

Understanding Human Rights

What are human rights?

A riddle

Human rights are like armour: they protect you; they are like rules, because they tell you how you can behave; and they are like judges, because you can appeal to them. They are abstract – like emotions; and like emotions, they belong to everyone and they exist no matter what happens.

They are like nature because they can be violated; and like the spirit because they cannot be destroyed. Like time, they treat us all in the same way - rich and poor, old and young, white and black, tall and short. They offer us respect, and they charge us to treat others with respect. Like goodness, truth and justice, we disagree about their definition, but we recognise them when we see them.

? Can you define human rights? How do you explain what they are?

Where do human rights come from?

A right is a claim that we are justified in making. I have a right to the goods in my shopping basket if I have paid for them. Citizens have a right to elect a president, if the constitution of their country guarantees it, and a child has a right to be taken to the zoo, if her parents have promised that they will take her. These are all things that people can be entitled to expect, given the promises or guarantees that have been undertaken by another party.

But human rights are claims with a slight difference, in that they depend on no promises or guarantees by another party. Someone's right to life is not dependent on someone else promising not to kill him or her: their *life* may be, but their *right to life* is not. Their right to life is dependent on only one thing: that they are human.

An acceptance of human rights means accepting that everyone is entitled to make the claim: *I have these rights, no matter what you say or do, because I am a human being, just like you.* Human rights are inherent to all human beings.

Why should that claim not need anything to back it up? What does it rest on? And why should we believe it?

The claim is ultimately a moral claim, and rests on moral values. What my right to life really means is that *no one ought to take my life away from me; it would be wrong to do so.* Put like that, the claim needs little backing up. Every reader is probably in agreement with it because we all recognise, in our own cases, that there are certain aspects of our life, our being, that ought to be inviolable, and that no one else ought to be able to touch, because they are essential to our being, who we are and what we are; they are essential to our humanity and our human dignity. Human rights simply extend this understanding on an individual level to every human being on the planet. If I can make these claims, then so can everyone else as well.

? Why is it wrong to infringe someone else's right to life? Why is it wrong to take their life away? Are these the same questions?

"Human rights are what no one can take away from you."

René Cassin

“What man wants is simply independent choice, whatever that independence may cost and wherever it may lead.”

Fyodor Dostoevsky

Key values

There are thus two key values that lie at the core of the idea of human rights. The first is human *dignity* and the second is *equality*. Human rights can be understood as defining those basic standards which are necessary for a life of dignity; and their *universality* is derived from the fact that in this respect, at least, all humans are equal. We should not, and cannot, discriminate between them.

These two beliefs, or values, are really all that is required to subscribe to the idea of human rights, and these beliefs are hardly controversial. That is why the idea receives support from every different culture in the world, every civilised government and every major religion. It is recognised almost universally that state power cannot be unlimited or arbitrary; it needs to be limited at least to the extent that all individuals within its jurisdiction can live with certain minimum requirements for human dignity.

Many other values can be derived from these two fundamental ones and can help to define more precisely how in practice people and societies should co-exist. For example:

Freedom: because the human will is an important part of human dignity. To be forced to do something against our will demeans the human spirit.

Respect for others: because a lack of respect for someone fails to appreciate their individuality and essential dignity.

Non-discrimination: because equality in human dignity means we should not judge people on the basis of non-relevant physical (or other) characteristics.

Tolerance: because intolerance indicates a lack of respect for difference; and equality does not signify *identity or uniformity*.

Justice: because people equal in their humanity deserve fair treatment.

Responsibility: because respecting the rights of others entails responsibility for one’s actions.

Characteristics of human rights

Philosophers may continue to argue about the nature of human rights, but the international community has established a set of key principles that states have agreed to and have to abide by. According to these principles:

1. Human rights are inalienable. This means that you can not lose them, because they are linked to the very fact of human existence. In particular circumstances some – though not all - may be suspended or restricted. For example, if a someone is found guilty of a crime, his or her liberty can be taken away; or in times of civil unrest, a government may impose a curfew restricting freedom of movement.

