

# Human Rights and the Police

- a training manual -

The Danish Centre for Human Rights



ENGLISH VERSION

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## 1st Part: Life, Freedom, and Liberty and Security of Person

### Course Programme

Time frame: 3-5 lessons of 45 minutes.

Overhead N<sup>o</sup> 1, app. 10 minutes: Introduction to the Danish Centre for Human Rights (DCHR)

*Questions to the participants:* What do you know about human rights? What role does the police play in relation to human rights?

Overhead N<sup>o</sup> 2: The Police and Human Rights

A brief presentation of the human rights of particular relevance to the police.

We use international human rights documents as guidelines or benchmarks in our work. In particular, we refer to the European Convention on Human Rights (ECHR) and decisions from the European Court of Human Rights in Strasbourg. The ECHR covers many of the rights that are relevant for the police.

Overhead N<sup>o</sup> 3: Human Rights Principles

Handout N<sup>o</sup> 1: ECHR, popular version

Handout N<sup>o</sup> 1/1-4 is meant to be a tool for the group work that you are going to do later.

We have chosen to look at human rights in relation to a number of specific cases and some current problems and issues in Denmark.

*The group is divided into smaller groups of 4 to 5 people.*

### Freedom of Assembly and other Freedoms

Handout N<sup>o</sup> 2: The Danish Act on the Prohibition of Occupation of Certain Buildings (Rockerloven)

*The groups discuss the case.*

Handout N<sup>o</sup> 3: "Methods of Investigation"

Conclusion.



## The Use of Force

Handout N<sup>o</sup> 4: Document on "The Use of Force".

The document deals with Article 3 and with the many cases the Court has heard on arrest, detention, and solitary confinement.

We refer to and show the participants the CPT (Committee on the Prevention of Torture) Report.

Discussion of the questions raised in the document. The Ministry of Justice and the CPT (cf. Circular of January 20 1997) are also currently debating these issues.

## The Right to Life

A case on the right to life is presented. *Read the Gibraltar story aloud.*

Handout N<sup>o</sup> 5: "The Gibraltar Story"

The groups answer the questions and present their conclusions.

## Overhead N<sup>o</sup> 4: Human Rights Principles

- Freedoms must be limited as little as possible, and many limitations must be governed by law and necessary in a democratic society.

- Freedoms are for everybody - no discrimination or distinction (we will elaborate on this in the 2<sup>nd</sup> part of the course).

- Social and Economic Rights - we will not go into details about these rights here, but will mention them briefly.

## Evaluation

What did you expect of this course?

What was good, and what was not so good?

Did you miss anything?



## **The Danish Center for Human Rights**

**Status: A National Institution**

**Research: Eg.:**    **Human Rights in Different Cultures**  
                          **Refugee Policy**  
                          **New Technologies (DNA Tests)**

**Information:**  
                          **Newspapers, Books, Folders, Conferences, Press Meetings, Exhibits**

**International consulting and support:**  
                          **Especially Africa (Uganda, Malawi, Mozambique, Niger, etc.)**  
                          **Eastern Europe (Baltic states)**  
                          **Asia (Nepal, Vietnam)**  
                          **Central America (Guatemala)**

**Teaching:**  
                          **Danish Schools, Professional Training (Police, Social Workers, Teachers)**  
                          **Schools and Educational Institutions in Other Countries (Africa, Asia, and Eastern Europe)**

**Library:**  
                          **Books and Periodicals**  
                          **International Courses and Supervision**



## **The Police and Human Rights**

**The police protect human rights by:**

**Guaranteeing security of person and rule of law.**

**The police have special powers:**

**To prevent and avoid violations.**

**Police officers also have human rights:**

**Freedom of expression, freedom of association, etc.**

### **Human Rights of Particular Relevance to the Police:**

**The Right to Life**

**Freedom from Torture, Degrading and Inhuman Treatment (use of force)**

**Liberty and Security of Person (arrest, detention, imprisonment)**

**Private Life (investigation)**

**Freedom of Association. Freedom of Expression**

**Equal Rights**



## Human Rights Principles

**Freedom – without harming others**

**Civil and political rights:**

- freedom and security of person
- freedom of expression
- freedom of assembly/association
- freedom of religion
- respect for private and family life
- legal remedies
- respect for private possessions

**Safety – basic**

**Economic and social rights:**

- right to help in need  
(old-age, invalidity, handicaps, unemployment, fleeing)
- basic health
- education (primary)
- work and home

**Fundamental principles:**

1. Rights are for everyone despite sex, race, nationality, language, religion, political opinion.
2. Some rights may be restricted. A restriction must be:

**Provided by law, necessary in a democratic society, in the interest of**

- national security
- the economic well-being of the country
- public safety, health and morals
- the rights and freedoms of others.

**Restrictions must be limited to a minimum and must be of a nature that can be tried by the courts.**





## The Council of Europe

UN

**The Council of Europe was founded in 1949.**

**Member States: 41 European nations (non-member states: Belarus, Bosnia-Hercegovina, Armenia, Azerbaijan)**

**The objective of the Council of Europe is:**

**- to help ensure the democratic safety of Europe through:**

- democracy**
- the rule of law**
- human rights**
- the common cultural background**

**Tools to achieve the objective include:**

- The European Convention on Human Rights (1950) and additional protocols**
- The European Court of Human Rights**
- The Committee for the Prevention of Torture under the Council of Europe**



## The European Court of Human Rights in Strasbourg

All national opportunities of complaint are exhausted

The complaint goes to the Court

*In the period 1955 to 1995 29,539 cases were brought before the Court*

The Court can:



Refuse admission  
23,110  
23,110



Reconcile the involved parties  
278  
278



Pass judgement  
518



## **The European Convention on Human Rights**

(from “Menneskeret i Europa” (Human Rights Law in Europe) by Henrik Doecker)

*A brief description of the main content of the Convention.*

Article 1 commits the nations that have ratified the Convention to observe the following:

### **The Right to Life**

Article 2: Everyone's right to life shall be protected by law. No one shall be deprived of his/her life except

- when a sentence is being executed (Article 2 does not prohibit the death penalty, but States that have acceded to Protocol no. 6, which provides such a prohibition, are committed not to use this punishment), or
- when it happens to defend somebody from unlawful violence, or in cases of lawful action taken to quell a riot or insurrection.

