

Human Rights

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Human Rights



Cover Photo: UN Photo #428063 by Olivier Chassot. Children at Abu Shouk Internally Displaced Persons (IDP) Camp on the outskirts of El Fasher, Sudan, are photographed during a visit from the newly appointed Independent Expert on the situation of Human Rights in the Sudan, Justice Mohamed Chande Othman. 3 February 2010.

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Human Rights

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Foreword

Over a mere 60 years, the international human rights system has become an important part of the legal, moral, and political landscape. Human rights talk is everywhere: it is the language we use to express our needs, our desires, and what we see as our entitlements. It provides a way for us to think about tragic events, a lens through which to view and critique our society, and a set of aspirations that make up the core of liberal ideology.

This course is intended to be a short guide through the “babble of international instruments” that make up the text of human rights theory and practice.¹ We will cover the main international legal events, a little history, a little philosophy, and examine the ways in which human rights have and have not been used for the protection of individuals and groups. We will focus primarily on international materials, but will also look at some regional practice. Domestic systems of human rights protection, despite their importance, will not be covered here.

Along the way, we will explore multiple perspectives on human rights (e.g. liberal, feminist, post-colonial), and ask critical questions about how the international human rights movement has articulated and pursued its goals.

Throughout the course, students are encouraged to think of themselves “not as novices within an established, even frozen framework of ideas and institutions, but rather as moulders and architects of the movement’s ongoing development”.²

The international system for the protection of human rights continues to grow and change, and there are important new developments every year. As such, it is important that students take the initiative to keep up with their research, and seek to use the background and critical thinking skills that they gain in this course to analyse events in the coming years.

–Jessica C. Lawrence
February 2012



View a video introduction of this lesson
at <[https://www.peaceopstraining.org/
videos/28/course-introduction/](https://www.peaceopstraining.org/videos/28/course-introduction/)>.

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- 1) Patrick Thornberry, “An Unfinished Story of Minority Rights”, in *Diversity In Action*, A.M. Biró and Kovács, eds. (Budapest, Central European University Press, 2001), 47.
 - 2) Henry J. Steiner, Philip Alston, and Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals* (Third Edition) (Oxford, Oxford University Press, 2007), preface.

Method of Study

This self-paced course aims to give students flexibility in their approach to learning. The following steps are meant to provide motivation and guidance about some possible strategies and minimum expectations for completing this course successfully:

- Before you begin studying, first browse through the entire course material. Notice the lesson and section titles to get an overall idea of what will be involved as you proceed.
- The material is meant to be relevant and practical. Instead of memorizing individual details, strive to understand concepts and overall perspectives in regard to the United Nations system.
- Set personal guidelines and benchmarks regarding how you want to schedule your time.
- Study the lesson content and the learning objectives. At the beginning of each lesson, orient yourself to the main points. If possible, read the material twice to ensure maximum understanding and retention, and let time elapse between readings.
- At the end of each lesson, take the End-of-Lesson Quiz. Clarify any missed questions by re-reading the appropriate sections, and focus on retaining the correct information.
- After you complete all of the lessons, prepare for the End-of-Course Examination by taking time to review the main points of each lesson. Then, when ready, log into your online student classroom and take the End-of-Course Examination in one sitting.

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- A note about language: This course uses English spelling according to the standards of the Oxford English Dictionary (United Kingdom) and the United Nations Editorial Manual.

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LESSON

1

History and Philosophical Foundations of Human Rights



UN Photo #84550 by Kari Berggrav.

Human rights is a language we use to express our needs, our goals, and what we see as our entitlements.

In this lesson »

- Section 1.1 Conceptual and Philosophical Foundations
- Section 1.2 Human Rights Before the Second World War
- Section 1.3 The Universal Declaration and the Age of Norm-Setting and Codification
- Annex I The Universal Declaration of Human Rights

Lesson Objectives »

- Define the term “human rights”.
- Discuss the conceptual and philosophical foundations of human rights.
- Describe the historical background of the international human rights system.
- Discuss the role played by State sovereignty in the history of human rights.
- Understand which rights are contained in the Universal Declaration of Human Rights.



The first session of the United Nations General Assembly opened on 10 January 1946 at Central Hall in London, United Kingdom. Clement Attlee, Prime Minister of the United Kingdom, addressing the General Assembly. 10 January 1946. UN Photo #71052 by Marcel Blolomey.

Section 1.1 Human Rights: Conceptual and Philosophical Foundations

Introduction

Human rights are discussed everywhere. On any given day, we read news stories about people fighting for human rights around the world; we argue about free speech and religious tolerance; we make claims about what our governments should and should not be allowed to do. Human rights is a language we use to express our needs, our goals, and what we see as our entitlements.



View a video introduction of this lesson at <https://www.peaceopstraining.org/videos/113/lesson-1-history-and-philosophical-foundations-of-human-rights/>.