2. They are indivisible, interdependent and interrelated. This means that different human rights are intrinsically connected and cannot be viewed in isolation from each other. The enjoyment of one right depends on the enjoyment of many other rights and no one right is more important than the rest.

3. They are universal, which means that they apply equally to all people everywhere in the world, and with no time limit. Every individual is entitled to enjoy his or her human rights without distinction of race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status.

We should note that the *universality* of human rights does not in any way threaten the rich diversity of individuals or of different cultures. Diversity can still exist in a world where everyone is equal, and equally deserving of respect.

“Values are invisible like the wind. From the flutter of leaves you know there is wind. And you realize values through the actions of people.”

Éva Ancsel

A historical outline

The idea that people have inherent rights has its roots in many cultures and ancient traditions. We can see from numerous examples of revered leaders and influential codes of practice that the values embodied in human rights are neither a 'Western invention' nor a twentieth-century invention.

"By three things is the world sustained: by truth, by judgement and by peace."

The Talmud

Ancient History

- The Code of Hammurabi in Babylonia (Iraq, c 2000 B.C.) was the first written legal code, established by the king of Babylon. It vowed to 'make justice reign in the kingdom, to destroy the wicked and violent, to prevent the strong from oppressing the weak, ... to enlighten the country and promote the good of the people'
- A Pharaoh of Ancient Egypt (c 2000 BC) was quoted as giving instructions to subordinates that 'When a petitioner arrives from Upper or Lower Egypt, ... make sure that all is done according to the law, that custom is observed and the right of each man respected.'
- The Charter of Cyrus (Iran, c 570 BC) was drawn up by the king of Persia for the people of his kingdom, and recognised rights to liberty, security, freedom of movement and some social and economic rights.



Which figures in your country's history have championed or fought for human rights values?

The English Magna Carta and Bill of Rights

In 1215, English nobles and members of the clergy rallied against King John I's abuse of power, and made the King agree to abide by the law by drawing up a Great Charter of liberties (Magna Carta). Although the King did not respect it, the Magna Carta became a widely cited document in defence of liberties. It enumerates a series of rights, such as the right of all free citizens to own and inherit property and to be free from excessive taxes. It establishes principles of due process and equality before the law. Following King James II's abuse of the law, his subjects overthrew him in 1688. In 1689, Parliament passed a bill declaring that it would no longer tolerate royal interference in its affairs. This bill, known as the Bill of Rights, forbade the monarch to suspend the law without Parliament's consent, specified free elections for members of Parliament and declared that freedom of speech in Parliament was not to be questioned, in the courts or elsewhere.

The birth of natural rights

During the seventeenth and eighteenth centuries in Europe, a number of philosophers proposed the concept of "natural rights". These were rights that belonged to a person because he or she was a human being, rather than because, for example, a citizen of a particular country or a member of a particular religion or ethnic group. The idea that these natural rights should entitle people to certain legal rights became more widely accepted and began to be reflected in the constitutions of some countries.

The French Declaration on the Rights of Man and the Citizen (1789)

In 1789, the French overthrew their monarchy and established the first French Republic. The Declaration came out of the revolution and was written by representatives of the clergy, nobility

"Man being... by nature all free, equal and independent, no one can be ... subjected to the political power of another, without his consent."

John Locke

“Thou shalt not kill.”

The Bible

and commoners, who wrote it to embody the thoughts of Enlightenment figures such as Voltaire, Montesquieu, the Encyclopedists and Rousseau. The Declaration attacked the political and legal system of the monarchy and defined the natural rights of man as “liberty, property, security and the right to resist oppression”. It replaced the system of aristocratic privileges that had existed under the monarchy with the principle of equality before the law.

The United States Declaration of Independence, Constitution and Bill of Rights (1791)

In 1776, most of the British colonies in North America proclaimed their independence from the British Empire in the United States Declaration of Independence. This was largely based on the “natural right” theories of Locke and Montesquieu, and inspired the French revolution and rebellions against Spanish rule in South America. Later on, the United States Constitution was amended, and the government was centralised but with powers limited enough to guarantee individual liberty. Twenty amendments to the constitution form the American Bill of Rights.

