

WHAT ARE HUMAN RIGHTS?

Source: Flowers, N. (1998). *Human Rights Here and Now*. Minneapolis: Human Rights Resource Centre. <http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Default.htm>

Human rights are the rights a person has simply because he or she is a human being.

Human rights are held by all persons equally, universally, and forever.

Human rights are **inalienable**: you cannot lose these rights any more than you can cease being a human being.

Human rights are **indivisible**: you cannot be denied a right because it is "less important" or "non-essential." Human rights are **interdependent**: all human rights are part of a complementary framework. For example, your ability to participate in your government is directly affected by your right to express yourself, to get an education, and even to obtain the necessities of life.

Another definition for human rights is those basic standards without which people cannot live in dignity. To violate someone's human rights is to treat that person as though she or he were not a human being. To advocate human rights is to demand that the human dignity of all people be respected.

In claiming these human rights, everyone also accepts the responsibility not to infringe on the rights of others and to support those whose rights are abused or denied.

Human Rights as Inspiration and Empowerment

Human rights are both inspirational and practical. Human rights principles hold up the vision of a free, just, and peaceful world and set minimum standards for how individuals and institutions everywhere should treat people. Human rights also empower people with a framework for action when those minimum standards are not met, for people still have human rights even if the laws or those in power do not recognize or protect them.

We experience our human rights every day in the United States when we worship according to our belief, or choose not to worship at all; when we debate and criticize government policies; when we join a trade union; when we travel to other parts of the country or overseas. Although we usually take these actions for granted, people both here and in other countries do not enjoy all these liberties equally. Human rights violations also occur everyday in this country when a parent abuses a child, when a family is homeless, when a school provides inadequate education, when women are paid less than men, or when one person steals from another.

The Universal Declaration of Human Rights

Rights for all members of the human family were first articulated in 1948 in the United Nations' Universal Declaration of Human Rights (UDHR). Following the horrific experiences of the Holocaust and World War II, and amid the grinding poverty of much of the world's population, many people sought to create a document that would capture the hopes, aspirations, and protections to which every person in the world was entitled and ensure that the future of humankind would be different. See Part V, "Appendices," for the [complete text](#) and a [simplified version](#) of the UDHR.

The 30 articles of the Declaration together form a comprehensive statement covering economic, social, cultural, political, and civil rights. The document is both universal (it applies to all people everywhere) and indivisible (all rights are equally important to the full realization of one's humanity). A [declaration](#), however, is not a treaty and lacks any enforcement provisions. Rather it is a statement of intent, a set of principles to which United Nations [member states](#) commit themselves in an effort to provide all people a life of human dignity.

Over the past 50 years the Universal Declaration of Human Rights has acquired the status of [customary international law](#) because most states treat it as though it were law. However, governments have not applied this customary law equally. Socialist and communist countries of Eastern Europe, Latin America, and Asia have emphasized social welfare rights, such as education, jobs, and health care, but often have limited the political rights of their citizens. The United States has focused on political and civil rights and has advocated strongly against regimes that torture, deny religious freedom, or persecute minorities. On the other hand, the US government rarely recognizes health care, homelessness, environmental pollution, and other social and economic concerns as human rights issues, especially within its own borders.

Across the USA, a movement is rising to challenge this narrow definition of human rights and to restore social, economic, and cultural rights to their rightful place on the human rights agenda. The right to eat is as fundamental as the right not to be tortured or jailed without charges!

Source: Adapted from Pam Costain, "Moving the Agenda Forward," *Connection to the Americas* 14.8 (October 1997): 4.

A Short History of Human Rights

The belief that everyone, by virtue of her or his humanity, is entitled to certain human rights is fairly new. Its roots, however, lie in earlier tradition and documents of many cultures; it took the catalyst of World War II to propel human rights onto the global stage and into the global conscience.

