

The protection of human rights and fundamental freedoms at the origins of the European integration process

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Abstract

This paper aims to trace the origins of the protection of human rights and fundamental freedoms in the European integration process. It is a transcontinental journey that connects the French and the American revolution under the achievements and the principles of the Enlightenment. It is the history of contemporary Europe, from the French Revolution to the tragedy of World War II. In the process of European integration the institutions overlap, and find in the Council of Europe, an institution larger than the European Union, the moment in which these rights are codified. These principles, which are the basis of European values, have been embodied in the European Convention on Human Rights, one of the most advanced instruments on the protection of fundamental human rights.

Key words: Human rights, fundamental freedoms, European Convention on Human Rights, European Court of Human Rights, History of Contemporary Europe.

The principles of human rights and fundamental freedoms within the European integration process are rooted in the same history of the Old Continent. It is the story of globalization of ideas and struggles for universal affirmation of basic rights. We can trace its origin in the Eighteenth century.

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During the American Revolution the colonists forged critical link with France, which recognized the United States as a sovereign and independent nation with the signature of the *Treaty of Alliance* and the *Treaty of Amity and Commerce* of 1778. France provided supplies, arms, ammunition, uniforms, troops and naval support to the American rebels.

The U.S. and France “sister revolutions” are deeply linked, and they influenced each other¹. The French declaration was heavily influenced by the political philosophy of the *Enlightenment* and by principles of human rights, as was the *U.S. Declaration of Independence* of 1776. These principles are summarised in one of the most iconic phrases of all times, within the second sentence of the *Declaration of Independence*: «We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness». The original form of this phrase, that is also worded in a similar way in Thomas Paine’s *Common Sense*², was penned by Thomas Jefferson, one of the Founding Fathers of the United States and the principal author of the *Declaration of Independence*.

The Americans were early supporters of the First French Republic of 1792, and the American Revolution influenced France³. Jefferson, who served as U.S. minister to France in May 1785, helped drafting the French *Declaration of the Rights of Man and of the Citizen* of 1789⁴. The principles of liberty, democracy, respect for human rights and fundamental freedoms, on which the U.S. is

1. Cf. S. DUNN, *Sister Revolutions: French Lightning, American Light*, Farrar, Straus and Giroux, Cloth First Pub. edition, New York 1999, pp. 143-45. See also: G.A. BILLIAS, *American Constitutionalism Heard Round the World, 1776-1989: A Global Perspective*, New York University Press, New York, London 2009, p. 92.

2. Cf. T. PAINE, *Common Sense*, R. Bell, Philadelphia 1776, p. 75 («Mankind being originally equals in the order of creation [...]») and p. 79 («For all men being originally equals [...]»).

3. Cf. C. FOHLEN, *The Impact of the American Revolution Abroad*, paper presented at the Fourth Symposium, 8 and 9 May 1975, Library of Congress, Washington, D.C. 1976, pp. 21-23.

4. Cf. G. FREMONT-BARNES, *Encyclopedia of the Age of Political Revolutions and New Ideologies, 1760-1815*, Greenwood, Santa Barbara 2007, p. 190.

founded, will be glorified in 1835 by Alexis de Tocqueville⁵. The French solemnly honored the *Declaration of Independence* with the gift of the Statue of Liberty in 1886.

The *Declaration of the Rights of Man and of the Citizen* was adopted by the National Constituent Assembly during the period of the French Revolution, as the first step toward writing a constitution for the country. The declaration, which is included in the beginning of the constitutions of both the Fourth French Republic (1946) and Fifth Republic (1958), and is still current, became the basis for a nation of free individuals protected equally by the law. The French declaration defines a single set of individual and collective rights, which are deemed to be universal and valid in all times and places. These principles were not applied within the absolute monarchies that dominated Europe at the time.

The declaration was a core statement of the values of the French Revolution and had a major impact on the development of freedom and democracy in Europe and worldwide⁶. Together with the *Bill of Rights* of 1789⁷, which added the first ten amendments to the U.S. Constitution of 1787, and other major documents such as *Magna Charta* of 1215, the French declaration inspired in large part the *Universal Declaration of Human Rights* (UDHR) that was proclaimed by the UN Assembly on 10 December 1948⁸.

