Human Rights are not for Sale

van Genugten, W.J.M.

Published in:
Dealing with Human Rights

Publication date:
2001

DEALING WITH HUMAN RIGHTS

Asian and Western Views on the Value of Human Rights

Edited by Martha Meijer

Greber Publisher | WorldView Publishing | Kumarian Press

in association with
The Netherlands Humanist Committee on Human Rights (HOM)

Dealing with Human Rights: Asian and Western Views on the Value of Human Rights

This edition first published in 2001 by WorldView Publishing, 9 Park End Street, Oxford, OX1 1HH, United Kingdom (www.wvpub.com)

This edition published 2001 in North America by Kumarian Press, Inc., 1294 Blue Hills Avenue, Bloomfield, CT 06002, USA (www.kpbooks.com)

This edition published 2001 in the Netherlands and Belgium by Greber Publisher, Plantage Middenlaan 2L, 1018 DD Amsterdam, Netherlands. www.greber.nl (ISBN 90-5592-104-1)

First published as *Grondrecht en Wisselgeld: Aziatische en westerse visies op de waarde van de rechten van de mens* by Greber Publisher & Distributor.
Cover design by Nena Sesic-Fiser, *Night Cruising Flow Chart*, 1993
Translations from Dutch by Lee Mitzman © HOM, 2001

This publication is supported by the European Commission, Hivos (Humanist Institute for Development Cooperation) and NCDO (National Committee for International Cooperation and Sustainable Development).

The paper used in this publication meets the minimum requirements of both the American Standard for Information Science—Permanence of Paper for Printed Library Materials, ANSI Z39.48–1984 and the ISO 9706 standard for archival paper.

A catalogue record for this book is available from the British Library.
ISBN 1-872142-57-5 Cloth ISBN 1-872142-58-3 Paper

Library of Congress Cataloguing in Publication data

Grondrecht en wisselgeld. English
Dealing with human rights: Asian and Western views on the value of human rights / edited by Martha Meijer.
p. cm.
Includes bibliographical references
ISBN 1-56549-128-9 (paper : alk. paper)
1. Human rights. 2. Human rights—Cross-cultural studies. I. Meijer, Martha, 1946- II. Title.
JC571 .G78324 2001
323—de21
00-054973

Typeset by WorldView Publishing Services
Printed in the United Kingdom

KUB/VEB Tilburg

Willem van Genugten is Professor of International Law at Tilburg University and Professor of Human Rights at Nijmegen University. He also serves on the Human Rights Commission of the Advisory Council for International Affairs to the Dutch government.

6

HUMAN RIGHTS ARE NOT FOR SALE

On Universality and Conditionality

Willem van Genugten

Should trade relations be used to achieve human rights? This question is the focus of the present contribution, which deals with the World Trade Organization (WTO) and the European Community/European Union (EC/EU).[1] First, however, I will consider whether human rights are universal and will examine the margin of appreciation that states should have in implementing them. After all, these aspects need to be clarified to offer a balanced view of the role human rights should play in international economic relations.

Universality and the 'Margin of Appreciation'

All over the world, people are entitled to live in dignity, although what such an existence entails will always be a subject of debate. I find the Universal Declaration of Human Rights (1948) a convenient reference. On living in dignity, this declaration mentions equality before the law (Article 7), not being subject to arbitrary arrest (Article 9), the right to nationality (Article 15) and freedom of conscience and religion (Article 18). The declaration further states that the individual should be entitled to:

> *the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to a provision in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.* (Article 25)

Obviously, some states will be better able to satisfy all the Universal Declaration's aims at once and in a mutually sound context. The following remarks concern this dilemma of universality versus the inevitability and desirability of margins for individual states to determine their policy.

The universality of human rights is relatively easy to justify according to legal normative standards. While the Universal Declaration was originally drafted by about fifty, largely Western states, it was embraced as a 'common standard of achievement' by the rest of the world community during the two UN World Conferences on Human Rights (Tehran 1968 and Vienna 1993). Many human rights are also established in broadly ratified international conventions. Moreover, many human rights may be justified as meeting the rigid standards of international customary law or are even part of binding international law, which renders ratification in conventions unnecessary. The UN Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights (ICCPR) includes among this last category the right to freedom from torture, the right not to be subjected to arbitrary arrest and imprisonment and the right to freedom of conscience.[2] Other rights that also pertain to internationally binding law but exceed the scope of the ICCPR are the right of civilians 'to be spared' in times of war (elaborated in the Fourth Geneva Convention), the right to be protected from genocide, freedom to form unions and the right to food. The universal validity of such rights is not subject to debate, at least not as legal standards.