Throughout much of history, people acquired rights and responsibilities through their membership in a group – a family, indigenous nation, religion, class, community, or

state. Most societies have had traditions similar to the "golden rule" of "Do unto others as you would have them do unto you." The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran (Koran), and the Analects of Confucius are five of the oldest written sources which address questions of people's duties, rights, and responsibilities. In addition, the Inca and Aztec codes of conduct and justice and an Iroquois Constitution were Native American sources that existed well before the 18th century. In fact, all societies, whether in oral or written tradition, have had systems of propriety and justice as well as ways of tending to the health and welfare of their members.

Precursors of 20th Century Human Rights Documents

Documents asserting individual rights, such the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791) are the written precursors to many of today's human rights documents. Yet many of these documents, when originally translated into policy, excluded women, people of color, and members of certain social, religious, economic, and political groups. Nevertheless, oppressed people throughout the world have drawn on the principles these documents express to support revolutions that assert the right to self-determination.

Contemporary international human rights law and the establishment of the United Nations (UN) have important historical antecedents. Efforts in the 19th century to prohibit the slave trade and to limit the horrors of war are prime examples. In 1919, countries established the [International Labor Organization \(ILO\)](#) to oversee [treaties](#) protecting workers with respect to their rights, including their health and safety. Concern over the protection of certain minority groups was raised by the League of Nations at the end of the First World War. However, this organization for international peace and cooperation, created by the victorious European allies, never achieved its goals. The League floundered because the United States refused to join and because the League failed to prevent Japan's invasion of China and Manchuria (1931) and Italy's attack on Ethiopia (1935). It finally died with the onset of the Second World War (1939).

The Birth of the United Nations

The idea of human rights emerged stronger after World War II. The extermination by Nazi Germany of over six million Jews, Sinti and Romani (gypsies), homosexuals, and persons with disabilities horrified the world. Trials were held in Nuremberg and Tokyo after World War II, and officials from the defeated countries were punished for committing war crimes, "crimes against peace," and "crimes against humanity."

Governments then committed themselves to establishing the United Nations, with the primary goal of bolstering international peace and preventing conflict. People wanted to ensure that never again would anyone be unjustly denied life, freedom, food, shelter, and nationality. The essence of these emerging human rights principles was captured in President Franklin Delano Roosevelt's 1941 State of the Union Address when he spoke

of a world founded on four essential freedoms: freedom of speech and religion and freedom from want and fear (See [Using Human Rights Here & Now](#)). The calls came from across the globe for human rights standards to protect citizens from abuses by their governments, standards against which nations could be held accountable for the treatment of those living within their borders. These voices played a critical role in the San Francisco meeting that drafted the [United Nations Charter](#) in 1945.

The Universal Declaration of Human Rights

[Member states](#) of the United Nations pledged to promote respect for the human rights of all. To advance this goal, the UN established a [Commission on Human Rights](#) and charged it with the task of drafting a document spelling out the meaning of the fundamental rights and freedoms proclaimed in the Charter. The Commission, guided by Eleanor Roosevelt's forceful leadership, captured the world's attention.

On December 10, 1948, the [Universal Declaration of Human Rights \(UDHR\)](#) was adopted by the 56 members of the United Nations. The vote was unanimous, although eight nations chose to abstain.

The UDHR, commonly referred to as the international Magna Carta, extended the revolution in international law ushered in by the United Nations Charter – namely, that how a government treats its own citizens is now a matter of legitimate international concern, and not simply a domestic issue. It claims that all rights are [interdependent](#) and [indivisible](#). Its Preamble eloquently asserts that:

[R]ecognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.

The influence of the UDHR has been substantial. Its principles have been incorporated into the constitutions of most of the more than 185 nations now in the UN. Although a [declaration](#) is not a legally binding document, the Universal Declaration has achieved the status of [customary international law](#) because people regard it "as a common standard of achievement for all people and all nations."

The Human Rights Covenants

With the goal of establishing mechanisms for enforcing the UDHR, the UN Commission on Human Rights proceeded to draft two [treaties](#): the International Covenant on Civil and Political Rights (ICCPR) and its optional [Protocol](#) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together with the Universal Declaration, they are commonly referred to as the [International Bill of Human Rights](#). The ICCPR focuses on such issues as the right to life, freedom of speech, religion, and voting. The ICESCR focuses on such issues as food, education, health, and shelter. Both [covenants](#) trumpet the extension of rights to all persons and prohibit discrimination.