It provides a way for us to think about tragic events — a lens through which to view and critique our society — and is a set of aspirations that make up the core of liberal ideology. Human rights have become, in Richard Rorty's words, "a fact of the world".¹

But human rights is not just a way of thinking, it is also a set of legal and political doctrines. These doctrines limit government power and shape individual expectations. They privilege certain behaviours and prohibit others. Their structure reflects the particular historical context out of which they evolved, and their contours have stretched and changed with the shifting landscape of global society.

In this introductory lesson, we will define human rights and discuss the evolution of the concept from its modern origins to the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. We will explore how and why the human rights system developed as it did and encounter some alternative perspectives on what it has meant for various groups of people.

As you read through this lesson, and through the rest of the course, try to think critically about the "story" that it tells. Ask yourself:

- Who gains and who loses?
- Who makes the rules?
- Who and what is left out?
- Could things have happened differently? How?
- Could the story be told in another way?

Definition

The term *human rights* describes rights or entitlements that inherently belong to every human being by virtue of their personhood. Human rights are the set of fundamental moral rights that are considered necessary for a life of human dignity, and are premised on respect for the equality and autonomy of individuals. Human rights are:

- **Universal:** they are held by every person, everywhere, regardless of race, sex, nationality, religion, language, class, or any other status;
- **Inalienable:** they cannot be renounced, lost, or forfeited; and
- **Indivisible, interdependent, and interrelated:** they are intrinsically connected and must not be viewed in isolation from one another.²

All human beings hold human rights equally. In practice, however, all people may not enjoy the protection of their rights at all times. For example, although all persons have a right to be free from inhuman or degrading treatment, there are people all over the world who are suffering in overcrowded and unsanitary prisons, and who are subjected to humiliating punishment, and tortured. These people have not *lost* their rights, but their rights have been violated.

1) Richard Rorty, "Human Rights, Rationality, and Sentimentality", in *On Human Rights: The Oxford Amnesty Lectures 1993*, Stephen Shute and Susan Hurley, eds. (New York: BasicBooks, 1993), 134.

2) See: A/CONF.32/41, *Proclamation of Teheran, Final Act of the International Conference on Human Rights*, para. 13; and A/CONF.157/23, "Vienna Declaration and Programme of Action", para. 5.

On the Complexity of Human Rights »

“There is no more ambiguous word in legal and juristic literature than the word right.”

—Roscoe Pound
from *Volume IV of Jurisprudence*

It is important to distinguish between moral rights and legal rights. Not all things that are desirable, or “right” in the sense of “good”, are legal human rights. For example, it would be wonderful if everyone were given the opportunity to learn to play a musical instrument. This would be a moral good, and we may use the language of rights to express this desire (a “right” to learn to play), but there is no legal human right that protects this desirable good.

Human rights structure relationships between people and the State, and, indirectly, between one person and another. Human rights protect the dignity of human beings against intrusions. They privilege some actions, and prohibit others. In this way, they help to define the boundaries between individual persons and the State, and also between one individual and another. As Karl E. Klare wrote, “the human rights project is to erect barriers between the individual and the State, so as to protect human autonomy and self-determination from being violated or crushed by governmental power”.³

Rights are attached conversely to *duties*. If a person has the right to freedom from torture, then the State has a corresponding duty not to torture her.

Human rights set rules for behaviour that “trump” or outrank the everyday rules established by political bodies like State and local governments.⁴ However, rights are not absolute. They must be balanced against one another. For example, suppose Johan wants to walk across Angela’s lawn to get to a party. Angela, though, has just planted new grass, and does not want Johan to walk across it. In this case, Johan’s right to freedom of movement must be balanced against Angela’s right to own and protect her property. This balancing is highly contextual, and depends to a large extent on the factors of each specific case (for example, if Johan were trying to get to the hospital instead of a party, we might be more sympathetic to his desire to walk across Angela’s lawn). In addition, governments may be allowed to infringe on or restrict some human rights for compelling reasons, or during periods of emergency.⁵

International human rights law is a set of rules about how governments must act, or refrain from acting, in order to protect and promote the rights and fundamental freedoms of individuals and groups. It is the formal legal codification of human rights at the international level.

Under international human rights law, rights:

- Belong to a right-holder (the person who has the right);
- Have an object (what the right-holder has a right to); and
- Impose an obligation on an addressee (the party that is obliged to do or not do something to provide the right-holder with the object of the right).⁶

3) Karl E. Klare, “Legal Theory and Democratic Reconstruction: Reflections on 1989”, *University of British Columbia Law Review*, vol. 25, No. 97, 1991.

4) Ronald Dworkin, “Rights as Trumps”, in *Theories of Rights*, Jeremy Waldron, ed. (Oxford: Oxford University Press, 1984), 153.

