

Human Rights, ICTs and the Internet

Day 1, Session 1



Objectives

To help human rights and ICT professionals, and others with an interest in the issues, to:

- Understand ways in which the internet is affecting the enjoyment and protection of rights – now and in the future.
- Explore how these affect their work.
- Make more effective use of the opportunities provided by the internet and address the challenges that are posed by it.

Key Questions

- What have been the most important impacts of the internet on human rights? Which rights are strengthened and which threatened by the internet?
- What changes, if any, do these impacts require in the way rights are interpreted? Have some rights taken on new meaning on the internet?
- How can the enjoyment and enforcement of rights be made equivalent online and offline?
- What impact has the internet had on the relationship between different rights within the international rights regime?
- What changes, if any, are required in the way that international organisations, governments and law enforcement agencies protect human rights? Has the internet enabled new violations of rights?
- How can human rights organisations use the internet to improve their work in promoting and protecting human rights?

Rights

Human Rights

International Rights Regimes

National Rights Regimes

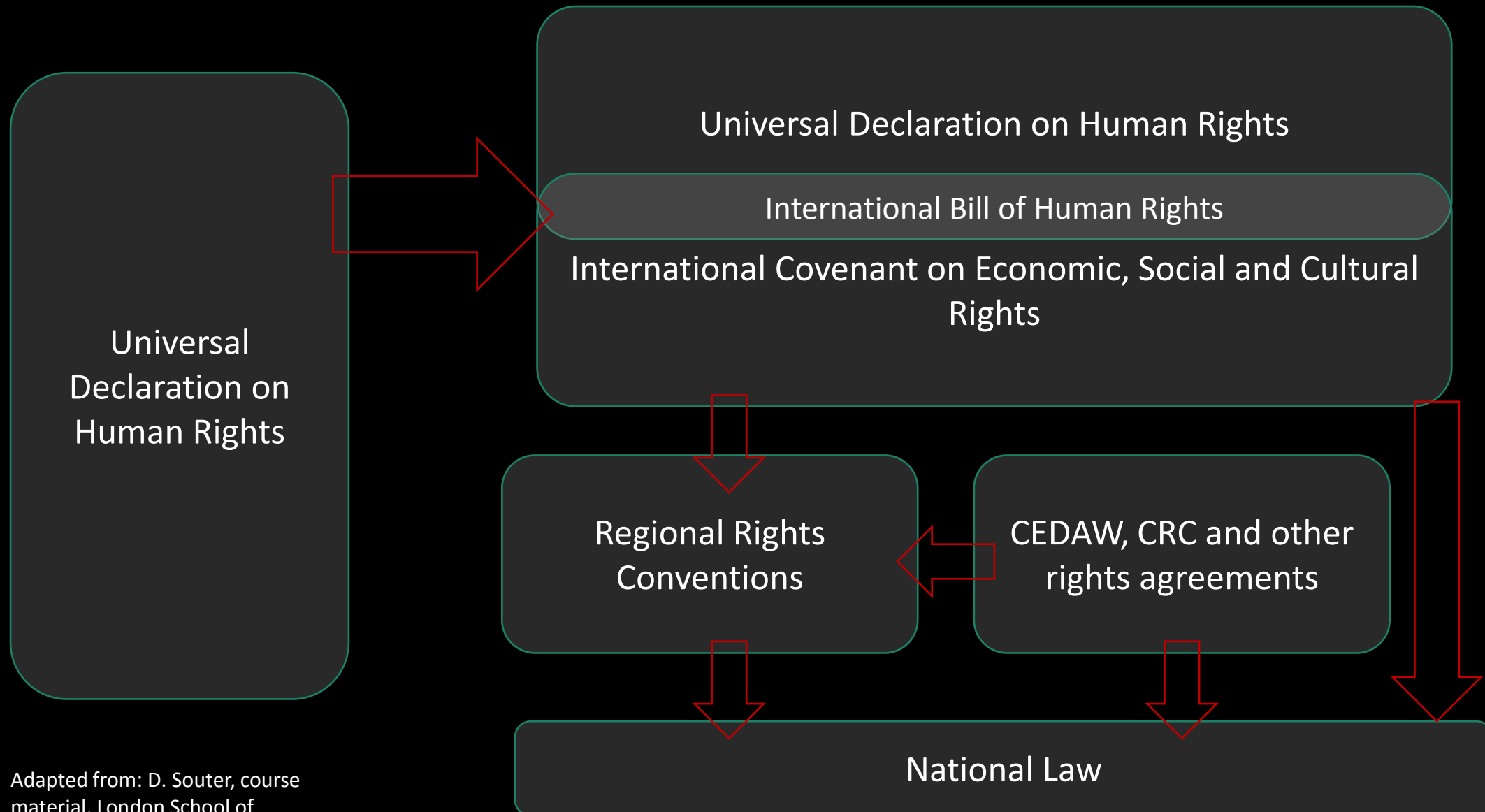
Rights and human rights

- We hold rights in different capacities – e.g. our rights under national law, as consumers or as members of a library.
- Human rights are a category of fundamental rights established within international agreements and encompassed in international law.