Early international agreements

In the nineteenth and twentieth centuries, a number of human rights issues came to the fore and began to be questioned at an international level, beginning with such issues as slavery, serfdom, brutal working conditions and child labour. It was at around this time that the first international treaties concerning human rights were adopted.

- Slavery became illegal in England and France around the turn of the nineteenth century and, in 1814, the British and French governments signed the Treaty of Paris, with the aim of co-operating in suppressing the traffic in slaves. At the Brussels Conference of 1890, an anti-slavery Act was signed, which was later ratified by eighteen states.
- The first Geneva Conventions (1864 and 1929) marked another field of early co-operation among nations in setting out the elaboration of the rules of war. In particular, the Conventions laid down standards for caring for sick and wounded soldiers.



Why do you think that the need for *international* agreements arose, rather than individual countries simply drawing up their own standards?

The twentieth century

The idea of protecting the rights of human beings against the governing powers began to receive ever wider acceptance. The importance of codifying these rights in written form had already been recognised by some individual states and, in this way, the documents described above became the precursors to many of today’s human rights treaties. However, it was the events of World War II that really propelled human rights onto the international stage.

The International League of Nations was an intergovernmental organisation created after the First World War, which tried to protect basic human rights standards but it was only after the terrible atrocities committed in the Second World War, and largely as a result of them, that a body of international law emerged. These events made it both possible and necessary for an international consensus to emerge on the need for international regulation to protect and codify human rights.

The Charter of the United Nations, signed on 26 June 1945, reflected this belief. The Charter states that the fundamental objective of the United Nations is “to save succeeding

“And fight in the way of God with those who fight with you, but aggress not: God loves not the aggressors.”

The Koran

generations from the scourge of war” and “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women”.

The Universal Declaration of Human Rights (UDHR) was drawn up by the Commission on Human Rights, one of the organs of the United Nations, and was adopted by the General Assembly on the 10 December 1948. Since then, a series of key instruments to safeguard its principles have also been drawn up and agreed by the international community. More information on some of these international treaties can be found below in this chapter, including information on the European Convention for Human Rights and Fundamental Freedoms.

“Wars will continue to be waged for as long as mankind fails to notice that human nature is identical, no matter where on earth we find ourselves.”

Pierre Daco, psychologist.

Human rights around the world

Several regions of the world have established their own systems for protecting human rights, which exist alongside that of the UN. To date, there are regional institutions in Europe, the Americas, Africa and the Arab states, but not yet in the Asia-Pacific region. However, most countries in this part of the world have also ratified the major UN treaties and conventions – thereby signifying their agreement with the general principles, and expressing themselves subject to international human rights law.

The African Charter on Human and Peoples’ Rights came into force in October 1985 and has been ratified by more than 40 states. The Charter is interesting for a number of differences in emphasis between the treaties that have been adopted in other parts of the world:

- Unlike the European or American Conventions, the African Charter covers social, economic and cultural rights as well as civil and political rights.
- The African Charter goes beyond individual rights, and also provides for *collective* rights of peoples.
- The Charter also recognises that individuals have duties as well as rights, and even lists specific duties that the individual has towards his or her family, society, the State and the international community.

? Why do you think that duties are listed in a charter on human rights? Do you think they should be listed in all human rights documents?

In the Arab world, there currently exists a regional Commission on Human Rights, with only limited powers. However, they have also approved an Arab Charter on Human Rights that will establish a regional system. This document, like the African Charter, includes social-economic rights as well as civil-political rights, and also a list of ‘Collective Rights of the Arab People’.

There have been calls for such a system to be set up in the Asian-Pacific region, but no formal agreements have yet been adopted. A meeting of NGOs in the region in 1993 resulted in the Bangkok NGO Declaration on Human Rights, which stated:

“We can learn from different cultures from a pluralistic perspective. ... Universal human rights are rooted in many cultures. We affirm the basis of universality of human rights which afford protection to all of humanity. ... While advocating cultural pluralism, those cultural practices which derogate from universally accepted human rights, including women’s rights, must not be tolerated. As human rights are of universal concern and are universal in value, the advocacy of human rights cannot be considered to be an encroachment upon national sovereignty”.

