

Questions and answers

? What are human rights?

Human rights are moral entitlements that every individual in the world possesses simply in virtue of the fact that he or she is a human being. In claiming our human rights, we are making a *moral* claim, normally on our own government, that *you cannot do that, because it is a violation of my moral sphere and my personal dignity*. No-one – no individual, no government – can ever take away our human rights.

? Where do they come from?

They come from the fact that we are not only physical beings, but also moral and spiritual *human* beings. Human rights are needed to protect and preserve every individual's *humanity*, to ensure that every individual can live a life of *dignity* and a life that is worthy of a human being.

? Why 'should' anyone respect them?

Fundamentally, because everyone is a human being and therefore a moral being. The majority of individuals, if shown that they are violating someone else's personal dignity, will try to refrain. In general, people do not *want* to hurt other people. However, in addition to the moral sanctions of one's own conscience or that of others, there is now legislation in most countries of the world which *obliges* governments to respect the basic human rights of their citizens, even when they may be unwilling to do so.

? Who has human rights?

Absolutely everyone. Criminals, heads of state, children, men, women, Africans, Americans, Europeans, refugees, the unemployed, those in employment, bankers, charity workers, teachers, dancers, astronauts...

? Even criminals and heads of state?

Absolutely *everyone*. Criminals and heads of state are humans too. The power of human rights lies in the very fact that they treat *everyone as equal* in terms of possessing human dignity. Some people may have violated the rights of others or may pose a threat to society and may therefore need to have their rights *limited* in some way in order to protect others, but only within certain limits. These limits are defined as being the minimum which is necessary for a life of human dignity.

? Who looks after human rights?

We all need to. There is legislation both at national and at international levels which imposes restrictions on what governments are able to do to their citizens but, if no-one points out that their actions are violating international norms, governments can continue to violate them with impunity. As individuals, we need not only to respect the rights of others in our everyday lives but also to keep watch on our governments and on others. The protective systems are there for all of us if we use them.

? How can I defend my rights?

Try pointing out that they have been violated; claim your rights. Let the other person know that *you*

know they are not entitled to treat you in this way. Point to the relevant articles in the UDHR, in the ECHR or the other international documents. If there is legislation in your own country, point to that as well. Tell others about it: tell the press, write to your parliamentary representative and head of state, inform any NGOs that are engaged in human rights activism. Ask their advice. Speak to a lawyer, if you have the opportunity. Make sure that your government knows what action you are taking. Make them realise that you are not going to give up. Show them the support you can draw on. In the final analysis, and if everything else has failed, you may want to resort to the courts.

? **How do I go to the European Court?**

The European Convention for the Protection of Human Rights and Fundamental Freedoms does contain a procedure for individual complaints and also for complaints brought by one State against another. However, there are strong admissibility requirements before a case can even be considered. For example, you need to ensure that your complaint has already been raised in the national courts of your country (up to the highest court!) before you can bring a case to the European Court. If you wish to try, and you believe that you satisfy the admissibility requirements, then you can bring a complaint using the official application form (available from the Secretariat). However, you are strongly advised to seek legal advice or the advice of NGOs working in the field in order to be sure that your claim has a real chance of success. Be aware that it can be a long and complicated process before a final judgement is given!

? **From whom can I claim my rights?**

Nearly all the basic human rights that are listed in the international documents are claims against *your government*, or state officials. Human rights protect your interests against the state, so you need to claim them from the state or from their representatives. If you feel that your rights are being violated by, for example, your employer or your neighbour, you cannot resort directly to international human rights legislation unless there is also something the government of the country ought to have done to prevent employers or neighbours from behaving in this way.

? **Does anyone have a duty to protect my rights?**

Yes. A right is meaningless without a corresponding responsibility or duty on someone else's part. Every individual has a *moral* duty not to violate your personal dignity but your government, in signing up to international agreements, has not just a moral duty but also a legal duty.

? **Are human rights only a problem in non-democratic countries?**

There is no country in the world that has a completely clean record on human rights, even today. There may be more frequent violations in some countries than others or they may affect a larger proportion of the population, but every single violation is a problem that ought not to have happened and that needs to be dealt with. An individual whose rights are violated in one of the established democracies is hardly likely to be comforted by the fact that, in general, their country has a 'better' record on human rights than other countries in the world!

? **Have we made any progress in reducing human rights violations?**

Great progress – even if it sometimes seems a mere drop in the ocean. Consider the abolition of slavery, the vote for women, the countries that have abolished the death penalty, the freeing of prisoners of conscience as a result of international pressure, the collapse of the apartheid regime in South Africa, the cases that have been tried before the European Court and the laws

that have had to be changed as a result. Consider the fact that the gradual change in international culture means that even the most authoritarian regimes now have to take human rights into consideration in order to be accepted on the international stage. There have been many positive results, particularly over the past 50 years, but a great deal more remains to be done.