As of 1997, over 130 nations have [ratified](#) these covenants. The United States, however, has ratified only the ICCPR, and even that with many reservations, or formal exceptions, to its full compliance. (See [From Concept to Convention: How Human Rights Law Evolves](#)).

Subsequent Human Rights Documents

In addition to the covenants in the International Bill of Human Rights, the United Nations has adopted more than 20 principal treaties further elaborating human rights. These include conventions to prevent and prohibit specific abuses like torture and [genocide](#) and to protect especially vulnerable populations, such as refugees (Convention Relating to the Status of Refugees, 1951), women ([Convention on the Elimination of All Forms of Discrimination against Women](#), 1979), and children ([Convention on the Rights of the Child](#), 1989). As of 1997 the United States has ratified only these conventions:

The Convention on the Elimination of All Forms of Racial Discrimination

The Convention on the Prevention and Punishment of the Crime of Genocide

The Convention on the Political Rights of Women

The Slavery Convention of 1926

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

In Europe, the Americas, and Africa, regional documents for the protection and promotion of human rights extend the International Bill of Human Rights. For example, African states have created their own Charter of Human and People's Rights (1981), and Muslim states have created the Cairo Declaration on Human Rights in Islam (1990). The dramatic changes in Eastern Europe, Africa, and Latin America since 1989 have powerfully demonstrated a surge in demand for respect of human rights. Popular movements in China, Korea, and other Asian nations reveal a similar commitment to these principles.

The Role of Nongovernmental Organizations

Globally the champions of human rights have most often been citizens, not government officials. In particular, [nongovernmental organizations \(NGOs\)](#) have played a cardinal role in focusing the international community on human rights issues. For example, NGO activities surrounding the 1995 United Nations Fourth World Conference on Women in Beijing, China, drew unprecedented attention to serious violations of the human rights of women. NGOs such as Amnesty International, the Antislavery Society, the International Commission of Jurists, the International Working Group on Indigenous Affairs, Human Rights Watch, Minnesota Advocates for Human Rights, and Survivors International

monitor the actions of governments and pressure them to act according to human rights principles.

Government officials who understand the human rights framework can also effect far reaching change for freedom. Many United States Presidents such as Abraham Lincoln, Franklin Roosevelt, Lyndon B. Johnson, and Jimmy Carter have taken strong stands for human rights. In other countries leaders like Nelson Mandela and Václav Havel have brought about great changes under the banner of human rights.

Human rights is an idea whose time has come. The Universal Declaration of Human Rights is a call to freedom and justice for people throughout the world. Every day governments that violate the rights of their citizens are challenged and called to task. Every day human beings worldwide mobilize and confront injustice and inhumanity. Like drops of water falling on a rock, they wear down the forces of oppression and move the world closer to achieving the principles expressed in the Universal Declaration of Human Rights.

Source: Adapted from David Shiman, *Teaching Human Rights*, (Denver: Center for Teaching International Relations Publications, U of Denver, 1993): 6-7.