The French Revolution first and then Napoleon, although unconsciously and involuntarily, insinuated the principles of liberalism and democracy into the minds of European peoples⁹. In the

5. Cf. A. DE TOCQUEVILLE, *Democracy in America*, trans. Henry Reeve [First English language edition, Saunders and Otley, London 1835].

6. Cf. A.M. CIRTAUTAS, *France*, in J. KOPSTEIN (ed. by), *Comparative Politics: Interests, Identities, and Institutions in a Changing Global Order*, Cambridge University Press, Cambridge 2000, p. 72.

7. Cf. *The Bill of Rights*, joint resolution passed by the U.S. Congress on 25 September 1789, proposing 12-not 10-amendments to the Constitution.

8. Cf. D.K. STEVENSON, *American Life and Institutions*, Klett, Stuttgart 1987, p. 34.

9. Cf. M. MARSILI, *Libertà di pensiero. Genesi ed evoluzione negli ordinamenti politici dal V secolo a.C.*, collection «Filosofie» No. 133, Mimesis, Milano, Udine 2001, p. 140.

aftermath of the fall of Napoleon, in 1815, many sovereigns cancelled with a stroke of pen what they had previously granted¹⁰. After the interlude of the Restoration, the demand for the recognition of fundamental rights returned to the European political agenda with the revolutions of 1848¹¹. This request lasted to present day.

The French declaration, which is a cornerstone in the history of human and civil rights, has been influenced also by the doctrine of “natural law”, which holds that the rights of man are deemed to be universal: they are valid at all times and in every place, and they pertain to human nature itself. The declaration is in the spirit of “secular natural law”, which does not base itself on religious doctrine or authority, in contrast with traditional natural law theory, which does¹².

Natural law provides the basis of a nation’s law (*ius gentium* or *jus gentium*), a set of rules that has its source in the *naturalis ratio* and is observed equally among all *gentes* (“peoples” or “nations”) as customary law, in “reasoned compliance with standards of international conduct”¹³. International law is made up of two components: general practice and “accepted as law” (*opinio juris*). Part of these norms are recognised as fundamental principles of international law from which no derogation is permitted (*jus cogens* or *ius cogens*).

Bouvier explains that, according to Emmerich de Vattel, international law is generally divided into two branches: the natural law of nations, consisting of the rules of justice applicable to the conduct of States, and the positive law of nations¹⁴. The latter consists of the voluntary law of nations, derived from the

10. Cf. *Ibid.*

11. Cf. *ivi*, pp. 140-4.

12. Cf. J.H. MERRYMAN & R. PÉREZ-PERDOMO, *The civil law tradition: an introduction to the legal system of Europe and Latin America*, Stanford University Press, Redwood City 2007, p. 16.

13. D.J. BEDERMAN, *International Law in Antiquity*, Cambridge University Press, Cambridge 2004, p. 85.

14. Cf. J. BOUVIER, *A law dictionary: adapted to the Constitution and laws of the United States of America, and of the several states of the American union; with references to the civil and other systems of foreign law*, T. & J.W. Johnson, 3rd edition, Philadelphia 1848 [original edition 1839].

presumed consent of nations, arising out of their general usage; the conventional law of nations, derived from the express consent of nations, as evidenced in treaties and other international compacts; the customary law of nations, derived from the express consent of nations, as evidenced in treaties and other international compacts between themselves¹⁵.

Thomas Hobbes, a representative of legal naturalism, developed some of the fundamentals of European liberal thought: the right of the individual and the natural equality of all men. The British philosopher explicitly rejects the idea of *Separation of Powers*, in particular the form that would later become the separation of powers under the U.S. Constitution later celebrated by Tocqueville. Hobbes believes that in the state of nature nothing can be considered just or unjust, and every man must be considered to have a right to all things¹⁶. In Part 6 of the *Leviathan*¹⁷, he is explicitly in favour of the limitation of some rights. He believes that censorship of the press and restrictions on the rights of free speech should be considered desirable by the sovereign to promote order.