The debate about the universality of human rights arose in 1992-1993 on the eve of the aforementioned Second UN World Conference on Human Rights. Universality is known to have been asserted most vehemently at the African and Asian regional preparatory meetings in Tunis (1992) and Bangkok (1993), respectively. Together the Asian nations stated: '... while human rights are universal in nature, they

must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and regional backgrounds.' [3]

The Member States of the Organization of the Islamic Conference used similar words – 'taking into account the various historical, cultural and religious backgrounds and the principal legal systems' – in their *Cairo Declaration on Human Rights in Islam.*[4]

The Bangkok Declaration was quoted many times, because according to Western views it directly challenged the absolute and universal validity of human rights.

At the World Conference many speakers addressed the question of universal applicability, including P. Kooijmans, the Dutch Minister of Foreign Affairs at the time. After stating that universality of human rights standards was inherent in the concept of human rights, and that human rights should simply be considered inalienable, Kooijmans submitted that 'only governments sometimes call into question the universality of human rights, not the people, and not the victims of violations.'[5] Thus the potentates are the ones who object to civilians defending their rights and may therefore dredge up the universality theme ('those human rights are a Western invention and are part of Western culture'). Populations, individuals and non-governmental organizations (NGOs), however, rarely propagate such conceptual elasticity. The fact that the North Korean government participates in qualifying such universality while the South Korean government does not ('what differences in culture?') illustrates Kooijmans' idea beautifully.

'Only governments call into question the universality of human rights,' according to Kooijmans. At the World Conference Kooijmans' remarks were given an immediate follow-up by the Chinese delegation leader Liu Huaqui:

> *The concept of human rights is a product of historical development. It is closely associated with specific social, political and economic conditions and the specific history, culture and values of a particular country ... Different historical development stages have different human rights requirements. Countries at different development stages or with different*

historical traditions and cultural backgrounds also have a different understanding and practice of human rights.[6]

The Chinese government stated that it had a 'different understanding and practice of human rights'. As we know, the Vienna conference culminated in a statement recognizing the Universal Declaration of Human Rights once again as 'a common standard of achievement for all peoples and all nations', (terminology from the Universal Declaration), and as a 'source of inspiration', ending with the familiar phrases that 'the universal nature of these rights and freedoms is beyond question', and that 'the promotion and protection of all human rights is a legitimate concern of the international community'. The qualifying sentence that 'national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind' is followed immediately by the observation that states have an obligation to protect all human rights, regardless of their political, economic and cultural systems.

What is the value of such statements? I believe that the participants in the Vienna conference were looking for incantations, and that words are only words. The course of events since the World Conference has revealed that – as was to be expected – the agreed formulas lend themselves to a variety of interpretations, and that universality is by no means 'beyond question'. 'Legitimate concern' is another source of confusion and has certainly not lost any of its ambiguity since the World Conference, no matter how widely the words from the conference in Vienna are used in international and bilateral contacts to emphasize the concern's legitimacy. In other words, something has changed since Vienna (in this respect the conference is a link in a long chain), albeit not to the extent that the words chosen suggest.

So much for the negative aspects. On a more positive note, the approach selected conveys a realistic perspective and an attitude compatible with the 'margin of appreciation' mentioned in human rights circles. This margin concerns the freedom of action and policy that states deserve in regard to human rights, with respect to both the substance of many standards and their immediate realization. One such case in Europe, for example, is the admission of countries such as Ukraine and the Russian Federation to the Council of Europe and

consequently to the European Convention on the Protection of Human Rights and Fundamental Freedoms. Such large countries with such a wealth of human rights problems will obviously not meet the standards drafted in Strasbourg immediately. Nonetheless, both the Parliamentary Assembly and the Council of Europe's Committee of Ministers have advised and approved their admission, respectively, on the premise that the Strasbourg instruments will promote human rights in these countries. Overall, European history – since the establishment of the modern sovereign states – has shown that realizing human rights is a gradual process that will take a long time and may never be fully accomplished. The generalizations here apply far more specifically as well. In their judicial and semi-judicial actions, international agencies monitoring human rights often grant some latitude to countries where human rights practice is under evaluation, provided these countries respect certain restrictions.