### **Prohibition of Torture**

Article 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### **Prohibition of Slavery**

Article 4: No one shall be held in slavery or servitude or be required to perform forced labour. Forced labour does not include work required to be done during detention, compulsory military service, or other services required instead of military service, as well as services exacted in cases of emergency.

### **Liberty and Security of Person**

Article 5: Everyone has the right to liberty and security of person. That is, no one (including the State) is allowed to deprive somebody else of his liberty. Persons charged with or found guilty of a criminal offence are of course excepted.

### **Fair Hearing**

Article 6: Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

Everyone has the following rights:

- to be informed promptly about the accusation against him,
- to have adequate time to prepare a defence with legal assistance of his own choosing and paid for by the authorities if he cannot afford to pay for it himself,
- to examine witnesses against him.

### **Punishment According to Law Non-retrospectively**

Article 7: No one shall be imposed a penalty, which is not provided by law, and retrospective penal acts are not permitted.



**Respect for Private Life**

Article 8: Everyone has the right to respect for his private and family life, his home and his correspondence. This right may be subject to limitations that are in accordance with the law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

**Freedom of Conscience and Religion**

Article 9: Everyone has the right to freedom of thought, conscience and religion. This right may only be subject to limitations that are prescribed by law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

**Freedom of Expression**

Article 10: Everyone has the right to freedom of expression, however, the State may require the licensing of broadcasting, television and cinema enterprises. This right may only be subject to limitations that are prescribed by law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

**Freedom of Assembly and Association**

Article 11: Everyone has the right to freedom of peaceful assembly and to freedom of association including the right to form and join trade unions. This right may only be subject to limitations that are prescribed by law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

**Right to Marriage**

Article 12: Men and women of marriageable age have the right to marry and to found a family.

**Right to Rehabilitation**

Article 13: Everyone whose rights and freedoms as set forth in the Convention are violated shall have an effective remedy before a national authority.

**Non-discrimination**

Article 14: The rights and freedoms set forth in the Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

(Articles 15 to 66 deal with the structure and power of the Commission of Human Rights and the Court of Human Rights).



## **Selected Additional Protocols**

### **PROTOCOL NO. 1**

#### **Respect for Private Possessions**

Article 1: No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

#### **Right to Education**

Article 2: No person shall be denied the right to education. When the State assumes responsibility of providing education, it must take into consideration the religious or philosophical convictions of the parents.

#### **Free Elections and Secret Ballots**

Article 3: The State undertakes to hold free elections at reasonable intervals by secret ballots.

(Article 4 left out).

### **PROTOCOL NO. 4**

(Article 1 left out)

#### **Liberty of Movement**

Article 2: Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement, and everyone shall be free to leave any country, including his own.

#### **Expulsion and Entry**

Article 3: No one shall be expelled from the State where he/she is a national, and no one shall be deprived of the right to enter the territory of a State of which he/she is a national.

(Articles 4 to 7 left out).

### **PROTOCOL NO. 6**

#### **Death Penalty Abolished**

Article 1: The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2: A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war.

(Articles 3 to 9 left out).



## **PROTOCOL NO. 7**

### **Expulsion of Aliens**

Article 1: An alien shall not be expelled from a State except in pursuance of a decision reached in accordance with law, and the alien in question shall be allowed to have his case reviewed.

### **The right to Review by a Higher Tribunal**

Article 2: Everyone who has been convicted of a criminal offence shall have the right to have the conviction or sentence reviewed by a higher tribunal.

### **Compensation**

Article 3: Everyone who has been wrongly convicted shall be compensated.

### **Not Tried or Punished Twice for the Same Offence**

Article 4: No one shall be liable to be tried or punished for the same offence twice except if new evidence is discovered or if there has been a fundamental defect in the previous proceedings which might have affected the outcome of the case.

### **Equality of Spouses**

Article 5: Spouses shall enjoy equality of rights and responsibilities.

(Articles 6 to 10 left out).

## **PROTOCOL NO. 11**

Article 1 abolishes the European Commission of Human Rights, which has existed since 1953 so that cases will be brought directly before the Court.



## Freedom of Assembly and other Rights and Freedoms (“Rockerloven”)

### The Danish Act on the Prohibition of Occupation of Certain Buildings

*(Lov om forbud mod ophold i bestemte ejendomme)* (L22 of 1996)

The act stipulates that the police may prohibit a person from being in a building if the person in question and the building are affiliated with a certain group, and it might endanger other people that the person is in the building.

An overall prohibition of occupation of a certain building may be imposed.

#### *Tasks:*

Compare the Act to the European Convention on Human Rights, and list rights that are restricted by this new act.

Examine the foundation of and reasons for this Act, and how it is justified in relation to the European Convention on Human Rights.

List pros and cons for the Act.

Discuss whether other kinds of intervention could have been used to stop the crimes committed by the MC-groups, for instance, a general prohibition of groups such as Hells Angels and Bandidos.



## Comments to “Rockerloven”

### The Act on the Prohibition of Occupation of Certain Buildings

Human rights issues affected by the act:

European Convention on Human Rights,

Article 8: The right to private life.

Article 11: The right to peaceful assembly (Section 79 of The Danish Constitution (Grundloven)).

Additional Protocol No. 1, Article 1: Respect for private possessions (Section 73 of the Danish Constitution).

Additional Protocol No. 4, Article 2: Liberty of movement

The Court considers how such legislation is applied in practice; that is, the proportionality of the act and whether the rules of exception are adhered to and not expanded.

This is supposed to prevent the so-called "domino effect".





## Methods of Investigation

Tapping and surveillance: Phones, letters, cameras/tailing.

