



Human Rights

Preserving & Promoting Human Rights in Europe *The Council of Europe (C of E)*

The organizations and treaties involved in dealing with Human Rights violations in Europe and the wider world

The Council of Europe is “the guardian of **human rights, democracy and the rule of law in Europe**”
“The *EU* and the *Council of Europe* are two different organizations with a *common goal*”

The C of E in Numbers

- Founded in **1949** (Treaty of London)
- **10** Original Member States (Including Ireland!)
- Currently **47** Member States (From Valentia Island to Vladivostok!)
- A population of approx. **830 million**
- **324** Member of the Parliamentary Assembly (PACE) representing the national parliaments (**Ireland has 4** Full Representatives and 4 Substitute Reps) which roughly mirror the make-up of the Oireachtas
- **1** Irish ‘*Permanent Representative* to the C of E’, Ambassador Keith McBean

The 4 Institutions of the *Council of Europe*

Parliamentary Assembly (PACE)

This is the driving force of the C of E, **holding governments to account** on human rights issues, pressing states to maintain democratic standards, proposing fresh ideas and generating the momentum for reform. They represent the National Parliaments.

Committee of Ministers

This is the decision making body of the C of E, representing the **Foreign Ministers** (or their Deputies). It is both a governmental body, where national approaches to problems facing European society can be discussed on an equal footing, and a place where Europe-wide responses to challenges are formulated.

Secretary General

The Committee recommends, and PACE votes on the SG who is responsible for the strategic management of the C of E’s work programme, budget, and the day-to-day running of the Organisation and **Secretariat**. He/she is elected for a 5-year term. The office is currently held by former Norwegian PM, *Thorbjørn Jaaland*.

European Court of Human Rights

The best known of the institutions. Responsible for hearing individual cases and making determinations that apply the **European Convention on Human Rights**, its other **ratified conventions**, and its **Protocols**. Each member state has one judge on the court. It is a ‘*court of last resort*’ when all other avenues have failed.

For Politics and Society Students, it’s the **European Convention on Human Rights** that is the most important part of this structure. But bear in mind that the C of E has created over 200 other conventions (enforceable treaties), each of which deal with a specific set of rights in mind and a dedicated ‘monitoring body’ (like the UN’s Treaty Bodies) to oversee their enforcement and implementation!).

Some of the key aspects of the ECHR include: The right to **Life**, prohibition of **Torture, Slavery** – servitude and forced labour, a **Fair Trial, Privacy** (this is of more and more importance in the digital world – think of the recent GDPR legislation in these terms!), as well as **Freedom of Thought, Conscience and Religion**. All the rights of the ECHR can be amended or added to through ‘**Protocols**’ such as happened in 2010. **But what aspects of the C of E directly impact on you?**

In 1996 the **European Convention on the Exercise of Children’s Rights** was passed. They passed this because they had to have “regard to the **United Nations Convention on the Rights of the Child** and in particular Article 4 which requires States Parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised” in that convention.

For more on the C of E listen to Episode 4 of the **PolSocPodcast!**

The Right of Individual Petition

If a citizen of any member state of the C of E has exhausted (used up) all of their DOMESTIC means of **redress** (getting a problem solved) of their Human Rights, then they can **appeal** their case to the *European Court of Human Rights*. – But, ‘Groups of Individuals’, and even countries can also **petition** the court.

Some cases that are relevant to Ireland’s relationship to the Council of Europe:

Investigate these for yourself, that way, you’ll write about them in a far more authentic way.

- **Ireland v United Kingdom (1979-80) 2 EHRR 25** (relating to torture/inhumane treatment of Irish prisoners in Northern Ireland)
- **Norris v. Ireland (1983)** (relating to the decriminalization of Homosexuality in Ireland – following a privacy argument)
- **Louise O’Keefe v. Ireland Case (2013)** (*There are some quite disturbing aspects of this case which relates to sexual abuse in Irish Schools)

For these and details of cases that have passed through (or are passing through the court) search for this document:

https://www.echr.coe.int/Documents/CP_Ireland_ENG.pdf

The UN & Human Rights

Understanding the Structure of the UN helps us to locate their Human Rights role



The Human Rights remit of the UN falls under the responsibility of ECOSOC, the Economic and Social Council. Up to 2006 this operated through the UN Human Rights Commission, but this was scrapped (long story) and replaced with the UNHR Council under the UN Charter. Like all UN Treaties, it establishes a **Treaty Body (TB)** which is responsible for monitoring Human Rights. Each signatory has **State Reporting Procedures** that feed back into the committee of the TB and the 'shadow reports' of NGOs and civil society groups.

