

The development of modern human rights

The nineteenth and early twentieth centuries saw continuing advances in social progress, for example, in the abolition of slavery, the widespread provision of education and the extension of political rights. Despite these advances, international activity on human rights remained weak. The general attitude was that nations could do what they liked within their borders and that other countries and the broader international community had no basis for intervening or even raising concerns when rights were violated.

This is expressed in the term 'state sovereignty', which refers to the idea that whoever has the political authority within a country has the power to rule and pass laws over that territory. Importantly, countries agree to mutually recognize this sovereignty. In doing so, they agree to refrain from interfering in the internal or external affairs of other sovereign states.

However, the atrocities and human rights violations that occurred during World War II galvanized worldwide opinion and made human rights a universal concern.

World War II onwards and the Creation of United Nations:

During World War II millions of soldiers and civilians were killed or maimed. The Nazi regime in Germany created concentration camps for certain groups - including Jews, communists, homosexuals and political opponents. Some of these people were used as slave labor, others were exterminated in mass executions. The Japanese occupation of China and other Asian countries was marked by frequent and large-scale brutality toward local populations. Japanese forces took thousands of prisoners of war who were used as slave labor, with no medical treatment and inadequate food.

The promotion and protection of human rights became a fundamental objective of the Allied powers. In 1941, U.S. President Roosevelt proclaimed the 'Four Freedoms' that people everywhere in the world ought to enjoy - freedom of speech and belief, and freedom from want and fear.

The war ended in 1945, but only after the destruction of millions of lives, including through the first and only use of atomic weapons at Hiroshima and Nagasaki. Many countries were devastated by the war, and millions of people died or became homeless refugees.

This new organization was the United Nations, known as the UN, which came into existence in 1945. As the war drew to a close, the victorious powers decided to establish a world organization that would prevent further conflict and help build a better world.

The UN was created to fulfil four key aims:

- to ensure peace and security
- to promote economic development
- to promote the development of international law
- to ensure the observance of human rights.

In the UN Charter, the UN's founding document, the countries of the United Nations stated that they were determined:

'... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small ... and to promote social progress and better standards of life in larger freedom ...'

The UN's strong emphasis on human rights made it different from previous international organizations. UN member countries believed that the protection of human rights would help ensure freedom, justice and peace for all in the future.

The Universal Declaration of Human Rights is generally agreed to be the foundation of international human rights law. Adopted in 1948, the UDHR has inspired a rich body of legally binding international human rights treaties. It continues to be an inspiration to us all whether in addressing injustices, in times of conflicts, in societies suffering repression, and in our efforts towards achieving universal enjoyment of human rights.

It represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, and that every one of us is born free and equal in dignity and rights. Whatever our nationality, place of residence, gender, national or ethnic origin, color, religion, language, or any other status, the international

community on December 10 1948 made a commitment to upholding dignity and justice for all of us.

Foundation for a Common Future

Over the years, the commitment has been translated into law, whether in the forms of treaties, customary international law, general principles, regional agreements and domestic law, through which human rights are expressed and guaranteed. Indeed, the UDHR has inspired more than 80 international human rights treaties and declarations, a great number of regional human rights conventions, domestic human rights bills, and constitutional provisions, which together constitute a comprehensive legally binding system for the promotion and protection of human rights.

Building on the achievements of the UDHR, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights entered into force in 1976. The two Covenants have developed most of the rights already enshrined in the UDHR, making them effectively binding on States that have ratified them. They set forth everyday rights such as the right to life, equality before the law, freedom of expression, the rights to work, social security and education. Together with the UDHR, the Covenants comprise the International Bill of Human Rights.

Over time, international human rights treaties have become more focused and specialized regarding both the issue addressed and the social groups identified as requiring protection. The body of international human rights law continues to grow, evolve, and further elaborate the fundamental rights and freedoms contained in the International Bill of Human Rights, addressing concerns such as racial discrimination, torture, enforced disappearances, disabilities, and the rights of women, children, migrants, minorities, and indigenous peoples.

Universal Values

The core principles of human rights first set out in the UDHR, such as universality, interdependence and indivisibility, equality and non-discrimination, and that human rights simultaneously entail both rights and obligations from duty bearers and rights owners, have been reiterated in numerous international human rights conventions, declarations, and resolutions.

Today, all United Nations member States have ratified at least one of the nine core international human rights treaties, and 80 percent have ratified four or more, giving concrete expression to the universality of the UDHR and international human rights.

How Does International Law Protect Human Rights?

International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.

Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. The domestic legal system, therefore, provides the principal legal protection of human rights guaranteed under international law. Where domestic legal proceedings fail to address human rights abuses, mechanisms and procedures for individual and group complaints are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level.