I will not cover the legal details of the 'margin of appreciation' here, but will provide a few examples.[7] 'There is no such thing as a little torture', is the catch phrase in the debate about universality and relativity. I agree, although some situations are not clear-cut. (Should an individual who knows about a bomb set to explode in a residential neighbourhood within minutes be subjected to treatment actually prohibited as torture?) And what about the reasonable term in the justice system or the right to an impartial trial? While the principle underlying the rule at issue is usually clear in such cases, states are often allowed considerable policy freedom either because they deserve it, or because it is the only realistic approach. If a state's government notifies an international supervisory body that it is unable to guarantee a fair trial for lack of the necessary judicial apparatus, but that infrastructure reforms will change the situation in a decade or two, the state will 'be off the hook'. I approve of such latitude, under the stipulation that the state concerned proves that it has no other option at the moment. Regardless of other factors that might come to mind, this practice is commonplace at international judicial and semi-judicial forums.

Let me return to the political debate about the universality of human rights. Here, too, differences in values are often invoked, along with (often in the same breath) requests for understanding for problems that

countries encounter in establishing human rights. One such case is the frequently quoted argument that the Indonesian Minister of Foreign Affairs A. Alatas raised at the Vienna conference. The following quotation is long but nevertheless most enlightening:

> *... while we in the developing world do understand and appreciate the genesis of the thinking and motivation underlying present-day Western policies and views on human rights, we should at least expect similar understanding and appreciation of the historical formation and experiences of non-Western societies and the attendant development of our cultural and social values and traditions. For many developing countries, some endowed with ancient and highly developed cultures, have not gone through the same history and experience as the Western nations in developing their ideas on human rights and democracy. In fact, they often developed different perceptions based on different experiences regarding the relations between man and society, man and his fellow man and regarding the rights of the community as against the rights of the individual. In saying so, it is not my intention to therefore propose a separate or alternative concept of human rights. But this is a call for greater recognition of the immense complexity of the issue of human rights due to the wide diversity in history, culture, value systems, geography and phases of development among the nations of the world.* [8]

There are two possible responses to arguments like the one presented by Alatas. One is to reject them on the ground that Alatas represents a country that achieved economic success under an authoritarian regime, where the government had every reason to evade the clutches of 'human rights criticism'. Alternatively, Alatas' argument may be justified, and perhaps he is right that the West should be somewhat less rigid about its views and give more consideration to the different contexts in which human rights standards need to be realized. I support a combination of the two responses: avoid invoking 'particularities' as a pretext for escaping criticism, and keep an open mind towards other genuine insights and problems. Such a modifying approach need not mean sacrificing principles, as is often maintained. On the contrary, the objective is to elevate the debate on universality above the level of slogans that characterized the East-West relationship and has been surfacing lately in the relationships between North and South and

between Islamic and non-Islamic states. Communicating in slogans will not lead to a substantive debate. A bit more relativism from the West is therefore welcome, along with loyal support for fundamental human rights, emphasizing the need for gradual expansion of the core list of rights and receptiveness to other approaches where justifiable on solid grounds. Neither the 'core list' nor the 'solid grounds' concepts have been standardized yet. Rather, these ongoing debates will require a lot of time to resolve.

The human rights standards to be achieved are thus generally clear, as is the need to allow states some freedom in setting policy. Next, the discussion can focus on the means that are or should be available to the international community to promote their realization. Over time, various mechanisms have been devised in the international arena (United Nations) and in the different regional networks (Council of Europe, Organization for Security and Cooperation in Europe (OSCE), Organization of African Unity, Organization of American States) that further the achievement of human rights. Examples include the various UN human rights conventions with their committees of independent experts, the UN Human Rights Commission with its representatives of member-states, the European Convention on the Protection of Human Rights and Fundamental Freedoms, the Vienna and Moscow supervisory mechanisms of the OSCE etc. These procedures and mechanisms highlight human rights as such. My contribution, however, is not about these specific human rights instruments. The question here is whether linkage with economic relations is a feasible and desirable way of promoting human rights achievement.