Searches: Ordinary and secret searches.

Personal tests: Finger-prints, blood tests, DNA tests.

Registration: Treatment and passing on of personal information.

Secret agents: Involvement in crimes.

.....

### *Tasks:*

What human rights are relevant in relation to these methods of investigation?

Briefly list advantages and possible problems in connection with the use of these methods.

Mention other methods of investigation, which might conflict with human rights.



## Comments to “Methods of Investigation”

Part 71 of The Danish Administration of Justice Act (Retsplejeloven) on *interference with the communication secrecy* (expanded recently). Tapping may be used as part of the investigation in cases of serious violence and theft of a particularly serious nature (Article 8: Private life).

Part 73 of The Danish Administration of Justice Act (Retsplejeloven) on *searches* (expanded recently). The DCHR has examined the act, and the Centre did not find any problems in this regard. The consideration of proportionality is specifically mentioned in the act. (Article 8: Private life. Additional Protocol No. 1, Article 1 (1): Private possessions).

Section 799 of The Danish Administration of Justice Act (Retsplejeloven) on *secret searches* has introduced a new aspect into Danish law. The DCHR is concerned about this aspect. (The Centre does not find that the reason for introducing secret searches has been established taking into consideration that it is already possible to tap both rooms and phones as well as carry out ordinary searches).

Secret searches are intended for the investigation of particularly serious crimes with several involved parties: for instance, drugs related cases and special homicide cases, including cases where the victim has been liquidated, as well as threats to the security of the State. Secret searches mean that no other parties are informed about the investigation. There will be no witnesses as in regular searches.

This is a very serious interference. It must be ensured that when this kind of interference is used, it is independently controlled as the person whose home is being searched is not himself capable of having the case tried. The courts must be involved in the decision on secret searches (Section 799 (1) and (3) of the Administration of Justice Act). Moreover, an attorney must be assigned to the person who is being searched (Section 799 (2) of the Administration of Justice Act, also cf. Section 784). The person will be informed about the interference when such information will no longer damage the investigation (Section 799 (2), cf. Section 788).

The Centre is concerned that there are no witnesses to the searches. There must be no doubt whatsoever that evidence is not planted.

Legislation on *DNA tests*. Section 40 of The Aliens Act (Udlændingeloven). DNA tests can be used to examine family relations in family reunification cases if the family relations cannot be documented in any other way. (Article 8 of the ECHR: Private life). It is only recently that the use of DNA tests has been incorporated into Danish legislation.

The DCHR has stated that the act on DNA tests must not be used as the basis for a general requirement that specific groups are subjected to the tests. A decision must be taken in each individual case otherwise it will be a violation of Article 14 of the ECHR (discrimination).

*Registration, treatment and passing on of personal information*. Section 28 (1) of The Administration Act (forvaltningsloven) on the passing on of particularly sensitive information from one authority to another presupposes that it will take place to observe public interests that clearly exceed the interest of the individual. Section 21 (1) of Act on Registries (registerlov) prohibits the passing on of information relating to private conditions. However, Section 21 (2) provides for such passing on if it is necessary for an authority to carry out its tasks. In both acts, each case must be *considered and decided individually*.



The Europol Convention (L179) concerns the passing on of information sensitive to the individual to police authorities in other countries. It mainly relates to punishable matters but also to, for instance, DNA profiles. The Chief of Police may release such information. Each individual country must make sure that personal information is protected. The authorities are not obliged to inform other parties of such passing on of information.

The DCHR is concerned because each case might not necessarily be considered specifically before the information is passed on. Moreover, when information is passed on to another country, the level of protection might be lower in that country compared to Denmark.

The use of agents is very limited in Denmark. Only police officers may be used as agents. The target person must have passed the "test stage", and agents must not do anything to increase or extend the scope of the crime (Section 754 (a-d) of Administration of Justice Act (retsplejeloven), amendments from 1986. The possibility of an agent refusing to appear as a witness is very limited (Section 171 of the Administration of Justice Act) (also regulations on witness exclusion and witness exemption in Sections 170 and 172 of the Administration of Justice Act). The last points may be a violation of the right to a fair trial and the right to examine witnesses (Article 6 (3(d))).



## The Use of Force etc.

Article 3 of The European Convention of Human Rights:

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Note that there are no provisions of exceptions.

### Under arrest

In practice, the use of force may be allowed to a certain extent particularly in connection with arrests.

A case from the European Human Rights Court:

Cf *Klaas* (A 269) in which a mother was arrested under violent circumstances while her daughter was watching. The Court found (but not the Commission) that force had been used during the arrest because she had resisted. The Court made its decision based on two opposing statements (the police and the complainant) and on examinations made before an Austrian court.

In police custody

There is a rule of thumb in the Court's decisions:

In police custody cases, the burden of proof is reversed. The police must prove that they have not used force if there are any such signs of use of force. See the *Tomasi* case in which the bruises occurred while the complainant was in the custody of the police after the arrest. (A241, *Tomasi*).

Solitary confinement

There are a number of cases concerning solitary confinement from the Court, also against Denmark. The Court considers the circumstances of each individual case.

*The Committee on the Prevention of Torture* (CPT) also offers advice on arrest, detention, use of force, etc. At the moment, the CPT and the Danish Ministry of Justice are discussing the circular "Guidelines on the Rights of Detainees".

### Questions concerning the rights of detainees

Should the police ....

- inform the relatives of the detainee?
- contact an attorney?
- call a doctor in for an examination?
- make sure that the detainee gets food and drink?
- inform the detainee of his/her rights orally or in writing?



