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It is one of the purposes of the United Nations to

'promot[e] and encourag[e] respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion' (Article 1, para. 3 of the UN Charter; see also Article 55(c), in chapter IX on international economic and social co-operation).

The Universal Declaration on Human Rights (UDHR) reflects this emphasis on the prohibition of discrimination, by stating that '[a]ll human beings are born free and equal in dignity and rights' (Art. 1, first sentence), and by providing:

'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' (Article 2, first para.).

Article 7 of the UDHR, which extends the scope of the requirement of non-discrimination beyond the enjoyment of the rights listed in the Declaration, also clearly imposes a positive obligation in this regard on the Member States of the United Nations:

'All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.'

As can be seen from these provisions, the UN Charter and the Universal Declaration on Human Rights already express a consensus on the need to combat discrimination, especially discrimination on grounds of race. Both of the Covenants adopted in 1966 in order to implement the UDHR into legally binding treaties also contain provisions relating to discrimination. But a distinction should be made between two types of non-discrimination clauses:

1. Some non-discrimination clauses only prohibit discrimination ***in the enjoyment of the rights or freedoms guaranteed in the treaty*** in which they appear. Such non-discrimination clauses cannot be invoked independently of the substantive provision with which they are combined. For instance, Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR) provides that '[e]ach State Party to the present Covenant, undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. Similarly, under Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the States Parties 'undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion,

national or social origin, property, birth or other status'. (The significance of this provision has been detailed by the Committee on Economic, Social and Cultural Rights in its General Comment No. 20, *Non-Discrimination in Economic, Social and Cultural Rights* (Art. 2, para. 2 of the Covenant), adopted in 2009)).

2. Other non-discrimination clauses are **general in scope**, and may be invoked independently of any other substantive guarantee. An example is Article 26 ICCPR, which reads: 'All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.' (The Human Rights Committee expanded on the meaning of this requirement in its General Comment No. 18, *Non-discrimination*, which it adopted in 1989.)

Some human rights instruments contain **both types** of non-discrimination clauses. This is the case for the ICCPR, but also for the American Convention on Human Rights (ACHR). Article 1(1) of the ACHR imposes on the States Parties the obligation 'to respect and guarantee the free and full exercise of the rights and freedoms recognized therein 'without any discrimination.' Article 24 ACHR, in turn, reads:

'All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law'.

As noted by the Inter-American Court on Human Rights, Article 24

'restates to a certain degree the principle established in Article 1(1). In recognizing equality before the law, it prohibits all discriminatory treatment originating in a legal prescription. The prohibition against discrimination so broadly proclaimed in Article 1(1) with regard to the rights and guarantees enumerated in the Convention thus extends to the domestic law of the States Parties, permitting the conclusion that in these provisions the States Parties, by acceding to the Convention, have undertaken to maintain their laws free of discriminatory regulations' (Inter-American Court of Human Rights, *Proposed Amendments of the Naturalization Provisions of the Constitution of Costa Rica*, Advisory Opinion OC-4/84 of 19 January 1984 [Series A No. 4], para. 54).