Broad Sets of Rights

- Under the provisions of **Civil and Political Rights**, all governments are to protect the life, liberty and security of their citizens. Should guarantee that no-one is enslaved and that no-one is subjected to arbitrary arrest and detention or to torture. Everyone is entitled to a fair trial. The rights to freedom of thought, conscience, religion, and to freedom of expression are to be protected.
- Under **Economic, Social and Cultural Rights**, all governments are expected to try progressively to improve the living conditions of their citizens. They should try to guarantee the right to food, clothing, housing and medical care, the protection of the family and the right to social security, education and employment. They are to promote these rights without discrimination of any kind.

The international rights regime



Rights within international regimes

- Civil and political rights include:
 - life, liberty and security
 - freedom from slavery
 - equality before the law and fair trial
 - right of privacy
 - right to property
 - freedom of movement
 - freedom of religion
 - freedom of opinion and expression
 - freedom of association and assembly
 - right to participate in government, including democratic elections
- Economic and social rights include:
 - right to social security
 - right to work
 - right to leisure
 - right to adequate standard of living, health and welfare
 - right to education
 - right to cultural life
- Other rights instruments address:
 - women's rights – CEDAW
 - children's rights – CRC
 - racial discrimination – ICERD
 - Torture - CAT

	The Core International Human Rights Instruments	Date	Monitoring Body
<u>ICERD</u>	<u>International Convention on the Elimination of All Forms of Racial Discrimination</u>	December 21, 1965	<u>CERD</u>
<u>ICCPR</u>	<u>International Covenant on Civil and Political Rights</u>	December 16, 1966	<u>CCPR</u>
<u>ICESCR</u>	<u>International Covenant on Economic, Social and Cultural Rights</u>	December 16, 1966	<u>CESCR</u>
<u>ICCPR-OP1</u>	<u>Optional Protocol to the International Covenant on Civil and Political Rights</u>	December 16, 1966	<u>CCPR</u>
<u>CEDAW</u>	<u>Convention on the Elimination of All Forms of Discrimination against Women</u>	December 18, 1979	<u>CEDAW</u>
<u>CAT</u>	<u>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</u>	December 10, 1984	<u>CAT</u>
<u>CRC</u>	<u>Convention on the Rights of the Child</u>	November 20, 1989	<u>CRC</u>
<u>ICCPR-OP2</u>	<u>Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty</u>	December 15, 1989	<u>CCPR</u>

	The Core International Human Rights Instruments	Date	Monitoring Body
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	December 18, 1990	CMW
OP-CEDAW	Optional Protocol to the Convention on the Elimination of Discrimination against Women	December 10, 1999	CEDAW
OP-CRC-AC	Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	May 25, 2000	CRC
OP-CRC-SC	Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	May 25, 2000	CRC
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	December 18, 2002	SPT
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities	December 12, 2006	CRPD
CRPD	Convention on the Rights of Persons with Disabilities	December 13, 2006	CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance	December 20, 2006	CED
ICESCR - OP	Optional Protocol to the Covenant on Economic, Social and Cultural Rights	December 10, 2008	CESCR
OP-CRC-IC	Optional Protocol to the Convention on the Rights of the Child on a communications procedure	April 14, 2014	CRC

Limitations to Rights

- Article 29
 - Article 29 (2) - In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
 - Article 29 (3) - These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

National Rights Regime - An Evolution

- The Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran, and the Analects of Confucius are five of the oldest written sources which address questions of people's duties, rights, and responsibilities.
- Babylonian King Hammurabi issued a set of laws that established fair wages, offered protection of property and required charges to be proved at trial
- The Assyrian Laws, the Hittite laws and the Dharma of the Vedic period in India also devised different sets of standards by which the rights of one were respected by another.
- Rooted in ancient thought and in the philosophical concepts of 'Natural Law' and 'Natural Rights.'
- Natural Law: Focuses on law that is higher than positive law (law created by man) and to which the latter must conform.

National Rights Regime – An evolution (2)

- Article 21 of the Constitution of India is the heart and soul of our Constitution.
- *Maneka Gandhi v. Union of India*, 1 SCC 248 (1978), made Article 21 more meaningful
 - Articles 14, 19 and 21 were held to have close connection – “no article pertaining to a Fundamental Right is an island in itself. Just as a man is not dissectible into separate limbs, cardinal rights in an organic constitution have a synthesis.” – Justice Krishna Iyer
 - Expanded meaning to Article 21 to read the ambit of the Fundamental Rights rather than attenuate their meaning and content by a process of judicial construction.