One century later, John Locke outlines his ideas for a more civilized society based on natural rights and contract theory. In the *Second Treatise* that constitutes the first book of the *Two Treatises of Government*¹⁸, the English philosopher concludes that the effective protection of basic human rights to life, liberty, and property can be achieved under the rule of law. Locke's political philosophy is often compared and contrasted with Hobbes' *Leviathan*. The motivation in both cases is self-preservation with Hobbes arguing the need of an absolute monarch to prevent the war of "all against all"¹⁹ inherent in anarchy while Locke argues that the protection of

15. Cf. *Ibid.*

16. Cf. T. HOBBS, *Leviathan, or the Matter, Form, & Power of a Commonwealth Ecclesiasticall and Civill*, part. I, chap. 13, A. Crooke, London 1651.

17. Cf. *ivi*, XVIII and p. 119.

18. Cf. J. LOCKE, *Two Treatises of Government*, A. Millar et al., London 1764 [original edition, 1689].

19. Chapters 13-14 of the *Leviathan*. This concept has been previously spelled out by Hobbes in the Preface of *De Cive (On the citizen)*, published originally in Latin from Paris in 1642.

life, liberty, and property can be achieved by a parliamentary process that protects, not violates, one's rights. According to Locke, individual rights should be guaranteed to all equally by law²⁰. After World War II, the recognition of natural rights will result in their codification as basic human rights under positive European law.

The debate on the legality principle fascinates many scholars²¹. It is a discussion between the positivist and natural law philosophy. The Hart-Fuller debate is a controversy between positivists, who believe in a separation between the law as it is and the law as it should be, who believes that the creation of law should be based on natural laws or common morals.

Antonio Cassese, who served as chairman of the Council of Europe Steering Committee for Human Rights, explains that two theories collide in the scholarly arena. One tends to protect individuals from arbitrariness of public power (*favor rei*); the other one puts in the foreground the interest of the community to punish any crime that would constitute a serious breach of fundamental values (*favor societatis*)²².

With these premises, in Summer of 1949, one century and a half after the American and French declarations, over 100 parliamentarians from the twelve member states of the Council of Europe (COE) gather in Strasbourg in for the first ever meeting of the Council's Consultative Assembly to draft a "charter of human rights" and to establish a court to enforce it. Formed in 1949, the COE is completely separate from the European Union (EU) and much larger, with 47 members compared to the EU's 28. The UK is a funding member of the COE, and joined the EU 24 years after. The UK's membership of the Council would be unaffected by leaving the EU.

20. Cf. J. HUYLER, *Locke in America: The Moral Philosophy of the Founding Era*, University Press of Kansas, Lawrence 1995, chapters 4 and 5.

21. Cf. H.L.A. HART, *Positivism and the Separation of Law and Morals*, in «Harvard Law Review», vol. 71, n. 4 (February 1958), pp. 593-629; L.L. FULLER, *Positivism and Fidelity to Law: A Reply to Professor Hart*, in «Harvard Law Review», vol. 71, n. 4 (February 1958), pp. 630-672. DOI: 10.2307/1338226.

22. Cf. A. CASSESE, *International Criminal Law*, Oxford University Press, 2nd edition, Oxford 2008, p. 38.

The idea of modern European institutions, including the *European Convention on Human Rights* (formally the *Convention for the Protection of Human Rights and Fundamental Freedoms*)²³, came from the international meeting “Congress of Europe”, held in Hague from 7 to 10 May 1948²⁴. The *European Convention on Human Right* (ECHR), which can be considered the European response to the UDHR, can be seen as part of a wider response of the West in delivering a human rights agenda through which it was believed that the most serious human rights violations which had occurred during the Second World War could be avoided in the future. Europe, mindful of the dictatorships of the first half of the century, wanted to ensure the respect of those fundamental rights and freedoms that those regimes had denied.

The ECHR was drafted by the COE in 1950, in an attempt to apply effectively international justice after the Nuremberg Trials. The laws and procedures of the Nuremberg Trials were established by the *Charter of the International Military Tribunal – Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis*, commonly known as the *Charter of the Nürnberg Tribunal* (or Nuremberg Tribunal)²⁵. The Charter, which stipulated that crimes committed by the European Axis Powers could be tried, formed an integral part of the agreement (the “London Agreement”) for the establishment of an international military tribunal, which was signed by France, the Soviet Union, the United Kingdom, and the United States in London on 8 August 1945. It sets out three categories of crimes: crimes against peace, war crimes and crimes against humanity. For the first time this in-

23. Cf. *Convention for the Protection of Human Rights and Fundamental Freedoms*, as amended by Protocols No. 11 and No. 14, signed in Rome on 4 November 1950 and entered into force on 3 September 1953, ETS 5; 213 UNTS 221.