“While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms”.

The Vienna Declaration (1993)

“We are all, and me especially, responsible for everything and for everyone.”

Fyodor Dostoevsky

How can we use our rights?

Human rights exist for us. So how can we make use of them? It is clear that their mere existence is not enough to put an end to human rights violations, since we all know that these are committed every day, in every part of the globe. So can they really make a difference? *How can we use them?*

? Do you know which rights you have?

A number of sections in this manual look at various aspects of this problem.

Recognising your rights

In the next section we look at the different types of rights that are protected under international law. If we know which areas of human existence are relevant to human rights law and we are aware of the obligations of governments under this body of law, then we can begin to apply pressure in different ways. That section illustrates that almost every area of injustice is relevant to human rights: from small-scale poverty, through environmental damage, health, working conditions, political repression, voting rights, genetic engineering, minority issues, terrorism, genocide ... and beyond. And the number of issues is increasing even today.

Some of the issues concerning the application of human rights legislation are addressed directly in the section “Questions and Answers”. These provide brief responses to some of the more common questions often asked about human rights.

In addition, every section of Chapter 5 deals in more detail with the manual’s themes. If you are concerned to find out how a particular issue - for example, the right to health, to education, or fair working conditions - can be better protected, you will find it helpful to look at the background information relevant to that issue.

Using legal mechanisms

We shall look at the legal mechanisms that exist for protecting the different areas of people’s interests. In Europe, we are particularly fortunate, at least as far as some rights are concerned, in having a permanent court to deal with complaints about violations – the European Court of Human Rights. Even where complaints do not fall under the jurisdiction of the European Court, we shall see that there are other mechanisms of holding states accountable for their actions and forcing them to comply with their obligations under human rights law. It helps that the law is there, even if there are not always legal means of enforcing compliance by states.

Lobbying, campaigning and activism

? Have you ever been involved in any campaigning or human rights activism?

One important role in exerting pressure on states is played by associations, non-governmental organisations, charities, and other civic initiative groups. This forms the subject matter of the section on activism and the role of NGO’s. The role of such associations is particularly relevant to the man – and woman – on the street, not only because such associations frequently take up individual cases, but also because they provide a means for the ordinary person to become involved in the protection of human rights. After all, such associations are made up of ordinary people! We shall also look at how they act to improve human rights and at some examples of successful action.

“I regard the death penalty as a savage and immoral institution that undermines the moral and legal foundations of a society. I am convinced ... that savagery begets only savagery.”

Andrei Sakharov

Becoming involved

Chapter 3, Taking Action, brings these types of actions down to an everyday level, and offers a number of examples of action in which *you* could become involved. Youth groups have enormous potential for putting pressure on states or international bodies and ensuring that cases of human rights violation are brought to the public eye. The examples in this section should provide you with concrete measures that could be undertaken by your group and will also give a greater insight into the way that non-governmental organisations work at an everyday level.

“Every soul is a hostage to its own actions.”

The Koran

Dilemmas and misuses of human rights

What should we do when protecting the rights of one group of people involves restricting those of others? Sometimes human rights are used as an excuse to carry out actions that are themselves of questionable morality. People, even governments, may claim to be acting to protect human rights, but in fact the actions they employ themselves violate fundamental rights.

It is not always easy to judge such cases. Consider the following examples.

Conflicts of rights

In the wake of the terrorist attacks of September 11th 2001 in the United States of America, many governments are restricting certain basic liberties in order to combat the threat of terrorism. In the UK, there is a new law withdrawing from Article 5 of the European Convention on Human Rights, the article that protects people from arbitrary detention and imprisonment. This makes it possible for the government to lock people up without any charge or trial, on the basis of mere suspicion.