The World Trade Organization

Should economic relations be a weapon in the struggle against human rights violations? This is one of the many facets of the conditionality issue. The demand for a conditional approach to economics and human rights ('we will trade with you, if you meet various human rights conditions') has become widespread in recent years. One such case involves the World Trade Organization, which was established in 1994 and today has over 130 member-states. Should this organization exclude countries that prohibit trade unions or sell products manufactured by

slave labour on the free world market? This situation is known as the 'social clause'. Although the concept's exact substance is not yet fully defined, it is beginning to take shape. Its essence encompasses freedom to form trade unions, the right to collective bargaining, the elimination of exploitative child labour, prohibition of forced labour and an end to discrimination in employment.[9] Over the years (1930-1973), these standards have gained recognition in seven conventions of the International Labour Organization (ILO), which are also called core conventions or human rights conventions. They cover forced labour (convention No. 29); freedom of association and protection of the right to organize (87); the right to organize and collective bargaining convention (98); the equal remuneration convention (100); the abolition of forced labour convention (105); discrimination (the employment and occupation convention, 111); and the minimum age convention (138). By the end of February 2000 these conventions were ratified by over a hundred (128-152) states, except the treaty on child labour, which was ratified by 84 states.[10] This last figure makes the convention on a minimum working age the most controversial of the lot. The lack of ratifications is attributable to the serious differences of opinion on child labour: there is no agreement worldwide on abolishing child labour as such, but only on the elimination of the most exploitative forms. On this issue, the ILO adopted the Convention Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour in June 1999.[11] At the beginning of the new millennium, we are waiting for a considerable number of ratifications of the Convention to ensure that it will be seen as part of the social clause.

At present, the social clause consists of rights that are universally applicable to some degree. This composition is apparent from the text adopted at the Social Summit of March 1995 in Copenhagen, which stated that governments should improve the quality of work by respecting the aforementioned ILO conventions. Moreover, these conventions also apply in countries that have not ratified them.[12] Extending the legal scope of the concerned ILO conventions beyond the ratifying states enhances their worldwide validity, especially considering that 185 states participated in the Copenhagen conference.[13] Thus, the universal applicability of the social clause's core standards is no longer

open to question. This is even truer since the adoption by the ILO of the Declaration on Fundamental Principles and Rights at Work in 1998. In this Declaration, all ILO members agree to observe the 'human rights conventions' of the ILO, even if they have not ratified them.[14]

Enforcing these standards is an entirely different matter. In the past the WTO has received several requests to provide some form of supervision. In December 1996, however, the WTO Conference of Ministers (the organization's highest body), decided to entrust enforcement to the ILO.[15] This arrangement is little more than a draft agreement. What will happen if the ILO condemns the practices of a WTO member remains unclear. Will this state's membership be suspended, or can the WTO take action against the state concerned? The details need to be elaborated. Nor is it clear to what extent satisfying the social clause will be a condition for joining the WTO. The debates over the accession of the People's Republic of China illustrate the situation. In 1948 the country joined GATT (the predecessor of the WTO) but withdrew after the communist take-over in 1949. In 1986 China tried unsuccessfully to join again.[16] By now agreement appears to be growing regarding China's accession to the WTO, and the terms of accession form the main subject of debate.

I believe that prospective WTO members should at least have ratified the aforementioned core conventions of the ILO (with the possible exception of Convention 138) at the time of their accession. Countries like China have a long way to go, as among the conventions mentioned China has ratified only No. 111 on discrimination. Otherwise, aspiring members should agree to abide by the decisions of the different supervisory ILO bodies. Suspension of WTO membership should be an option in the event of persistent defiance (possibly for a five-year term). As stated, no agreements have been reached on this subject.