24. Cf. A. MOWBRAY, *Cases and Materials on the European Convention on Human Rights*, Oxford University Press, Oxford 2007, pp. 1-2.

25. Cf. *Agreement for the prosecution and punishment of the major war criminals of the European Axis* and annex *Charter of the International Military Tribunal (London Agreement)*, signed at London, on 8 August 1945, 82 UNTS 280. See also: ILC (1949), *The Charter and Judgment of the Nürnberg Tribunal: History and Analysis*, memorandum submitted by UN Secretary-General, A/CN.4/5, UN publication No. 1949.V. 7, Appendix II, p. 89.

troduced to international criminal law crimes against peace and crimes against humanity, namely serious violations of human rights. This obviously focused on the Holocaust, which involved the genocide of about six million Jews, which was basically mass murder.

Nuremberg was considered by many “victors’ justice”. Among the weak points of Nuremberg, and of the subsequent and related trials that followed, there is multilateralism, namely the limited participation to four powers, and the weakness of the legal bases on which the charges were based²⁶. One criticism that was made of the International Military Tribunal was that some treaties were not binding on the Axis powers because they were not signatories. Even if Nuremberg marked a turning point between classical and contemporary international law, its legitimacy was challenged in the aftermath of the judgment²⁷. This constituted the premises because in Europe the natural rights were codified and regulated under international positive law.

This is the background on which the process of European integration process matures in 1950, when then newly formed Council of Europe drafts the ECHR, an instrument to protect human rights and fundamental freedoms in Europe. Any person who feels his or her rights have been violated under the Convention by a state party can take a case to the European Court of Human Rights (ECTHR). Judgments finding violations are binding on the states concerned and they are obliged to execute them. Right in this principle lies the legacy of the French declaration of 1789: no one has the right to be deprived of their fundamental rights, not even by the government. Here is the reason of state ceases to have the primacy on the rights of individuals. The Convention embodies the principles enshrined in the *Declaration of the Rights of Man and of the Citizen*, that influenced and inspired rights-based liberal democracy throughout the world. The legacy

26. Cf. D. ZOLO, *Victors’ Justice: From Nuremberg to Baghdad*, Verso Books, New York & London 2009.

27. See also: Q. WRIGHT, *Legal Positivism and the Nuremberg Judgment*, in «American Journal of International Law», vol. 42, n. 2 (April 1948), pp. 405-414. DOI: 10.2307/2193683.

al the French declaration can be traced not only in the ECHR, but in many subsequent international and regional instruments on human rights.

The events that follow each other in these years are closely intertwined. In 1951 Belgium, France, West Germany, Italy, the Netherlands and Luxembourg sign the *Treaty of Paris*, which establishes the European Coal and Steel Community (ECSC), the first step of the regional integration. The ECSC is the first international organization to be based on the principles of supranationalism, and starts the process of formal integration which ultimately will lead to the European Union. Human rights set out in the French declaration of 1789 are the basis of the overcoming of the rights established on national basis. It is no coincidence if the European integration process was initiated by the *Schuman Declaration*, the statement made by the French foreign minister Robert Schuman on 9 May 1950²⁸.

On 3 September 1953, the ECHR enters into force, and the European integration process goes ahead. Finally, on 25 March 1957 the founding members of ECSC sign in Rome the *Treaty establishing the European Economic Community* (EEC Treaty), a founding act of a continent with shared values, even if eventually Europe fails to adopt a text that includes reference to its common heritage of spiritual and cultural roots²⁹. The Rome Treaty is signed in the same city where on 4 November 1950 the ECHR was opened for signature. More than a coincidence, an indissoluble link between the European institutions and their founding principles, including the protection of fundamental rights and freedoms.

Since its entry into force, through binding judicial procedures, the ECHR has protected the civil and political rights of individuals, including human rights (right to life, prohibition of

28. Cf. R. SCHUMAN, *Declaration of 9 May 1950*, European Union, in https://european-union/about-eu/symbols/europe-day/schuman-declaration_en (accessed 3 January 2018).