## Comments to “The Use of Force etc.”

### Questions Concerning Detainees’ Rights

The report of April 24 1997, which is still being negotiated by the Danish Ministry of Justice and the CPT, has criticized the following point vis-à-vis Denmark:

- That it is at the discretion of the police whether they will allow that *relatives* are informed about the arrest (it might destroy evidence). According to the circular "Guidelines on the Rights of Detainees" of January 20 1997, the detainee must be guaranteed this right unless it complicates the investigation. The CPT is of the opinion that it should be defined more clearly and written down why and, moreover, that a judge or the public prosecutor should be asked their opinion on the matter.
- *Access to an attorney* is a right, which should be guaranteed immediately after the arrest. The Circular of January 20 1997 stipulates that this might happen in certain cases (included after negotiations with the CPT), but the annotated version of the Administration of Justice Act says that the detainee's wish to contact an *attorney before the examination* usually must be respected.
- That apparently in some minor cases, the police had sometimes informed the detainee that he/she would have to *pay for the attorney* if he/she lost the case because then they shouldn't have called an attorney anyway.
- The detainee has the *right to a medical doctor* of his own choosing. But he might be denied this if it is not practically possible or reasonable. The CPT would like to get specifications as to when it is practically possible or reasonable. The CPT would also like that the examination takes place without the police being present, and that the doctor writes down relevant statements and conclusions.
- At some police stations, there are no *food arrangements* so the detainees might be held back for many hours without any food.
- It has not been described clearly in the Circular of January 20 1997 that the police *must* provide detainees with *information about the rights*. The CPT wants to make this explicit and preferably rights should be described in writing.



## The Right to Life

In March 1988, three suspected terrorists, Daniel McCaen, Mairead Farrel and Sean Savage, from the IRA (Irish Republican Army) were killed by British security forces in the British colony of Gibraltar at the southern tip of Spain.

The three Irish IRA members had gone on vacation in Costa del Sol in Spain a couple of days earlier to cover up their actions. There was a strong presumption that they were planning a terrorist attack against a military march in Gibraltar. British Special Forces (SAS) had arrived to Gibraltar to assist the local police in the job. The police suspected when and where the attack would take place. It was also assumed that the terrorists would use a car bomb, which could be remotely controlled and detonated at short notice.

The day after they arrived the suspects left a car in a parking lot in Gibraltar. Four undercover SAS officers from the British Special Forces tailed them. They examined the outside of the car and had a strong suspicion that there was a bomb in the car. It was decided to apprehend the three IRA members when they turned up at the car again. The police called out to them when they showed up, but none of them showed any signs of surrender. On the contrary, their abrupt movements indicated that they maybe would detonate the bomb. They were shot. All three IRA members were killed.

It later turned out that the three Irishmen were not armed and that there were no explosives in the car. However, materials for a time bomb were found in another car, which one of the three suspects had rented in Gibraltar.

A lawful inquiry was held in Great Britain. It was established that the killings were not illegal, and it was rejected to let the case be heard by the courts in Northern Ireland.

The three young Irishmen's parents brought the case before the European Commission of Human Rights. The commissioners disagreed about the case. They also found that the principles of the case needed to be tried by the European Court of Human Rights.

The European Court of Human Rights decided on the case in 1995.

.....

### *Tasks:*

Examine which provision of the European Convention on Human Rights might be applicable in this case.

Discuss whether the provision was violated or not.

Discuss whether the case could have been approached differently.



## Comments to “The Right to Life”

The applicable provision in this case is Article 2 on the right to life.

The question is whether the provision in Article 2 (2) can be used to defend and justify why the three terrorist suspects were killed.

The majority of the commissioners of the European Commission of Human Rights found that the actions of the British Special Forces were justifiable. However, 6 out of 17 commissioners disagreed with this decision.

The Commission sent the case on to the European Court of Human Rights.

The Court held that the provision of exception of Article 2 (2) means that it is allowed to use force that might also lead to killings. But the protection of the right to life is so important that the interpretation in cases of exception must be very restrictive. Such force must only be used in cases when it is considered absolutely necessary.

The Court found that the soldiers who fired the shots were convinced that it was absolutely necessary in order to avoid that the car bomb was detonated, that is, to save life. Therefore, the soldiers' action was not in itself a violation of Article 2 even though it turned out later that they had not been in danger.

However, the Court found that the overall operation had been carried out in a way that violated Article 2. The authorities should not allow matters to develop in this way when it could involve dangerous terrorist acts. They should have arrested the suspects earlier even though the police would have had no guarantees that they had enough evidence to get the suspects convicted.

The Court was also of the opinion that the training of SAS officers focused too little on passifying suspects in other ways than by killing them. The soldiers' use of arms was not supposed to guarantee as little use of force as possible. But in a democratic society, the authorities should use as little force as possible even when it comes to terrorist suspects, the Court concluded.

The judgment was controversial. The judges disagreed. A majority of 10 found that Article 2 had been violated while a minority of 9 found that the soldiers' act could be defended subject to the provisions of exception of Article 2 (2).

In Great Britain, the judgement was discussed extensively and far from everybody was happy with the outcome.

The Court decided that the British State should pay costs and expenses amounting to DKK 333,370 (app. 50,000 USD)

The Court rejected to award compensation to the Irishmen's relatives as it had been established that the three had planned to place a car bomb in Gibraltar at a later point.



## 2nd Part: Equal Rights

(3 lessons)

### Course Programme

In this programme, we will focus on the Convention on the Status of Refugees and Stateless Persons, on the principle of non-discrimination, and finally on the International Convention on the Elimination of Racial Discrimination. (app. 15 minutes).

Introduction to non-discrimination. The principle is explained and specific conventions are mentioned and discussed.

Overhead N<sup>o</sup> 6: Overview of the UN Human Rights Conventions

Refugees' Rights (Group work, app. 15 minutes)

Handout N<sup>o</sup> 6: Provisions for the Protection of Refugees

Handout N<sup>o</sup> 7: A Refugee Case

### Protection Against Discrimination

Handout N<sup>o</sup> 8: Provisions against Discrimination

Brief introduction to the contents of the Convention on the Elimination of All Forms of Racial Discrimination and other protective mechanisms, including Danish legislation.

Handout N<sup>o</sup> 9/1-4 is meant as a tool for the group work during this course. (10 minutes)

Handout N<sup>o</sup> 9: "Discrimination or ?"