To monitor progress of rights implementation the Treaty Body established the **UNIVERSAL PERIODIC REVIEW**. (The clue is in the name!)

- **UNIVERSAL** – All 193 Member States of the UN are involved on a rotating basis
- **PERIODIC** – The cycle takes place every 5 years (with review and implementation periods)
- **REVIEW** – It reviews (evaluates) the conduct of every country. It is intended to **complement**, not duplicate, the work of other human rights mechanisms, including the UN human rights treaty bodies (see below). This is the first international human rights mechanism to address all countries and all human rights.

*****This is a Political Process*****

Its greatest power is the ability to 'name and shame'

Ireland and the UPR: In the 1st and 2nd Round of reviews the UPR raised some of the following issues. How many of them have been successfully addressed by this stage?

2011:

2016:

CEDAW 1979 (Ire - 1985)

Convention on the Elimination of all Forms of Discrimination Against Women

A "Bill of Rights" for Women
Some Provisions that are relevant to Human Rights and your study of Gender:

Articles 1-6: focus on non-discrimination, sex stereotypes, and sex trafficking.

Articles 7-9: Outlines women's rights in the public sphere including: political life, representation, and rights to nationality.

Articles 10-14: Describes the economic & social rights of women, focusing on education, employment, and health.

To investigate Ireland's CEDAW progress visit the Irish Human Rights & Equality Commission's website: www.ihrec.ie/our-work/cedaw-2016/

Remember! Throughout these discussions the words **COVENANT**, **TREATY**, and **CONVENTION** have virtually the same meaning. All are legally binding.



The 1989 UN Convention on the Rights of the Child (Ire - 1992) – Key Provisions for P&S

The P&S spec specifically identifies a number of provisions of the UNCRC that you should be aware of and able to discuss in different contexts:

Article 6 – *Right to Survival and Development*

Article 14 – *Freedom of Thought, Conscience, and to **manifest** their religious beliefs*

Article 19 – *Freedom from Physical and Mental Violence, injury, neglect, and abuse*

Article 31 – *Right to Rest, Leisure, Play, and Recreation* *** (Citizenship Project LC Cert 2018)***

Article 28 & 29 – *Education and Aims of Education* (See Separate Handout)

Whose job is it to uphold the UNCRC? Answer: **UNICEF (for more go to www.unicef.ie)**

UNICEF promotes the rights and wellbeing of every child. Their mission statement is mandated by the United Nations General Assembly to:

- *Advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential.*
- *Be guided by the UNCRC and strive to establish children's rights as enduring ethical principles and international standards of behaviour towards children.*
- *insist that the survival, protection and development of children are universal development imperatives (requirements) that are integral to human progress.*
- *mobilize political will and material resources to help countries, particularly developing countries, ensure a "first call for children" and to build their capacity to form appropriate policies and deliver services for children and their families.*

Domestic Protections of Human Rights

If you're on this island where can you go for help?

Irish Human Rights and Equality Commission (IHREC)



Northern Ireland Human Rights Commission (NIHRC)



The **'Joint Committee'**, which is a forum for considering human rights issues in the island of Ireland, affecting both jurisdictions (ROI + NI)

The IHREC has a **broad statutory remit** in relation to the protection and promotion of human rights and equality under the *Irish Human Rights and Equality Commission Act, (2014)* to protect and promote human rights and equality,

- to encourage the development of a culture of respect for human rights, equality, and intercultural understanding in the State,
- to promote understanding and awareness of the importance of human rights and equality in the State,
- to encourage good practice in intercultural relations, to promote tolerance and acceptance of diversity in the State and respect for the freedom and dignity of each person
- to work towards the elimination of human rights abuses, discrimination and prohibited conduct.

Some of their specific functions include:

- to **provide information** to the public in relation to human rights and equality;
- to **keep under review** the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality
- to **examine legislative proposals** and report its views on any implications for human rights or equality
- to make recommendations to the Government in relation to measures to strengthen, protect and uphold human rights and equality in the State
- to apply to the High Court or the Supreme Court for liberty to appear as **amicus curiae** (Friend of the Court) in proceedings that involve or are concerned with the human rights or equality rights of any person
- to provide **practical assistance**, including legal assistance, to persons in vindicating their rights
- to provide or assist in the provision of **education and training** on human rights and equality issues

The NIHRC is a human rights institution with a status **accreditation** from the United Nations. The NIHRC is funded by UK government, but is an independent public body that operates in full accordance with the **UN Paris Principles**.