29. The draft *Treaty establishing a Constitution for Europe* (TCE), widely known as the “European Constitution”, after a long debate failed to include in the Preamble the reference to the common heritage of Christian and other spiritual and cultural values.

torture, etc.), citizens' rights (freedom of thought, of expression, of association, etc.) and applicants' rights (right to a fair trial, no punishment without law, etc.). This, in fact, is the ECHR's unique innovation: the full range of its common and foremost values are set out and enshrined in positive law through a system that provides collective safeguards and can be petitioned by both states and individuals.

On 1 November 1998 the ECtHR, established by Art. 19 of the Convention, becomes a full-time institution, and the European Commission of Human Rights ceases functioning. From 1954 to the entry into force of Protocol 11 to the ECHR, individuals did not have direct access to the European Court; they had to apply to the Commission, which if it found the case to be well-founded would launch a case in the Court on the individual's behalf. Protocol 11, which came into force in 1998, was drafted to rationalize the machinery for enforcement of rights and liberties guaranteed by the Convention³⁰. The protocol abolished the Commission, enlarged the Court, and allowed individuals to take cases directly to it: a further step towards the protection of basic rights. With this act, the European integration process regarding human rights and fundamental freedoms can be considered completed.

The *European Convention on Human Rights* embodies many of the principles enshrined in the *Declaration of the Rights of Man and of the Citizen*, that introduces in its preamble the fundamental characteristics of the rights which are qualified as being «natural, unalienable and sacred» and consisting of «simple and incontestable principles» on which citizens could base their demands. In the second article of the declaration, «the natural and imprescriptible rights of man» are defined as «liberty, property, security and resistance to oppression». Freedom of speech and press are declared, and arbitrary arrests outlawed.

The French declaration also asserts the principles of social equality among citizens: «All the citizens, being equal in the eyes

30. Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby, done at Strasburg, on 11 May 1994; ETS 155.

of the law, are equally admissible to all public dignities, places, and employments, according to their capacity and without distinction other than that of their virtues and of their talents». These are the rights granted to everybody under natural law.

Under the ECHR and its Five Protocols³¹, specific rights and freedoms are protected: right to life (Art. 2); freedom from torture (Art. 3); freedom from slavery (Art. 4); right to liberty (Art. 5); right to a fair trial (Art. 6); right not to be punished for something that wasn't against the law at the time (Art. 7); right to respect for family and private life (Art. 8); freedom of thought, conscience and religion (Art. 9); freedom of expression (Art. 10); freedom of assembly (Art. 11); right to marry and start a family (Art. 12); right not to be discriminated against in respect of these rights (Art. 14); right to protection of property (Protocol 1 and Art. 1); right to education (Protocol 1 and Art. 2); right to participate in free elections (Protocol 1 and Art. 3); abolition of the death penalty (Protocol 13).

The legacy of the ECHR, which derives from the French declaration of 1789, is reflected in many subsequent treaties. The principles enshrined in the European Convention are embodied in the *International Covenant on Civil and Political Rights* (ICCPR) of 1966³², a main international treaty on the protection of basic rights, and in some regional instruments on the protection of human rights.

According to Art. 4 of the ICCPR, certain non-derogable rights should be respected in any circumstances³³, and derogations must be exceptional and temporary. Derogation of the ECHR is permitted under Art. 15 of the Convention. While freedom of expres-

31. Paris, 20 March 1952; Strasbourg, 6 May 1963; Strasbourg, 6 May 1963; Strasbourg, 16 September 1963; Strasbourg, 20 January 1966.

32. Cf. *International Covenant on Civil and Political Rights* (ICCPR), adopted and opened for signature, ratification and accession by UN General Assembly Resolution 2200A (XXI) of 16 December 1966, entered into force on 23 March 1976.

