:</p> <ul style="list-style-type: none"> • Extra-judicial, Summary or Arbitrary Executions • Freedom of Expression • Human Rights Defenders • Prisons and Conditions of Detention • Refugees and Internally Displaced Persons • Rights of Women 	<ul style="list-style-type: none"> • Success is due to the political will of the parties • Rights of individuals and member states to complain • Powers of Court to give advisory opinion – Protocol 2 • Protocol 14 – in the process of ratification (i.e. not in force yet. Held up by Russia, a state whose ratification is necessary before protocol can enter into force) • Need to consider protection of persons participating in proceedings (Addressed by separate Convention – European Agreement Relating to Persons Participating in Proceedings of the European Court of Human Rights)