Group work on questions of equality (app. 20 minutes).

Handout N<sup>o</sup> 10: Document on the Jersild case.

The Jersild case. An example of how human rights might overlap and come into conflict with each other. Show tape.

Group work and discussion.(app. 20 minutes).

Individual test (app. 10-15 minutes).

Evaluation (5 minutes).





**Global  
UN  
HUMAN RIGHTS  
Conventions**

UN Members: 185

Political and Civil Rights (1966) report, communications	140 state parties 93
Economic, Social & Cultural (1966) report	137
Refugee Convention (1951) report	131
Racism Convention (1965) report communications	150 75
Women's Convention (CEDAW) (1979) report	161
Torture Convention (1984) report, investigations, communications	102 39
Children's Convention (CRC) (1989) report	191
Other control mechanisms: HR commission, rapporteurs, investigations, court (ICC)	



## Provisions for the Protection of Refugees

### THE UN CONVENTION ON THE STATUS OF REFUGEES AND STATELESS PERSONS (1951)

(Excerpts, popular version)

#### Definition of the term refugee

Article 1: A refugee is a person who resides outside his country of nationality and who cannot return to this country because he/she is not a national or because he/she has a well-founded fear of being persecuted for reasons race, religion, nationality, membership of a particular social group or political opinions.

The provisions of the Convention do not apply to persons who have committed crimes against peace or humanity, have committed war crimes or serious non-political crimes.

#### Prohibition of expulsion or return ("refoulement")

Article 33: No State shall expel or return a refugee to territories where his/her life or freedom may be threatened on account of race, religion, nationality, membership of a particular social group or his political opinions.

### THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (1984)

Article 3: No State shall expel or return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

### THE EUROPEAN CONVENTION ON HUMAN RIGHTS (1950)

Article 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.



## A Refugee Case

A group of three foreign men are apprehended by the police not far from the border at Krusaa. They know a little bit of English and manage to explain to the police that they are refugees and want to apply for asylum in Denmark.

The police turn the case over to the Danish Immigration Service, and the three men are taken to an asylum centre.

It turns out that the three men come from Armenia. They want to apply for asylum as they have deserted the Armenian army. There is a conflict going on between Armenia and its neighbouring country of Azerbaijan over the mountain region of Nagorno-Karabakh. There are frequent encounters in and around the mountain region, and sometimes it develops into actual fighting. If the men return to Armenia, they will face an uncertain destiny. It cannot be excluded that they might face the death penalty.

### *Tasks:*

Assess whether the three men are entitled to be granted asylum subject to the Refugee Convention. Consider whether other provisions might be applicable in the case of the three men.



## Comments to a “Refugee Case”

*Answers to A Refugee Case:* The three Armenian men would not be granted asylum subject to the Refugee Convention. They could be granted asylum with reference to Article 1 of the Additional Protocol No. 6 to the European Convention of Human Rights. Denmark has ratified this protocol and would use this provision to grant them asylum. Nations that have not ratified the protocol, for instance the UK, Belgium, Cyprus, Turkey, and several of the new countries are not bound by this protocol. Nations that have ratified the protocol might still decide to send the Armenians back if they accept the death penalty for desertion as a war crime. Denmark does not, so therefore we would not send them out of the country, under any circumstances, if they risk facing the death penalty.

The UN Refugee Convention does not require that States grant permanent residence, but provides that refugees are not returned as long as they might face persecution. That means that the refugee status will be withdrawn if the refugee's country of origin becomes safe again.

As regards the five grounds on the basis of which asylum may be granted, membership of a "particular social group" is very rarely applied, but it has been used, for instance, in a case with a homosexual man from Iran.

The Convention also provides that refugees are entitled to property, work, education, residence, social welfare etc. just like all other aliens and in some cases they have the same rights as nationals. These rules vary.

The new Danish bill on integration includes a proposal to pay an introductory benefit, instead of social welfare to refugees, however, this would be in contradiction to the Refugee Convention because the right to social welfare must be the same for nationals and refugees, cf. the Refugee Convention.

The Danish Aliens Act distinguishes between different kinds of residence permit or refugee statuses. *Convention refugees*, Section 7 (1), are refugees as they are defined according to Article 1 of the Refugee Convention. The other group is *de facto refugees*, Section 7(2). This status is used for refugees who are not covered by the Refugee Convention, typically deserters. If they are returned they often risk facing the death penalty or another serious sentence. At this point, Article 3 of the Torture Convention can be applied.

Residence permit may also be granted on *humanitarian grounds*. Section 9 (2 (2) and (4)) includes a provision, which has mainly been used on unaccompanied refugee children. Humanitarian residence may be granted to persons who suffer from very serious diseases, for instance psychotic persons. *Family reunification* is regulated by Section 9 (1 (2-5)). This section includes a legal provision, which stipulates that recognized refugees may be reunified in Denmark with minors, their spouse, and parents over the age of 60.

Terrorists might not be returned with reference to the fear of torture, cf. Article 3. They may be tried before a court wherever they are (also abroad) subject to a particular convention on this matter.

General conditions such as civil war or economic or social misery are not grounds for asylum. For instance, people from Lebanon were not granted asylum during the civil war in Lebanon.



Refugee cases must always be tried individually by the Danish Immigration Service. The Refugee Council is involved and makes a decision in cases of doubt. The Refugee Council can, for instance, make a principle decision that the conditions in Somalia are so insecure and difficult to get adequate information about that they will grant asylum because there is reasonable doubt about whether Somali asylum seekers might risk persecution if they return home. Thus individual cases might get the status of precedence, but all cases are still assessed individually. At the time being, Somalis are generally not granted asylum, but it might be problematic sending them back because Somalia will not receive them.

*The Yugoslav Act* (Jugoslaverloven) was a special act, which granted temporary asylum to refugees from Bosnia and the former Yugoslavia. Their cases were put on hold for two years, and after that period, their cases were to be heard again with a view to granting asylum. These cases must be assessed individually as well.