National Rights Regime – An evolution (2)

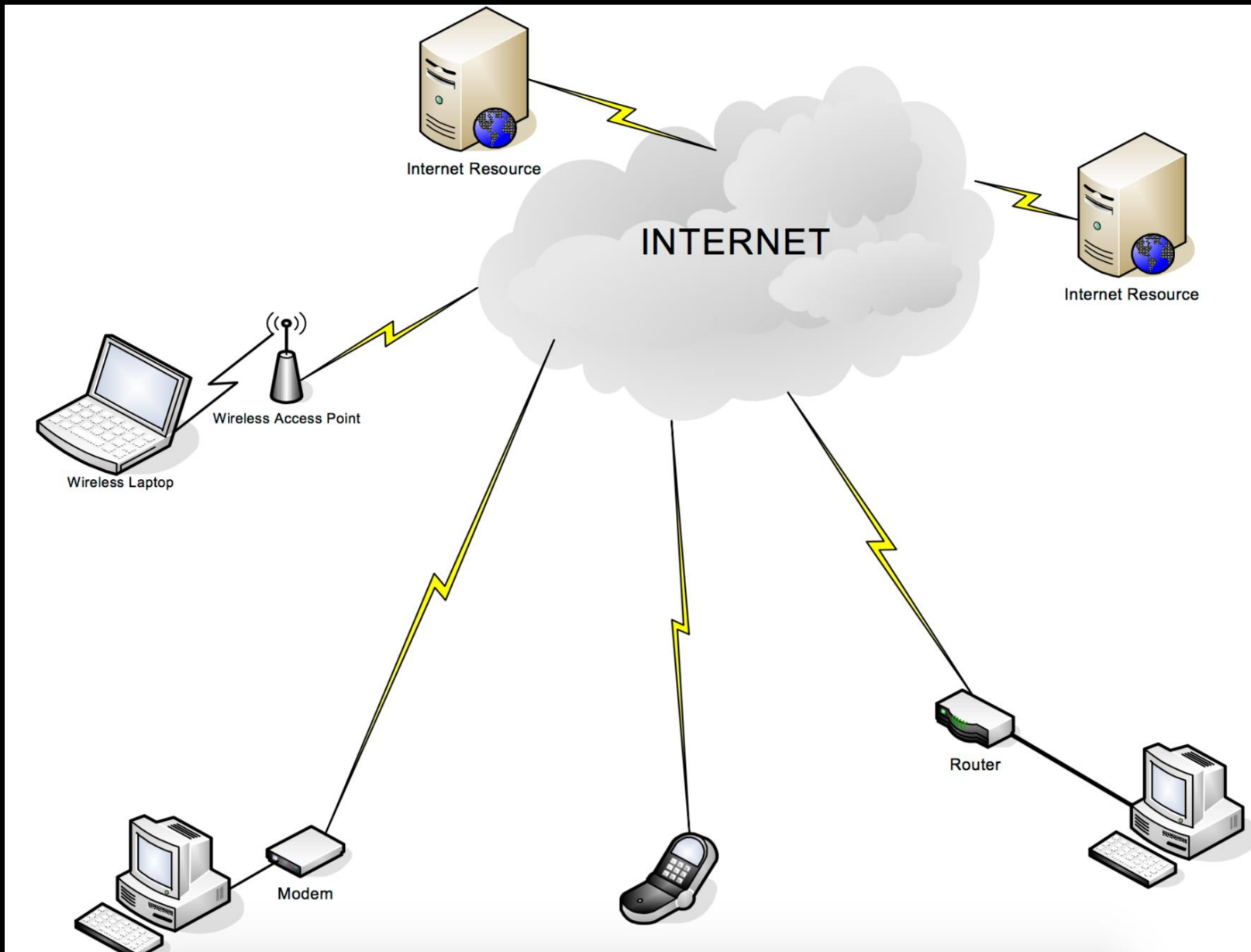
- In *Francis Coralie v. U.T. of Delhi*, 1 SCC 608 (1981), right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as, adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and coming along with fellow human beings.
- In *Olga Tellis v. Bombay Municipal Corporation* (AIR 1986 SC 180), Supreme Court held that the right to live includes the right to livelihood
- In *P. Rathinam v. Union of India*, 3 SCC 394 (1994), the court interpreted life as right to live with human dignity and the same does not connote continued drudgery. It takes within its fold some of the fine graces of civilization which makes life worth living and that the expanded concept of life would mean the tradition, culture and heritage of the person concerned.

ICTs and the Internet

An overview

- Range of technologies for gathering, storing, retrieving, procesing, analysing and transmitting information
- Includes but not limited to the Internet, mobiles, sattelite communication, digital television, radio, etc.

Old ICTs	New ICTs
Radio Television Telephone	Mobile Internet Wireless networking IoT



Source: ICT: A Brief Introduction. http://www.projectgoodwill.org/images/ICT_for_You-101.pdf

Additional Resources

- Radhakrishnan, S. (2008) "Development of Human Rights in an Indian Context," International Journal of Legal Information: Vol. 36: Iss. 2, Article 14. Accessible at <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1141&context=ijli>
- A Brief History of Human Rights. Accessible at <http://www.humanrights.com/what-are-human-rights/brief-history/cyrus-cylinder.html>
- Evolution and historical development of human rights and indian constitution. Accessible at http://shodhganga.inflibnet.ac.in/bitstream/10603/7839/12/12_chapter%202.pdf