Puzzlers

? How can we say that human rights are universal, when there are people all over the world who are suffering violations of their rights?

These people still *have* their rights. The fact that they are being treated in such a way contravenes not only moral norms but also internationally agreed norms. Their state representatives are culpable under international law, and some countries are indeed 'punished' by the international community, in the form of sanctions, or even by military means. However, such processes are often arbitrary, depending on other nations' interests rather than the degree of violation. There is not yet a permanent International Criminal Court before which perpetrators can be brought and tried, though one is due to be set up after ratification of the Rome Statute of the International Criminal Court by 60 countries. This will be a permanent court for trying individuals accused of committing genocide, war crimes and crimes against humanity. This is an important step towards recognising that universal human rights need to be enforceable in order to be of practical assistance.

? What use is the UDHR if it is not legally enforceable?

Even if there is not (yet) an international court before which governments can be tried under articles in the UDHR, this document has had enormous historical significance and continues even today to operate as a benchmark against which governments are judged internationally. Governments today know that if they wilfully infringe rights listed in the document, they face the possibility of condemnation by other governments and even some form of sanctions. The process is not always entirely objective (!) but it is certainly a start. The UDHR also formed the basis for nearly all of the international treaties that have been drawn up and which are (to a greater or lesser extent) enforceable.

? What use are 'human rights' to me, when my government violates the rights of ordinary people on a daily basis and has no concern for the disapproval of the international community?

Again - they are a start; they are better than having nothing at all and they will, under the right circumstances and with the right approach, be able to influence the government to change some, if not all, of its practices. This can sometimes seem a very distant hope, when violations by the government are particularly severe or particularly frequent, but history has shown, time and again, that it is possible. Also, opportunities today are probably better than they have been up until now. Promoting change can be a slow process, but the fact that individuals have these rights and that they are increasingly recognised throughout the world - and are therefore at least of *some* concern to governments - provides us with a powerful weapon and a valuable head start.

? If I respect the human rights of others, does that mean allowing them to do whatever they want?

Not if their desire involves violating your or anyone else's rights. But you may need to be careful

not to be too demanding over the extent of your own rights: you might find someone's behaviour annoying or misguided, but that need not necessarily be an infringement of your *rights*. Therefore, if you want others to allow you to behave as you wish, you may need to cultivate a more tolerant attitude towards the behaviour of others!

? Can I do anything, including using violence against someone, to defend my rights?

In general, no. But if it is a genuine case of self-defence, then a *legitimate use of force, appropriate to the threat against you*, may be admissible. It is not permissible as 'retribution' for the wrong you have suffered but only in order to protect yourself from further harm. Torture is never admissible.

? Why should I respect the rights of others if others do not respect my rights?

Partly because if you don't respect others' rights, you may get into trouble yourself; partly because others deserve your respect, simply because they are human; and partly because you can set an example to others that will make it more likely for them to respect you. In the end, though, it is probably down to you and the type of person you want to be or the kind of world you want to live in. So you could reflect on what it would say about *you* if you were to behave in the manner that you dislike in others. Or think about the type of world it would be if everyone violated everyone else's rights in a tit-for-tat manner.

? Why should those who violate the rights of others in the most inhumane way be regarded as subjects of 'human' rights?

This is perhaps the most difficult but also the most essential part of human rights theory to accept. It can sometimes seem that certain individuals are so lacking in humane characteristics that only blind faith could enable us to see them as human. The important points are perhaps the following:

- **Firstly**, despite some people's apparent inhumanity, every individual possesses some humanity. Villains love their mothers, their children, their husbands and wives – or *someone*. Villains feel pain, rejection, despair and jealousy; they desire to be appreciated, valued, supported, loved and understood. They *all*, every one of them, possess some, if not most, of these exclusively human emotions. That makes them human and deserving of our respect.
- **Secondly**, we do ourselves no good in desiring to hurt villains in the same way that they have hurt others: such feelings only make us less worthy of respect as well.
- **Thirdly**, even if, perchance, a villain were ever to emerge with 'human' form but without any human characteristics (and there has never been one yet), who among us could say with absolute certainty that he or she is Not A Human? On what criteria? On the basis, perhaps, that they are incapable of loving or being loved? But what if we turn out to be mistaken in that belief?

The third point reminds us that we need to consider the risks for humanity as a whole in setting up some people to judge others where the consequences of that judgement are terrible and irreversible. Do we really want a world where such judgements are made and where some people are simply designated as not possessing human rights and therefore as non-human? Without the absolute universality of all human rights, that is the type of world that we would have.