Is it permissible to restrict the rights of minorities in the name of national security? If so, should there be any limits?

The United States Supreme Court has declared that demonstrations by nazi groups in Jewish suburbs are legal forms of freedom of expression. Should such groups in fact be prevented from promoting a doctrine that would lead to the destruction of a whole people? Or is that an unacceptable restriction of the right to freedom of expression?

Cultural traditions

Arranged marriages are common practice in many cultures, where a girl is obliged to marry a man who has been chosen by her family, often at a very young age. Should such a practice be banned in order to protect the young girls? Or would that be failing to respect a different cultural tradition?

Other examples can be found in the continued practice of female circumcision in many countries, or the “honour killings” of girls and women. Thousands of people suffer the consequences of such practices and most people would certainly regard them as a serious violation of rights. Is the acceptance of female circumcision an inter-cultural difference that should be ‘tolerated’?



Should cultural values ever be able to ‘override’ the universality of human rights?

“Every time justice dies, it is as if it had never existed.”

José Saramago

In the name of a good cause

In 1995, a UN Food and Agriculture Organisation compared 1995 child and infant mortality levels in Baghdad to 1989 levels. On the basis of the data they collected, two team members published a letter, which concluded that some 567,000 Iraqi children had died as a result of the sanctions to that date. In April, 1998 Unicef claimed that some 90,000 children were dying annually as a result of the sanctions

Sanctions are sometimes used by the international community to penalise regimes that are considered to be systematically violating human rights. Sanctions forbid trade with the violator country, in order to put pressure on the government to modify their actions. Some countries have been completely isolated by the international community: South Africa was isolated for years because of its system of apartheid, and today Cuba and Iraq are unable to trade with most of the world. There is no doubt that the effects of such sanctions are felt by normal people, but they are felt particularly by the most vulnerable sectors of society. *Is this an acceptable means of putting an end to human rights violations by another government?*

Although not officially sanctioned by the UN, the Nato-led bombings in Kosovo were justified by many in terms of protecting the ethnic Albanians and bringing a perpetrator of genocide to justice. The military action led to the exodus of hundreds of thousands of refugees, to an estimated 500 directly caused civilian casualties and to the devastation of Serbian infrastructure. It also led to the capture of President Milosevic and his trial before an international tribunal. Similar action has been undertaken in Afghanistan in order to destroy the terrorist network thought to be responsible for the 11th September 2001 events. Can such actions be justified in terms of their end results if they cause large numbers of casualties?



Can the defence of human rights be used to justify a military campaign?

In April 2001, a resolution of the United Nations Commission on Human Rights rejected the notion that fighting terrorism could ever justify sacrificing human rights protections. Resolution 2001/24 condemned terrorist attacks related to the Chechnya conflict and breaches of humanitarian law perpetrated by Chechen forces, as well as certain methods often used by Russian federal forces in Chechnya. It called for a national commission of inquiry into Russian abuses.

More riddles

The questions raised in the previous section do not all have clear-cut answers: they remain the subject of fierce debate, even today. Such debates are, to a certain extent, important. They are an indication both of the pluralistic approach that is fundamental to the notion of human rights and of the fact that human rights are not a science, not a fixed 'ideology', but are a developing area of moral and legal thought. We should not always expect black and white answers – partly because the issues are complex, but also because there are no experts on the subject who are qualified to have the final word and settle all arguments.

However, that does not mean that there are no answers and no areas of agreement. There are many, and they increase almost daily. The issue of slavery is one which used to be debated, but where tolerance is no longer regarded as acceptable: the right to be free from slavery is now universally accepted as a fundamental human right. Female circumcision, although defended under some cultures, is broadly condemned as a violation of human rights. And the death penalty is, arguably, becoming such an issue – at least in Europe, where members of the Council of Europe are required to move towards abolition.

So we should be confident that many of these questions will also reach their resolution. In the meantime, we can help the debate and make our own judgements on the more controversial issues by referring back to the two fundamental values: equality and human dignity. *If any action treats any individual as lacking in human dignity, then it violates the spirit of human rights.*

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