Established on the basis of the **Belfast (Good Friday) Agreement**, it plays a central role in supporting a society that, as it rebuilds following conflict, respects & upholds human rights standards & responsibilities.

Its mission is to "*champion and guard the rights of all those who live in Northern Ireland.*" To do this, it makes sure government and other public bodies protect the human rights of everyone in NI and what steps they can take if their rights are violated.

It does this by:

- **Advising** the **Westminster** government, the **NI Executive and Assembly**, and key agencies on legislation and compliance with human rights.
- Working to **promote awareness** of human rights through education, training and research
- **Monitoring** international treaty work
- **Offering legal advice**, including taking strategic legal cases

How should Children (anyone under 18 in Ireland) pursue their rights?

In 2002 the *Ombudsman for Children Act* was passed by the Oireachtas. It established the **Ombudsman of Children's Office (OCO)** to facilitate the full implementation of the UNCRC and promote Children's rights in Ireland. Though it operates independently, it reports directly to the Oireachtas. **Dr Niall Muldoon** was appointed by President Higgins in February 2015. To undertake your own, deeper investigation of Children's Rights consider consulting the OCO's website (www.oco.ie) or some of the 'civil society' organizations that promote Children's Rights in Ireland, such as the Children's Rights Alliance (www.childrensrightrights.ie), particularly their annual "Report Card" that show our implementation progress.

On 27 June 2011, the 'Joint Committee' published their Advice on a **Charter of Rights for the Island of Ireland**. The advice was based on a study of the human rights protections which the UK and Ireland have signed up to in political agreements, such as the ECHR and other international human standards.

They advised that "*a Charter would not need to create any new protections. It could restate the fundamental human rights that already exist in both jurisdictions, thereby helping to underpin the peace process.,*"

This remains part of the 'unfinished business' of the GFA and has yet to be fully adopted!!!

Politics & Society - Human Rights – Some Possible Essay Titles

L.O. 1.2 Evaluate and use evidence to come to a conclusion as to whether we need rules in society. (i.e. HR as a basis that underpins our rules/laws)

L.O. 2.1 Describe the process of decision-making at national level in relation to policies that impacts upon young people. (i.e. leave room to discuss how UNCRC rights are put into national policy)

L.O. 4.1 Evaluate the statement “*The rights articulated in the UN Convention on the Rights of the Child are enjoyed in Ireland equally by everyone.*” (***A variation on this question might specifically refer to the right to education being enjoyed equally by everyone in Ireland***)

L.O. 5.4 (These are possible ‘Final DBQ’ questions, but might also form the backbone of an Essay question when paired with further ‘stimulus material’ such as a picture, quote or tweet)

- The Human Rights provide a framework that protects us all from powerful groups in society
- Human Rights provide a basis for ensuring equality in society
- *Positive Rights* are unfair as they make some people pay to implement the rights of other people Sometimes the rights of the individual have to be set aside to protect the rights of the majority
- Human Rights don’t go far enough because they only provide equality of access and opportunity, not equality of outcome

L.O. 6.1 (adapted) “Explain the main rights outlined in the European Convention on Human Rights, and the mechanisms through which people can seek to have these rights implemented” **(Possible part (f) in the Data-Based Question?)**

L.O. 6.2.1 “*Human rights are a western idea, and imposing this idea upon non-western countries is form of cultural imperialism.*” State whether you agree or disagree with this statement. Justify your position. [Your answer should include examples and evidence from a local or global context to support your argument. You should also refer to the views of two or more named theorists you have studied]

L.O. 6.2.2 “*Political rights can be set aside for a period in order to enable a country to develop so that it can provide for its citizens.*” State whether you agree or disagree with this statement. Justify your position.

[Your answer should include examples and evidence from a local or global context to support your argument. You should also refer to the views of two or more named theorists you have studied]

L.O. 6.3 “*What it means for states to agree to implement economic, social and cultural rights within the framework of international cooperation.*” **(Possible part (f) in the Data-Based Question?)**

[Your answer should include examples and evidence from one or more international agreements (such as the *UN Declaration on the Right to Development*) to support your argument. You should also refer to the views of two or more named theorists you have studied]

****** Identify the ‘Key Thinkers’ that will be relevant to any/all of these topics ******

Consider:

- What international agreements might be relevant?
- Which organizations might you be expected to refer to?
- Will you need to consider violations of the rights as a tool to discuss the protection of rights?
- Which specific case studies will you be able to use to apply data to your essays?