The United Nations and Human Rights

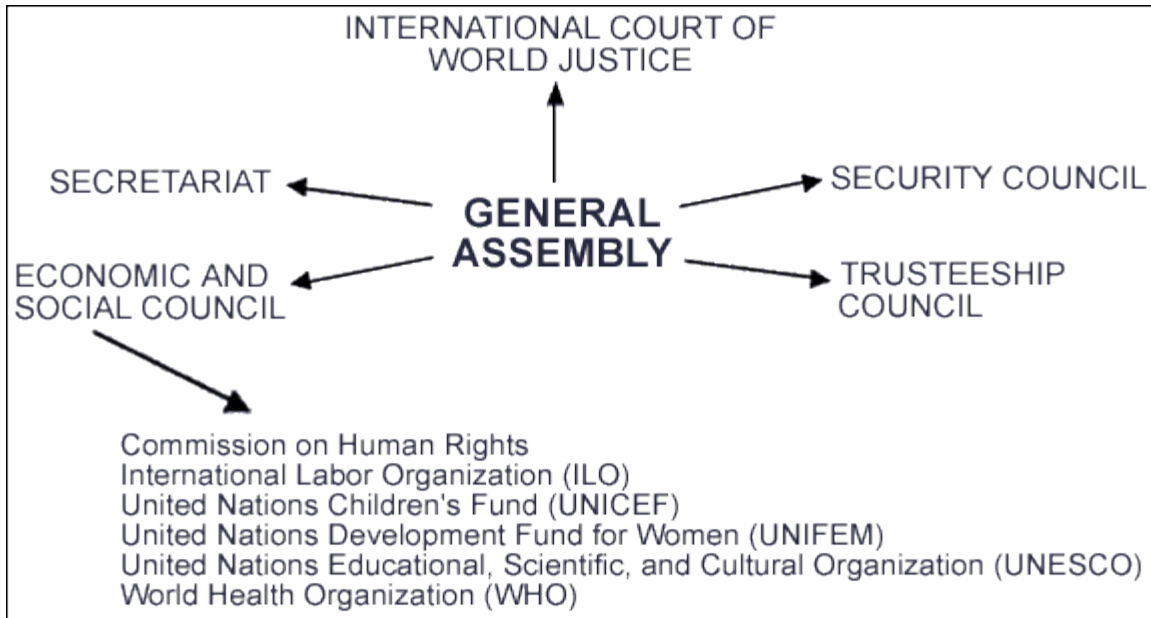
The [United Nations Charter](#) sets forth the "inherent dignity" and the "equal and inalienable rights of all members of the human family." Upholding these human rights principles as "the foundation of freedom, justice, and peace in the world" is fundamental to every undertaking of the United Nations.

The UN General Assembly

The United Nations currently comprises 185 [member states](#), all of which belong to the General Assembly. The General Assembly controls the UN's finances, makes non-binding recommendations, and oversees and elects members of other UN organs. It is the General Assembly that ultimately votes to adopt human rights [declarations](#) and [conventions](#), which are also called [treaties](#) or [covenants](#). For example, in 1948 when the [UN Commission on Human Rights](#) had completed its draft of the Universal Declaration of Human Rights, the General Assembly voted to adopt the document.

Other UN Bodies

In addition to the General Assembly, in which all member states are represented, there are five other main bodies of the United Nations that deal with different types of international concerns and administrative tasks.



Although human rights are fundamental to all functions of the UN, human rights issues mainly fall under the [**Economic and Social Council \(ECOSOC\)**](#). This council of fifty-four members elected by the General Assembly is responsible for coordinating all economic and social work of the UN and its affiliated institutions.

The Economic and Social Council oversees the work of many [**intergovernmental organizations \(IGOs\)**](#) and certain UN commissions, such as the [**UN Commission on Human Rights**](#).

Human Rights Council

Made up of 47 member states elected by the majority of members of the UN General Assembly, the Human Rights Council initiates studies and fact-finding missions and discusses specific human rights issues. It has responsibility for initiating and drafting human rights declarations and conventions.

[**ECOSOC**](#) also supervises [**intergovernmental organizations \(IGOs\)**](#), which are specialized agencies that function independently with their own charter, budget, and staff but are affiliated with the UN by special agreements. [**IGOs**](#) report to the [**ECOSOC**](#) and may be asked to review reports from certain UN bodies that are relevant to their area of focus.

Some intergovernmental organizations that work to protect human rights include:

[**International Labor Organization \(ILO\)**](#) – Develops international labor standards and provides technical assistance training to governments.

United Nations Children's Fund (UNICEF) – Works with other UN bodies, governments, and nongovernmental organizations to provide community-based services in primary healthcare, basic education, and safe water and sanitation for children in developing countries. Human rights are fundamental to its programming.

United Nations Development Fund for Women (UNIFEM) – Promotes economic and political empowerment of women in developing countries, working to ensure their participation in development planning and practices, as well as their human rights.

United Nations Educational, Scientific, and Cultural Organization (UNESCO) – Pursues intellectual cooperation in education, science, culture, and communications and promotes development through social, cultural, and economic projects.

