This book contains the contributions to the 4th Nordic Seminar on Human Rights, Copenhagen 1987, organized by the newly established Danish Center of Human Rights.

The organizers had asked both practitioners and scholars to deal with two topics which will be important on the agenda of the new Danish Center, i.e.:
- Human rights and development assistance
- The status of the European Convention of Human Rights in the Nordic countries.

The two topics are very different. But they have one aspect in common. They deal with the fundamental question: what are the right means, what can be done, to ensure the safeguarding of international human rights obligations by and in the states.

Within this area the two topics can be said to deal with problems at the two extremes of the continuum. The first topic concerns human rights in developing countries and covers questions about the use of political/economic means to further respect of human rights. It touches upon difficult and sensitive problems where it may be more important to start discussing the correct questions to be posed than to begin at once to search for solutions. At the seminar it was notable, that more questions were asked than answers given.

The second topic deals with the familiar question of the implementation in domestic law of international human rights obligations in the national legal systems of developed states. In particular it focuses on the best means of monitoring compliance with human rights obligations accepted by interested parties. One of the main problems in this area is the operationalisation of human rights.

The contributions dealing with development aid and human rights cover a broad range of topics. First, the present policies of
- three of the Nordic countries and the Netherlands,
- a non-governmental organization and
- the World Bank and the International Monetary Fund are examined and in some cases criticized.

Next, some difficult problems concerning development aid law and policy and
their relationship to human rights law and policy are analyzed and finally some aspects of the problems of evaluating human rights performance are discussed.

As will be seen, the contributors approached their topics with considerable humility. All agreed that a great deal of practical and scholarly work will have to be undertaken to achieve the knowledge required to handle the difficult questions involved in using development aid to further respect for human rights. At the same time it was our understanding that practically everybody agreed that the efforts which have already been made in this area should be continued, and good results are expected.

Two lines of thought are noteworthy. The relationship between development aid and human rights is not a one-way street. Human rights thinking in the area of development aid may help to make development more effective, more capable of achieving its purpose. Human rights may be used in many areas as a yardstick to measure development aid efforts. This is true with regard to economic and social human rights where of course, the starting-point is that development aid has as its basic purpose the improvement in opportunity for states to respect these human rights. Human rights considerations may, also, show that the donor countries are not choosing the correct means of supplying aid. It is also true with regard to civil and political rights where it was constantly argued during the seminar that respect for these rights may be a precondition or at least “very useful” in order to make development aid efforts work and create a sustainable development in the receiving countries.

It was also noteworthy that all the contributors emphasized the use of human rights considerations in development aid policy in a positive way. Development aid can and should be used as a means to strengthen all forces in the receiving countries which may improve the domestic human rights situation. Numerous practical examples were given during the seminar of steps which may be taken and which can, at one and the same time, be regarded as improving the development potential and the human rights situation of the receiving state. Some of the contributors also emphasized that development aid in itself sometimes was the cause of human rights violations.

Contributors did not consider the question of withdrawing development aid in cases of human rights violations as an important aspect of the whole debate. This does not mean, as far as we can see, that such a step may never be used. There may indeed be cases where the domestic human rights situation is so bad that it is unlikely that development aid will assist anybody but the repressive rulers. However, these are extreme and exceptional cases. They should not be allowed to divert attention from typical cases where development aid can be used positively to further respect for human rights – and, as mentioned, vice versa.

There is also a major task ahead for human rights scholars. Through monitoring and analyzing a human rights situation they may be able to point out causes of human rights violations and thereby suggest how development aid may most
effectively be used to remove these causes.

Much has already been written and said on the questions of incorporation of the European Convention of Human Rights. The contributions in the second part of this book have an importance because they come from distinguished practitioners and scholars both from countries where incorporation has occurred and from countries where incorporation has not (yet) taken place.

At the seminar no one maintained that there is only one way of ensuring compliance with the Convention. Incorporation in the domestic legal system is only one of the many factors which may influence actual compliance with the Convention in the contracting states. There are certainly arguments both for and against incorporation. The main question is how to make the Convention a living instrument – a factor in everyday life of ordinary people.

In our opinion there is one point of view which must be stressed. The fact that incorporation does not remove the duty of the national parliaments and governments to make sure, on a continuous basis, that domestic legislation is compatible with the provisions of the Convention.

Incorporation does not mean that parliaments and governments renounce responsibility for human rights. Rather, it simply means that the judicial authorities are given a better opportunity to safeguard respect for the Convention in the exceptional cases where parliaments and governmental authorities have not succeeded.

The word “better” is stressed because, in the Nordic countries at least, the courts under the present system have the possibility of basing their judgments indirectly on the provisions of the Convention. Incorporation would, however, mean that uncertainty as to the limits of this possibility would be removed.

Incorporation will probably not have dramatic consequences on a practical level. But it will have important psychological consequences. It will open the eyes of the legal practitioners to the importance of the Convention, and for this reason, if for no other, the legal protection of the individual will be enhanced.

The editors wish to express considerable gratitude to the contributors. Not only have they permitted their contributions to be published, they have also carefully corrected them in light of what took place during the seminar. Some contributors have chosen to submit their manuscripts in the form of finished articles, some to prepare their manuscripts on the basis of type-written versions of their talks at the seminar. The editors have respected these choices. Andrew Drzemczewski, Strasbourg, and Andrew Gray, Copenhagen, have taken on the adus task of revising some of the manuscripts. We extend our thanks to them also.

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Finally, it should be noted that all notes can be found at the end of this volume.

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Director                                             Chairman of the Board

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