UDHR and Universality of Human Rights:

For human rights activists, the 1948 Universal Declaration of Human Rights (UDHR) is a sacred document. Its 30 different articles outline the political, economic, social rights that we are all entitled to – no matter who we are – because we are born human. By such reckoning, the universality of human rights is beyond question.

Created in the aftermath of the Second World War and the horrors of the holocaust, the declaration was an attempt to ensure that such a catastrophe could never ever take place again. The humanity of all peoples was to be acknowledged beyond recognition by all states, with no exceptions. From this point on, all humans were to be regarded as free and equal,

“with no distinction given to their race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” – Article 2, UDHRs

In spite of this, the universality of the document has been criticized by some, not least by members of the American Anthropological Association (AAA). They argue that by claiming human rights are universal, we ignore and undermine the cultural differences that exist between societies in different parts of the world.

How can one single document claim to represent every single person in the world, when our experiences are so different?

Our view of the world and our role in it is shaped by the society in which we live; and therefore our moral standards, the values which we emphasize as individuals, depend on our cultural upbringing. As a result, how can the UDHR possibly have the same meaning for everyone in the world?

For critics, the Universal Declaration of Human Rights is a Western-biased document which fails to account for the cultural norms and values which exist in the rest of the world. More than that, it is an attempt to impose Western values on everybody else.

“The West now masks its own will to power in the impartial, universalizing language of human rights and seeks to impose its own narrow agenda on a plethora of world cultures that do not actually share the West’s conception of individuality, selfhood, agency, or freedom” – Michael Ignatieff

In some ways they are right. Anyone reading the document will note the emphasis on individual rights as opposed to communal rights which tend to be more heavily emphasized in the non-Western world.

But are their arguments misguided? After all, the declaration was written by representatives from all over the world including Chile, China, Egypt, India, Pakistan and Lebanon, none of which would be classified as “Western”. Plus, two-thirds of the endorsing votes came from non-Western countries (48 in favor, none against and 8 abstentions). In addition,

“the members of the drafting committee saw their task not as a simple ratification of Western convictions but as an attempt to delimit a range of moral universals from within their very different religious, political, ethnic, and philosophical backgrounds” – Michael Ignatieff

By emphasizing the rights of individuals, the declaration was meant as an attempt to transcend cultural bias in such a way that it became relevant to all, no matter what their upbringing. Nevertheless, some still argue that the declaration represents a neo-colonialist attempt by the West to control the lives of those in the developing world. Such arguments have been used by authoritarian leaders and states to violate human rights (particularly those of women and children) under the guise of enforcing tradition.

For example, Saudi Arabia abstained from the vote on the declaration, arguing that Articles 16 and 18 (the rights for men and women to marry who they choose, and the right to freedom of religion) were in opposition to Islamic faith and teachings which emphasize patriarchal authority.

The UDHR is certainly not perfect, and yes, it can be argued that the document emphasizes individualism over community rights. But does this really mean that human rights are not universal? In their eagerness to promote the importance of cultural diversity and group rights, critics forget that all cultures are composed of individuals and regardless of our cultural upbringing; no two people think exactly the same.

Group rights are great in theory, but they can be used to suppress individuals who do not fit the hegemony of that group. By protecting individuals, human rights do not diminish the group, but merely ensure the protection of each and every individual within it. And in addition, culture is not static, but constantly evolving as people come into contact with new ideas and concepts. Because some cultures do not emphasize certain rights at the moment, does not mean that will always be the case.

In any case, human rights are compatible with cultural diversity. Every culture can pursue its own vision of a good life, as long as it doesn't impinge on the rights of the individuals who exist within that culture. As Ignatieff again states,

“This individualism renders human rights attractive to non-Western peoples and explains why the fight for those rights has become a global movement.

The language of human rights is the only universally available moral vernacular that validates the claims of women and children against the oppression they experience in patriarchal and tribal societies; it is the only vernacular that enables dependent persons to perceive themselves and as moral agents and to act against practices- arranged marriages, purdah, civic disenfranchisement, genital mutilation, domestic slavery, and so on-that are ratified by the weight and authority of their cultures. These agents seek out human rights protection precisely because it legitimizes their protests against oppression.”

Even countries where one might expect a cultural clash between the “Western” rights outlined in the UDHR and local traditions are not as common as one might expect. Three quarters of all world states have endorsed the declaration with a ratification rate of 88% and it has also been argued that a progressive interpretation of Sharia law can be compatible with universal human rights.

The declaration might not be perfect, and certainly there are issues regarding the enforcement of such rights. But to diminish them on the claim that they are “Western” and therefore incompatible with other cultures is dangerous. What matters is the purpose of human rights – not their origins – and their ability to protect the individual interests of the powerless, in all cultures.