33. Under provision of Art. 4 no derogation may be made from Art. 6 (right to life); Art. 7 (ban on torture or to cruel, inhuman or degrading treatment or punishment); Art. 8 (ban on slavery and servitude); Art. 11 (prohibition of imprisonment for inability to fulfill a contractual obligation); Art. 15 (prohibition of retroactivity of law); Art. 16 (right to be tried before a court); Art. 18 (right to recognition as a person before the law).

sion can be restricted on grounds of national security, under Art. 10 of the ECHR and Art. 19 of the ICCPR, such restrictions should not only be necessary to national security, but also proportionate. The European Court finds that the right to freedom of expression does not apply in case of denial or revision of «clearly established historical facts [...] such as the Holocaust»³⁴. The circle closes: the basic rights granted by the ECHR find their own limits in the inspiring principles of the Convention itself.

After the European Convention, multiple international covenants were adopted to ensure compliance with fundamental human rights. The ECHR inspired part of the *American Convention on Human Rights* (ACHR)³⁵, that has been adopted by many countries in the Western Hemisphere, excluding the U.S.³⁶, which signed but never ratified it. The ACHR's preamble calls for the "respect for the essential rights of man"; chapter II gives lists individual civil and political rights due to all persons, including: right to life (Art. 4); right to humane treatment (Art. 5); right to a fair trial (Art. 8); right to privacy (Art. 11); right to freedom of conscience and religion (Art. 12); right of freedom of assembly (Art. 15); right of freedom of association (Art. 16); right of freedom of movement (Art. 22), right to equal protection (Art. 24); right to judicial protection (Art. 25), etc.

Derogations of the *Pact of San José* are allowed in time of war, public danger, or other emergency, and for the period of time strictly required by the exigencies of the situation, even if core rights granted by the convention cannot be suspended in any case (Art. 27). The ACHR does not authorise any suspension of Art. 3 (right to juridical personality), Art. 4 (right to life), Art. 5 (right to humane treatment), Art. 6 (freedom from slav-

34. *Lehideux and Isorni v. France*, Case No. 55/1997/839/1045, App. No. 24662/94, ECTHR, Grand Chamber, judgment of 23 September 1998, in «Publication 1998-VII», No. 92.

35. American Convention on Human Rights ("Pact of San José"), adopted at San José, on 22 November 1969, entered into force on 18 July 1978, UN Registration 27 August 1979, No. 17955, OAS Treaty Series No. 36; UNTS Vol. 1144 (1987), p. 123.

36. Organization of American States (OAS), *American Convention on Human Rights. Signatories and Ratifications*, OAS, in http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm (accessed 8 March 2016).

ery), and Art. 9 (freedom from *ex post facto* laws). Many provisions are enshrined in the earlier *American Declaration of the Rights and Duties of Man* (Bogotá Declaration)³⁷, the world's first international human rights instrument, which, while not a treaty itself, constitutes an obligation for those states that have not ratified the American Convention, such as Cuba and the United States. In Art. 1 the *Bogotá Declaration* provides for the right to life.

The African countries, which modelled their ownership on the EU, adopted in 1981 *Banjul Charter on Human and Peoples' Rights* (ACHPR)³⁸. A similar instrument, the *Universal Islamic declaration of human rights*, which can be considered the Islamic version of the 1958 UDHR, was adopted by the Islamic Council in Paris on 19 September 1981³⁹. Eventually, in 2012 the South-East Asian countries adopted the *ASEAN Human Rights Declaration* (AHRD)⁴⁰, the first regional instrument on human rights norms and principles.

Started from Europe, the globalization of basic rights continues. If, on one hand, the origins of the protection of human rights and fundamental freedoms in the process of European integration can be traced back to the Magna Charta, the French Revolution and the revolutions of 1848, on the other hand the principles that this process has codified were sown everywhere. This ongoing process started from afar, and goes even further.

37. American Declaration of the Rights and Duties of Man ("Bogotá Declaration"), adopted by the 9th International Conference of American States, Bogotá, 1948.

38. African (Banjul) Charter on Human and Peoples' Rights, adopted on 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 ILM. 58 (1982), entered into force on 21 October 1986.

39. *Universal Islamic declaration of human rights*, adopted by the Islamic Council in Paris, on 19 September 1981, in «The International Journal of Human Rights», vol. 2, n. 3, 1998. DOI: <http://dx.doi.org/10.1080/13642989808406750>.

40. ASEAN Human Rights Declaration (AHRD) and the Phnom Penh Statement on the Adoption of the AHRD, signed at Phnom Penh, on 18 November 2012.