Clearly, the 'recruitment' of the ILO means opting for the organization's system of enforcing the fundamental labour standards. The emphasis will be on voluntary compliance with the agreements reached, dialogue, tripartism (employers, employees and governments are represented throughout the ranks of the ILO), social support and the

absence of judicial coercion and sanctions. Assigning the social clause to the ILO therefore signifies accepting the methods that have established the ILO and its reputation.

As for whether I approve of these methods, I will limit myself here to a general conclusion on linking the WTO with human rights: in the WTO we should not argue in favour of a complete link between human rights observance and access to the free world market. Free access to the world market should, in my view, be contingent only on human rights that are directly related to the production process and are largely universally applicable. The first criterion is based on the idea that non-compliance might provide the violating state with a competitive edge and thus automatically lies within the jurisdiction of the WTO. The rights should also be universally applicable to avert an ongoing debate about the standard's universality rather than its implementation. This line of argument brings me to the human rights conventions of the ILO listed above. States interested in participating in the WTO may be expected to ratify the ILO conventions (e.g. the five aforementioned core rights) and to allow the ILO to monitor their compliance, on pain of measures to be determined (see above).

This agenda seems rather modest. First, it is not a static entity. Standards that are not yet universal (such as the prohibition of child labour), may become part of the core of universal, fundamental labour standards within a few decades. Careful consideration of the fundamental labour standards already selected reveals that together they cover a very broad scope. Freedom to form trade unions, for example, aside from its intrinsic value, has major ramifications regarding freedom of association and assembly and freedom of expression. Moreover, participation in the WTO opens new doors that were closed for various reasons until recently. The information agreement established within the WTO in February/March 1997 is a case in point. This agreement covers services such as telex and fax communication and mobile and personal communication services and systems.[17] Countries joining this agreement will have increasing difficulty preventing the free exchange of information. Thus, what cannot be enforced via the official human rights channels will be accomplished via the back door.

The EC/EU

The EC/EU is the second major forum where conditionality is an ongoing issue of consideration. The wealth of policy documents and convention texts, drafted over the course of a few decades, depicts the EC/EU as an organization with an impressive record of linking trade with respect for human rights. Regarding the operation of such general policy principles, the following two examples illustrate EC/EU policy in this area. The first one concerns the General System of Preferences that the EC/EU has had since 1971, which provides for advantageous export tariffs for developing countries. Under this system's provisions, additional preferences may be assigned to countries observing ILO conventions 87, 98 and 138 (see above).[18] The preference system also provides opportunities for investigating violations of relevant ILO conventions and imposing penalties accordingly. Following its investigation of working conditions in Burma (Myanmar), for example, the European Commission revoked this country's preferences with respect to industrial and agricultural products.[19] In addition, a complaint lodged by the International Confederation of Free Trade Unions and the European Trade Union Confederation (which both initiated the procedure against Burma as well) has given rise to a similar investigation against Pakistan.[20]

The second case concerns the human rights clauses that the EC/EU currently includes in bilateral treaties. Whereas the Baltic clause – an explicit suspension clause authorizing the suspension of the application of the agreement in whole or in part with 'immediate effect' in cases of a serious breach of essential provisions[21] – used to be commonplace, the Bulgarian clause has been standard practice since October 1992. This general, non-execution clause provides for appropriate measures should the parties fail to meet their obligations, following a consultation procedure (except in case of special urgency).[22] According to the European Commission:

> *The difference between the two formulas resides in the degree of sensitivity allowed for. The 'Baltic clause' is more severe in that it provides only for extreme cases warranting immediate suspension without consultation of any kind. The 'Bulgarian clause' not only provides for a consultation procedure and a range of different options but is also designed to keep the*

agreement operational wherever possible. It asserts that immediate suspension should be envisaged only in cases of special urgency. [23]

The Bulgarian clause figures in the agreements with the Russian Federation, Ukraine and Slovakia[24] and in the agreements with several Mediterranean countries (e.g. Israel).[25]

The preceding arrangement suggests that the EC/EU links economic collaboration and human rights through concepts such as positive measures, dialogue and cooperation. The main idea is therefore to reward good behaviour and to keep economic and political dialogue going until results are forthcoming. This conduct is apparently the best way for states to get along. I further believe that from a human rights perspective this method will be the most fruitful in the long run.[26]

On the other hand, the EC/EU – unlike the ILO – has far more powerful instruments besides the opportunities for dialogue. Cases in point are the resolutions of condemnation submitted to the UN Human Rights Commission (a deceptively modest instrument that can achieve a powerful impact), freezing financial assets, revoking preferential status and total discontinuation of economic collaboration. Because of the requirement that decision-making on resolutions under the Common Foreign and Security Policy (CFSP) be unanimous, the most substantial instruments available to the current fifteen members of the European Union are rather theoretical, unless countries with little power commit extremely serious violations.