It is the Danish Immigration Service that makes the decision on the expulsion of asylum seekers. Either they will be expelled to another EU country (subject to the Schengen Agreement) if the asylum seeker has particular relations to that country, for instance, a spouse might hold a residence permit in that country. Or to a country where the asylum seeker has resided earlier, for instance, on his/her way to Denmark.

*Imprisonment of asylum seekers.* Asylum seekers might be imprisoned to avoid that they will go into hiding both in the phase right before their case is being heard and also during the hearing of their case. This is not in itself a violation of the human rights, cf. Article 5 (1) of the ECHR, which stipulates that detention might take place to prevent a person's unauthorised entry into the country or with a view to deportation or extradition. This has proved to be a problem because there was no legal basis for imprisonment. The DCHR has pointed this out and no legislation includes the necessary provisions.

With reference to the ECHR, a person can be granted a residence permit in Denmark, because he/she would otherwise have faced the death penalty or torture in his/her own country as a punishment for ordinary crimes. A criminal refugee would not be put in prison in Denmark for his/her crimes as they were committed abroad.



## Provisions Against Discrimination

In all human rights conventions, there is an article which stipulates that the rights laid down in the convention shall apply to everyone. The wording is almost always the same, see Article 14 in the European Convention on Human Rights. Some conventions might mention additional grounds that may not give rise to discrimination, for instance, age or handicaps.

### International Provisions:

#### THE EUROPEAN CONVENTION ON HUMAN RIGHTS (1950)

(Popular version)

Article 14: The rights of the Convention shall be secured without discrimination on any ground such as sex, race, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

#### THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (1965)

(Brief and popular version)

#### Definition of racial discrimination

Article 1(1): In this Convention, the term "racial discrimination" shall mean any kind of distinction based on race, descent, or national or ethnic origin which has the purpose or effect of restricting the human rights of certain persons.

#### Non-citizens

Article 1(2): This Convention shall not apply to distinctions between citizens and non-citizens.

#### Adequate advancement

Article 1(4): Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, such measures do not, as a consequence, lead to maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

#### Internal conditions in the State

Article 2 (1): State Parties condemn racial discrimination and undertake to take all appropriate means and without delay a policy of eliminating discrimination in all its forms and promoting understanding among races. The State Party

(b) undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.



(c) undertakes not to sponsor, defend or support discrimination by any persons or organizations.

(d) shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations, which have the effect of creating perpetuating racial discrimination wherever it exists.

### **Prohibition of discrimination**

(e) The State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group, or organization.

### **Support**

(e) The State Party undertakes to encourage, by all appropriate means integrationist multi-racial organizations and movements and other means of elimination barriers between races, and to discourage anything which tends to strengthen racial division.

Article 1(2): The State Party shall take special and concrete measures in social, economic, cultural, and other fields to ensure the adequate development and protection of certain racial groups or individuals belonging to them for the purpose of guaranteeing them full and equal enjoyment of human rights and fundamental freedoms.

### **Racial segregation**

Article 3: The State Party shall particularly condemn racial segregation and apartheid and undertake to prevent, prohibit, and eradicate all practices of this nature in territories under their jurisdiction.

### **Prohibition of racist organizations and propaganda**

Article 4: The State Party shall condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of a certain colour or ethnic origin or which attempt to justify or promote any kind of hatred or discrimination in any form. The State shall therefore, inter alia:

- a) declare an offence punishable by law all dissemination based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts, and also the provision of any assistance to racial activities, including the financing thereof.
- b) Declare illegal and prohibit organizations and all kinds of propaganda activities which promote and incite racial discrimination as well as recognize participation in such organizations or activities as an offence punishable by law.
- c) Not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

### **Equal access to human rights**

Article 5: In compliance with the fundamental obligations laid down in Article 2, the State Party shall undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- a) equal treatment before the **tribunals** and all organs administering justice;



- b) security of person** and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution;
- c) **political rights**, in particular the rights to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- d) other **civil rights**, in particular:

- 1) the right to freedom of movement and residence within the border of the State;
- 2) the right to leave any country, including one's own and to return to one's country;
- 3) the right to nationality;
- 4) the right to marriage and choice of spouse;
- 5) the right to own property alone as well as in association with others;
- 6) the right to inherit;
- 7) the right to freedom of thought, conscience and religion;
- 8) the right to freedom of opinion and expression
- 9) the right to peaceful assembly and association.

- a) **economic, social and cultural rights**, in particular:

- 1) the right to work, to free choice of employment to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
- 2) the right to form and join trade unions;
- 3) the right to housing;
- 4) the right to public health, medical care, social security and social services;
- 5) the right to education and training;
- 6) the right to equal participation in cultural activities.

- a) the right to **access** to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres, and parks.

### Legal remedies

Article 6: The State Party shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention as well the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

### Education, culture

Article 7: State Parties undertake to adopt immediate and effective measures in particular in the fields of teaching, education, culture and information with a view to combating prejudices which lead to racial discrimination, and to promoting understanding, tolerance and friendship among national, racial or ethnical groups.

.....





Articles 8 to 25 describe how a State Party accedes to the convention and files reports on the observation of the Convention as well as the possibility of registering complaints with the UN Committee on the Elimination of Racial Discrimination on violations of the provisions of the Convention.

## **Danish Legislation**

(Brief and popular version)

### **SECTION 266(B) OF THE DANISH PENAL CODE (STRAFFELOVEN):**

It is prohibited to make a public statement by which a group of persons are threatened, insulted or degraded on account of their race, colour, national or ethnic origin or belief or sexual orientation. (public prosecution)

### **ACT ON THE PROHIBITION OF DISCRIMINATION ON ACCOUNT OF RACE ETC. (LOV OM FORBUD MOD FORSKELSBEHANDLING PGA. RACE M.V.) (SEPTEMBER 29 1987):**

It is prohibited for businesses or non-profit organizations to refuse to serve on persons on account of their race, colour, national or ethnical origin, beliefs or sexual orientation.