World Health Organization (WHO) – Conducts immunization campaigns, promotes and coordinates research, and provides technical assistance to countries that are improving their health systems.

Other UN Bodies and Human Rights

The **UN Security Council**, comprising fifteen member states, is responsible for making decisions regarding international peace and security. It can make recommendations and decisions for action, including providing humanitarian aid, imposing economic sanctions, and recommending peacekeeping operations. The Security Council has been responsible for establishing international tribunals to prosecute serious violations of humanitarian law. For example, special tribunals have been set up to prosecute war crimes in the former Yugoslavia and acts of [genocide](#) in Rwanda.

The **Secretariat** is the administrative arm of the UN, responsible for overseeing the programs and policies established by the other UN organs. The position of UN High Commissioner on Human Rights, currently held by Mary Robinson, the former President of Ireland, is part of the UN Secretariat.

Sources: "The United Nations at a Glance," UNA-USA Factsheet; Frank Newman and David Weissbrodt, *International Human Rights: Law, Policy, and Process*: 9-12.

When you expand the civil rights struggle to the level of human rights, you can take the case of the Black man in this country before the nations of the United Nations. You can take it before the General Assembly. You can take Uncle Sam before the World Court.

But the only level you can do it on is the level of human rights. Human rights are something that you are born with. Human rights are your God-given rights. Human rights are the rights recognized by all the nations of this earth.

Malcom X
Speech in Cleveland, Ohio
April 3, 1964

From Concept to Convention: How Human Rights Law Evolves

In 1945 in San Francisco, 50 nations adopted the [United Nations Charter](#), a document setting forth the United Nations' goals, functions, and responsibilities. Article 1 of the Charter states that one of the aims of the UN is to achieve international cooperation in "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

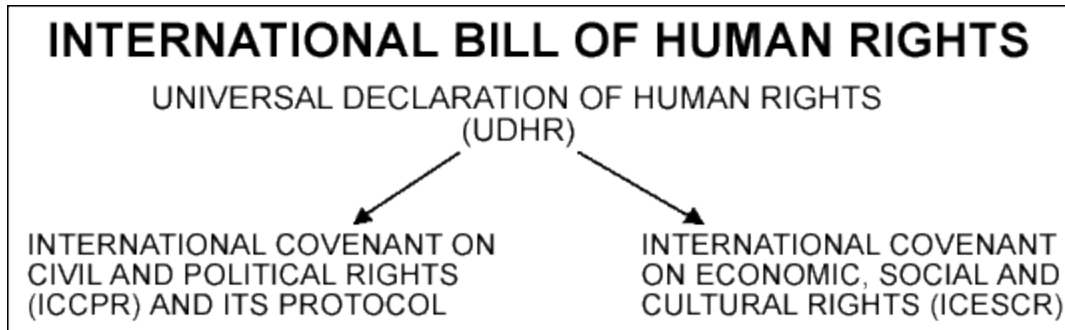
The goals of Article 1 of the Charter are of a general nature. For those goals to be achieved, specific "human rights and freedoms" needed to be defined first. Then laws and procedures had to be drawn up that would promote and protect those rights and freedoms. For these purposes, the [Commission on Human Rights](#) was established and charged with creating an [International Bill of Human Rights](#).

From Declaration to Convention

The [International Bill of Human Rights](#) consists of the [Universal Declaration of Human Rights \(UDHR\)](#), [The International Covenant on Civil and Political Rights](#) and its optional [Protocol](#), and [The International Covenant on Economic, Social, and Cultural Rights](#).

First in 1948 came the UDHR, which serves to define the basic human rights and freedoms to which all individuals are entitled. A [declaration](#) is not a legally binding document, however. For the rights defined in a declaration to have full legal force, they must be written into documents called [conventions](#) (also referred to as [treaties](#) or [covenants](#)), which set international norms and standards. When a government signs a convention, it becomes legally bound to uphold those standards.