Aside from the difficulty of implementing serious measures, a tough approach has several drawbacks. Economic isolation often exacerbates internal contradictions and leads to rising repression of a population that is already suffering. Ultimately, those who were supposed to receive assistance are the victims of the serious measures. Accordingly, the EC/EU has performed 'bypass' operations in many bilateral economic and development relations. If economic cooperation with the authorities proves impossible because the government is ineffective (the 'failed states'), corrupt or uses monies received to expand the state apparatus, collaboration will often be through non-government channels. NGOs maintain direct contact with the core of society, which is in turn revitalized by this method.

Human Rights as a Commodity: Conclusions

Countries do not, as such, actually violate 'human rights', as journalistic turns of phrase tend to suggest. Nonetheless, human rights violations are widespread in some countries. While the distinction appears subtle, the formulation reveals a vast difference. The first assertion provides only a global impression of everything that is wrong, whereas the second one calls for a precise indication of the rights that are at stake. The same argument applies to the question as to whether human rights are universally valid. Human rights cover a broad scope and do not necessarily satisfy the rigid criteria of 'universal applicability' in all cases. Hard evidence is needed as described at the beginning of this chapter and elaborated with respect to several fundamental labour rights in the section on the WTO.

Determining how a right may be considered universally applicable is inextricably linked with the issue of whether states are willing to accept the universal value of these fundamental rights as the principle of their actions. Consider the Asian commentary on universality, as presented in the first section of this contribution. Partial agreement with the Asian criticism does not preclude support for the universal core of the human rights idea, as I have argued. Nor is the unilateral imposition of human rights on these countries useful at this point. International political relations will obstruct such an approach. This situation underlies my argument regarding the 'social clause'. I believe that countries wishing to enjoy the benefits of WTO membership need to observe several defined and carefully circumscribed rights. These rights, however, are not imposed as a unilateral dictate but are presented as a contract to be observed according to the regulations of the WTO and the ILO.

Rights other than the ones elaborated above should not be linked with access to world trade in my view. All too easily, cliché-like associations arise between respect for human rights and trade relations based on the idea that something needs to be done about countries that permit widespread torture or prohibit freedom of the press. Although the intention certainly appeals to me, trade relations are not necessarily the right instrument for promoting such rights. Often, threatening the use of sanctions seems more like a Pavlovian reaction than a response

in which the party advocating economic measures provides reasonable proof that this instrument will lead to improvement.

If the instrument cannot reasonably be related to the effect, trade relations should not be used to this end – at least not in a negative sense. What remains is an emphasis on positive measures: positive conditionality (see my statements above on the method of the ILO and the EC/EU). While many of those in human rights circles will find this conclusion less than satisfactory, it may be the only reasonable option.

Parts of this contribution were published previously in: W.J.M. van Genugten, 'Universele gelding van mensenrechten en (de grenzen aan) het recht van bemoeienis van de internationale gemeenschap', in Y. Broer *et al.*, Eds. (1995). *Mensenrechten in Zuidoost-Azië: geijkte machteloosheid of nieuw beleid* (proceedings of the symposium with the same name). Utrecht; W.J.M. van Genugten (1997). *WTO, ILO en EG: handelen in vrijheid.* Deventer: Tjeenk Willink.