It is prohibited to refuse to give anyone access to a place, a performance, an exhibition or a gathering which is open to the public etc. (public prosecution)

### **ACT ON THE PROHIBITION AGAINST DISCRIMINATION ON THE LABOUR MARKET (LOV OM FORBUD MOD FORSKELSBEHANDLING PÅ ARBEJDSMARKEDET) (JULY 1 1996):**

It is prohibited to discriminate, directly or indirectly, between employees or applicants for vacant positions in cases of hiring, dismissal, transfer, promotion or with a view to salary and work conditions (reversed burden of proof) (private action).

Discrimination is prohibited in connection with access to careers guidance, vocational training, further education, retraining, as well as in granting permission to set up a private business. (private action).

It is prohibited to request, receive and use information about an applicant's race, colour, religion, political opinion, sexual orientation or national, social or ethnic origin. (public prosecution).

It is prohibited to place ads which specify that applicants must be of a certain race, colour, religion, political opinion, sexual orientation or national, social, or ethnic origin. Also, no one must be requested not to apply. (public prosecution).

Provisions of exemption may be applicable for employers whose businesses are engaged in promoting political or religious views. Other exemptions may be applicable, but such exemptions must be determined by the relevant ministries.



## Discrimination or ?

Young people from the area around Copenhagen visit a popular dance club in one of the suburbs every weekend. Among the guests are quite a lot of second-generation immigrants. Friday nights are usually very lively. Around midnight it gets really busy, all the rooms are crowded, and the mood is high. Sometimes, a group of 17 to 20-year-old immigrant boys and a group of supporters from one of the local football teams, who are also regular visitors at the dance club, will start to disagree. This disagreement has developed into more serious violence at several occasions. The two groups have been fighting, and the police have been called in to break them up. One Saturday night, the line outside the dance club is rather long. The club is full, but every time somebody leaves the club, new guests are allowed in. On Friday night, there had been some problems at the club, so the doorman is on the lookout for the usual troublemakers. He hasn't seen any of them yet. A small group of five young men, apparently second-generation immigrants, are the next in line. They are rather loud. The doorman doesn't know them but he refuses to let them in. Two of the youngsters ask you to interfere as this is a matter of racism, they complain. How do you react?

### Questions on discrimination:

Discuss whether the following examples can be settled and decided on based on the European Convention on Human Rights or the UN Convention on the Elimination of All Forms of Racial Discrimination (All examples are current issues in Denmark)

1. A school teacher refuses to teach two girls because they are wearing veils in the classroom.
2. A Muslim is expelled from an evening school centre because he insists on praying while he is at the school.
3. It is required that taxi drivers and taxi owners are Danish nationals.
4. It is decided that the maximum number of immigrants and refugees allowed to live in a given building must not exceed 20 percent of the total number of the tenants.
5. It is decided that the maximum number of immigrant and refugee children in local state schools must not exceed 25 percent. If this number is exceeded, the children will be sent to other schools in the council.
6. A patient at a hospital does not want to be examined by a female doctor wearing a veil.
7. When renting a car, a person's citizenship is checked. Aliens, who do not reside in Denmark, are turned down if they do not hold a credit card as a warrant.
8. An employer in a cleaning company contacts the local job centre and asks for a list of possible future employees. He specifically asks for persons who are not immigrants.
9. Bi-lingual children are not offered mother-tongue language classes by the local authority.
10. A drug criminal, who holds a Pakistani passport, is expelled to Pakistan after having served his sentence. His wife and children as well as his parents and brothers all live in Denmark.



## Comments to “Discrimination or ?”

The dance club:

The doorman may not deny a group of immigrants the right to get access to the dance club just because they are immigrants. Such an act would be discrimination subject to Article 5(f) of the Racial Discrimination Convention. It would also be discrimination subject to Article 14 of the ECHR and Article 4 of the Additional Protocol No. 4 (liberty of movement), and Danish legislation on the prohibition of racial discrimination.

If a police officer witnesses what is going on at the dance club, he should intervene. If the doorman claims that he will not allow the group into the club, because there is a full house, the police officer can wait outside and see if this explanation is true. The police officer must report discrimination. If the doorman recognizes one or several of the troublemakers from the night before, it would be okay for him to refuse to let them in.

*Answers:*

1. The right to education, despite religious beliefs, is protected by Article 2 of the Additional Protocol No. 1 to the ECHR. Moreover, Article 9 guarantees freedom of religion.
2. Freedom of religion is guaranteed by Article 9 of the ECHR. The question is whether it constitutes an interference with other persons' rights that somebody is engaged in praying (for instance, the right to education).
3. Article 5(e) of the Racial Discrimination Convention provides the right to work and choice of employment despite national or ethnic origin.

The question of how Article 1(2) of the Racial Discrimination Convention stipulating that the Convention cannot be applied to aliens should be understood has been discussed in the Committee on the Elimination of Racial Discrimination, and the Committee has stated that this exemption only covers the right of the State to decide who can be awarded citizenship and what privileges should come with this right (for instance, the right to vote and be elected, but not general rights).

1. Housing quotas. The right to residence is mentioned in Article 5(e) iii of the RDC in the early stipulation that equality applies to everybody despite race, colour, national or ethnic origin.
2. School quotas. Equal access to education and training is mentioned in Article 5 (e) v. However, affirmative action may be allowed in a given period to secure actual equal access to, for instance, education, see Article 1(4) of the RDC. Moreover, Article 2 of the Additional Protocol No. 1 to the ECHR is even more restrictive " No one shall be refused the right to education".
3. The patient will not be treated. This is an example of a private person who discriminates against someone else. The right to health (guaranteed by Article 12 of the International Covenant on Economic, Social and Cultural Rights) may be applied. The patient has the right to say no to treatment but probably not to demand a certain doctor.
4. Renting of cars. Article 5(f) of the RDC provides access for everybody to public places, etc., and this is a guarantee against discrimination also in the context of private law. Aliens, as a group cannot be denied the right to rent a car. If it is a question of money (aliens living abroad), it is not discrimination.
5. The employer is making use of a public institution, the Job Centre (Arbejdsformidlingen). The Job Center must not be "involved in racial discrimination", see Article 2(a) of the RDC. An employer must not hire people on the basis of racially defined criteria. See Article 5(e) i of the RDC.