Once the UDHR was drafted and adopted by the UN General Assembly, work began to [codify](#) the rights it contained into a convention. For political and procedural reasons, these rights were divided between two separate covenants, each addressing different categories of rights. The [International Covenant on Civil and Political Rights \(ICCPR\)](#) articulates the specific, liberty-oriented rights that a state may not take from its citizens, such as freedom of expression and freedom of movement. The [International Covenant on Economic, Social, and Cultural Rights \(ICESCR\)](#) addresses those articles in the UDHR that define an individual's rights to basic necessities, such as food, housing, and health care, which a state should provide for its citizens, in so far as it is able. Both covenants were adopted by the UN in 1966.



Reporting and Monitoring

Every convention contains articles that establish procedures for monitoring and reporting how states parties, governments that have ratified the document, are complying with it. Both Covenants, for example, provide for a body of independent experts to monitor governmental compliance with treaty provisions. Articles in the ICCPR establish a Human Rights Committee consisting of 18 independent experts, who examine progress reports from states that are party to that Covenant. The Committee also can consider complaints of one member state against another. In addition, the ICCPR provides a complaint procedure through which individuals can have grievances against their government heard in an international forum.

When a UN member state ratifies a convention, it agrees to abide by the provisions of the convention, consent to be monitored, change its laws to conform to the convention, and report at regular intervals on its progress in doing so. Relevant parts of these reports are also forwarded to the specialized UN-affiliated intergovernmental organizations such as the World Health Organization (WHO) and the International Labor Organization (ILO) for their review and recommendations.

Steps in the Evolution of Conventions

Before they become codified as binding law, human rights concepts must pass through a lengthy process that involves consensus building and practical politics at the international and national levels.

- 1) **Drafted** by working groups. The UN General Assembly commissions working groups consisting of representatives of UN member states, as well as representatives of intergovernmental and **nongovernmental organizations (NGOs)**.
- 2) **Adopted** by vote of the UN General Assembly.
- 3) **Signed** by member states. When member states sign the convention, they are indicating that they have begun the process required by their government for ratification. In signing, they are also agreeing to refrain from acts that would be contrary to the objectives of the convention.

4) **Ratified** by member states. When a member state ratifies a convention, it signifies its intention to comply with the specific provisions and obligations of the document. It takes on the responsibility to see that its national laws are in agreement with the convention. There is also a process by which states can ratify the convention, but also indicate their **reservations** about specific articles.

5) **Entered into force**. A convention goes into effect when a certain number of member states have ratified it. For example, the **ICCPR** and **ICESCR** were adopted in 1966; however, they did not enter into force until 1976 when the specified number of 35 member states had ratified them.

The Evolution of Human Rights Law

Since 1948 the UDHR has served as the foundation for 20 major human rights conventions. Many human rights conventions have entered into force; some are still in the process of ratification. Others, such as a convention on the rights of indigenous peoples and a convention on environmental rights, are presently being drafted. As the needs of certain groups of people are recognized and defined and as world events point to the need for awareness and action on specific human rights issues, international human rights law continuously evolves in response.

The ultimate goal is to protect and promote the basic human rights of every person, everywhere.



Sources: Hurst Hannum, *Guide to International Human Rights Practice*; Leah Levin, *Human Rights Questions and Answers*; Frank Newman and David Weissbrodt, *International Human Rights: Law, Policy, and Process*.

Injustice anywhere is a threat to justice everywhere

-Martin Luther King



Principal Human Rights Conventions

- Convention on the Prevention and Punishment of the Crime of Genocide, 1948
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others, 1949
- Convention Relating to the Status of Refugees, 1951
- Slavery Convention of 1926, Amended by Protocol, 1953
- Convention on the Political Rights of Women, 1953
- Convention on the Nationality of Married Women, 1957
- Convention on the Reduction of Statelessness, 1961
- Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, 1962
- International Covenant on Civil and Political Rights, 1966
- International Convention on the Elimination of all forms of Racial Discrimination, 1966
- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 1968
- International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973
- Convention on the Elimination of all Forms of Discrimination against Women, 1979
- Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, 1984
- Convention on the Rights of the Child, 1989
- Convention on the Rights of Migrant Workers and the Members of their Families, 1990
- Convention on the Rights of Persons with Disabilities (2006)

Note: Date refers to the year the UN General Assembly adopted the convention.