NOTES

1. EC (European Community) signifies the first pillar of the Maastricht Treaty. It concerns the activities that were traditionally the core of European cooperation. EU (European Union) represents the second and third pillars, concerning the Common Foreign and Security Policy and cooperation in justice and home affairs, respectively. This contribution uses EC/EU to cover both elements.
2. The complete list of the Human Rights Committee reads: 'The right to engage in slavery, to torture, to subject persons to cruel, inhuman or degrading treatment or punishment, to arbitrarily deprive persons of their lives, to arbitrarily arrest and detain persons, to deny freedom of thought, conscience and religion, to presume a person guilty unless he proves his innocence, to execute pregnant women and children, to permit the advocacy of national, racial or religious hatred, to deny to persons of marriageable age the right to marry, or to deny to minorities the right to enjoy their own culture, profess their own religion, or use their own language, and ... the right to a fair trial ....' See the 'General Comment' of the Human Rights Committee of November 1994 (ICCPR/C/21/Rev.1/Add.6).
3. Bangkok Declaration, A/CONF.157/ASRM/7, Par. 8.
4. The Declaration was adopted in Cairo on 5 August 1990. The decision to submit it as a 'position paper' to the World Conference was taken at a meeting a meeting of the ministers of Foreign Affairs of the Islamic nations in Karachi on 25-29 April 1993.
5. Speech of 14 June 1993.
6. Speech of 15 June 1993.

7. See, for example, J.G.C. Schokkenbroek, 'De Margin of Appreciation-doctrine in de jurisprudentie van het Europese Hof', in A.W. Heringa, J.G.C. Schokkenbroek and J. van der Velde, Eds. (1990). *40 Jaar Europees Verdrag voor de Rechten van de Mens.* Leiden: NJCM.
8. Speech of 14 June 1993.
9. Lower House, The Hague, 1996-1997, 25074, No. 1, p. 10; R. Torres, 'Labour Standards and Trade', in *The OECD Observer*, 1996, 10-12; on the OECD report: *Trade, Employment and Labour Standards: A Study of Core Workers' Rights and International Trade.* Paris: OECD, 1996; *Sociaal-Economische Raad, Fundamentele arbeidsnormen en internationale handel.* The Hague: SER, 1996, pp. 14-17.
10. According to a report by the Applications of Standards Branch of the International Labour Standards Department of the ILO, February 2000.
11. Published in *International Legal Materials*, Washington DC: The American Society of International Law, 1999, pp. 1207-1214.
12. Copenhagen Programme of Action, March 1995, Par. 54.
13. Lower House, The Hague, 1994-1995, 23900 XV, No. 42, p. 2.
14. Published in *International Legal Materials*, 1233, Washington DC: The American Society of International Law, (1998), p. 1237.
15. Yeo Cheow Tong, 'Concluding Remarks by the Chairman: We have delivered', in *WTO Focus*, No. 15, January 1997, p. 14.
16. 'The World Trade Organization and the European Community', *Working Paper of the European Parliament.* Luxembourg: The European Parliament, 1995, p. 49.
17. Lower House, The Hague, 1996-1997, 25074, No. 5, p. 1.
18. A.W. van der Klaauw, 'Mensenrechten en ontwikkelingsbeleid van de Europese Gemeenschap', in *NJCM Bulletin*, 1997, 22, 10; COM (95) 567 def., p. 26; COM (96) 402 def., p. 14.
19. Van der Klaauw, *op. cit.*, pp. 10-11. For more information about the backgrounds, see: CES 240/98; advice from the Economic and Social Committee of the EC/EU about the 'Voorstel voor een verordening (EG) van de Raad houdende tijdelijke intrekking van de voordelen van het aan de Unie van Myanmar toegekende stelsel van algemene tariefpreferenties voor industrieproducten' and also regarding 'agricultural products', February 1997, *passim.*
20. Cf.: Van der Klaauw, *op. cit.*, p. 11 and CES 240/97, pp. 4-5, as well as additional oral reports from officials at the Economic and Social Committee in Brussels.
21. COM (95) 216 def., p. 8.
22. *Ibid.*, p. 8 and 10.
23. *Ibid.*, p. 8.
24. *Ibid.*
25. Lower House, The Hague, 1996-1997, 25036, No. 1 ff.
26. See, for example, W.J.M. van Genugten, 'Toelating tot de Raad van Europa: "acquis" op de tocht of gepaste rekkelijkheid?', in *Nederlands Juristenblad*, 1996, 7, pp. 249-251.