6. The RDC or other conventions do not guarantee mother-tongue education. It might be read into Article 30 of the Convention on the Rights of the Child on the right of minority children to their own culture and language (which they must not be denied), as well as Article 29(c) which stipulates that the education of a child must "develop respect for the parents', their own cultural identity, language and values".
7. This case is not a real case. But the European Court of Human Rights has heard a case involving a Moroccan citizen who was expelled from France under similar circumstances. The court found that the man's rights to private and family life had been violated. Article 9 of the ECHR.



## Conflicting Human Rights, the Jersild Case

In the summer of 1985, the Danish television journalist, Jens-Olaf Jersild, taped a six-hour-long interview with three members of the so-called "Grønjakke-gruppe" (Green-Jacket-Group). The young people are known to be hostile to "foreigners" and had before been quoted in newspaper articles for very racist statements.

Jens-Olaf Jersild made an 8-minute piece from the 6 hours and the piece was broadcasted in a news programme (Søndagsavisen) Sunday night in August 1985.

The piece portrays the young people, the neighbourhood they are growing up in, and their criminal past.

In the broadcast, the young people make the following statements:

The Ku Klux Klan, that's something that comes from the States in the old days during – as you know – the civil war and things like that, because the Northern States wanted that the niggers should be free human beings, man, they are not human beings, they are animals, right, it's completely wrong, man, the things that's happened. People should be allowed to keep slaves, I think so anyway.

Just take a picture of a gorilla, man, and then look at a nigger, it's the same body structure and everything, man flat forehead and all kinds of things.

A nigger, that is not a human being, it is an animal, that goes for all the other alien workers as well, Turks, Yugoslavs and whatever they are called.

After the bishop of Aalborg reported the young people to the police, charges were brought against them for violating Section 266B of the Danish Penal Code (racist "threatening, insulting and degrading" statements). Jens-Olaf Jersild and his boss were charged with aiding and abetting (Section 23 of the Danish Penal Code) in the violation of Section 266B.

All of the above-mentioned were found guilty. Jens-Olaf Jersild was fined to pay five day fines of DKK 200.- each.

Jens-Olaf Jersild appealed the case. He claimed that it was in the interest of the public to know about the racist movements in Denmark. Jersild lost the case both at the High Court (landsretten) and at the Supreme Court (højesteret).

The High Court found (5 against 1):

- that Jersild himself had gone looking for the young people
- that Jersild must have expected to hear the racist statements
- that the broadcast did not "balance" the statements

The Supreme Court found (4 against 1):

- that the consideration to protect against race discrimination weighed heavier in this case than the consideration of freedom of speech.

The High Court decision was upheld.

Subsequently, Jersild brought the case before the European Court of Human Rights. The Court decided in favour of Jersild.



*Tasks:*

What articles in the human rights documents are relevant in this case?

Discuss how freedom of speech must be balanced against the protection against racist statements.



## Comments to “The Jersild Case”

Jens-Olaf Jersild did not challenge the fact that the young people were found guilty. However, he was of the opinion that they should have known themselves that their statements would be punishable.

He found that he as a journalist (especially working for the Danish Broadcasting Company (DR) which was a monopoly at the time) was obliged to "describe an aspect of society in an objective way, and the broadcast was also met with disgust and pity towards the young people" (defence argument).

There is a general interest in society to be introduced to attitudes that are notorious in society even though they are not likable.

He was just contributing to the on-going public debate which took place in newspapers at the time.

He challenged the decision on aiding and abetting in the dissemination of racist statement.

The question that the European Court of Human Rights focused on was whether the freedom of speech had been restricted, because it was "necessary in a democratic society".

Denmark claimed:

- that the broadcast was sensationalist rather than informative
- that the news value was minimal
- that Jersild had encouraged the racist statements
- that the fines were at the lower end of the scale (the maximum penalty is two years of imprisonment) and therefore, they were not likely to deter any other journalists from participating in the debate.

The European judges held (17 against 2) that the broadcast was well-balanced (the introductory speaker text) and that, at no time, had Jersild expressed that he had had racist intentions with the broadcast.

Judgment:

Denmark was found guilty of having violated Article 10 and was ordered to pay Jens-Olaf Jersild: DKK 1,000.- in compensation for the fine imposed upon him.

App. DKK 150,000.- in costs and expenses (1 USD = approx. 7 DKK).

Jersild was not supported in his claim for DKK 20,000.- in compensation for the fact that his professional reputation had been prejudiced as the judges found that the support he had received from the Danish Broadcasting Company which had paid for his fines and attorneys and where Jersild was still working and that all this equalled the requested compensation.



## Individual Test

(Max. 10 minutes to answer the questions)

You are allowed to use the teaching materials and conventions that you have been given for this course to answer the questions in this test.

1. Mention at least two human rights that are often restricted in connection with police work.
2. List three considerations that might justify restrictions in human rights.
3. State two conditions which must always be met before an intervention in human rights.
4. Mention a general principle which applies to all human rights.
5. List at least five criteria which must not lead to discrimination.
6. What is the most basic human right for refugees.
7. What is the basis for granting asylum.





## Individual Test - Answers

(1 point for each correct answer. Max. 7 points)

1. Private life, freedom from torture, etc.
2. Considerations of national security, public order, others' rights.
3. Necessary in a democratic society and provided by law.
4. Applies to everyone despite race etc.
5. Race, sex, colour, religion, political opinion, social origin, etc.
6. Prohibition against expulsion with the risk of persecution.
7. The refugee must be personally persecuted.