5) The ability to limit or derogate from certain human rights will be discussed in subsequent lessons (e.g. Lessons 2, 3, and 12).

6) James W. Nickel and David A. Reidy, “Philosophical Foundations of Human Rights”, in *International Human Rights Law*, Daniel Moeckli et al., eds. (Oxford: Oxford University Press, 2009), 39–63.

Foundations of Human Rights >>

“People may not agree why we have rights, but they can agree that they need them.”

—Michael Ignatieff

from *Human Rights as Politics and Idolatry* (2003)

For example, with respect to “the right to life”, the right-holders are all individuals, the object is “life”, and the addressee is the State, which is responsible for ensuring that the individual’s life is protected.

Now that we know what human rights are, we will turn to a second question: Where did human rights come from? Furthermore, who made the rules? How did they become universal obligations that apply to everyone, everywhere, all the time?

Philosophical foundations

While the human rights norms — rules, standards, and principles — that we speak of today are modern creations, their philosophical origins can be traced back all the way back to ancient Greece, and some say even further.⁷ An oft-used starting point is Sophocles’s play *Antigone*, which was written in the fifth century B.C. In that play, Antigone’s brother has been killed while traitorously fighting against her kingdom. The king tells Antigone that her brother must remain unburied as punishment for his treachery, but she defies the commands of her king, and claims the right to give her brother a proper funeral:

“Your edict, King, was strong,
But all your strength is weakness itself against
The immortal unrecorded laws of God.
They are not merely now: they were, and shall be,
Operative forever, beyond man utterly.”⁸

Antigone’s argument is significant because it appeals to a *natural law* — a law of the gods or of nature — that must prevail over the orders of the king. This natural law addresses all people everywhere, and trumps all man-made rules and customs.

The idea of natural law persisted through the next several centuries, waxing and waning in importance with the changing political times. During the European Enlightenment of the seventeenth and eighteenth centuries, however, it assumed a central role. The ideas of rights and constitutionalism that infused the philosophies of Locke, Montesquieu, and Rousseau drew heavily on this idea of a natural law that protected individual rights against the whims of the sovereign.

This new liberal Enlightenment philosophy inspired a number of national movements that sought to enforce the rights of individuals against the power of the State: the Glorious Revolution in England, the establishment of a

7) For an excellent selection of early secular and religious writings on liberty, tolerance, and codes of justice, see Micheline Ishay’s *The Human Rights Reader*, 2007.

8) Sophocles, “Antigone”, in *The Oedipus Cycle: An English Version*, Dudley Fitts and Robert Fitzgerald, trans. (New York: Harcourt, Brace & World, 1949).

constitutional government in the United States, and the “French Declaration of the Rights of Man and of the Citizen” are all examples of Enlightenment-inspired movements. Documents like the American Declaration of Independence and Bill of Rights, the “French Declaration of the Rights of Man and of the Citizen”, and the national constitutions of Mexico⁹ and Gran Colombia¹⁰ placed individual rights at the centre of the political order, establishing that each person has inalienable natural rights and that the primary purpose of a government is to secure those rights for its people.

Today, our idea of human rights is still tied to the ideas of natural law and liberal individualism. “Human rights” is premised on the notion that there are certain limits to government power based on a set of higher principles that protect the individual. Modern philosophers disagree, however, about where these natural laws came from, how they were discovered, and whether they are really “law” or just a set of pragmatic principles by which we have all agreed to abide. In other words, there is a lot of disagreement about why we have rights. Different theorists locate the origins or moral foundations of human rights in:

- **God:** the equal creation of human beings by God;
- **Nature:** the equal creation of human beings in nature;
- **Human dignity:** the protection of individuals from threats to their dignity;¹¹
- **Human agency:** the protection of human beings as purposive moral agents;¹²
- **Human needs:** the protection of those things that human beings need to survive; or
- **Collective prosperity:** the need for all people to follow certain rules in order to prosper as a group.¹³

None of these foundations has ever been universally accepted across all cultures. This inexhaustive list of moral groundings ranges widely across the philosophical spectrum, and even people from similar philosophical traditions disagree strongly about which of these foundations should serve as the basis for human rights. Jeremy Bentham, for example, famously rejected the idea that rights were grounded in natural law in favour of a pragmatic utilitarian vision: “Natural rights is simple nonsense: natural and imprescriptible rights, rhetorical nonsense — nonsense upon stilts.”¹⁴

Disagreements about the moral foundations of human rights are important because these foundations can have an impact on both the scope of human rights and its claims to universality.

These disagreements can lead to conflict about the scope or content of human rights. For example, if “human rights” means “things that human beings need to survive”, then protecting a “right to culture” might seem superfluous. However, if “human rights” means “the things people need to prosper”, then the “right to culture” becomes much more fundamental.

The lack of a consensus with respect to the moral foundations of human rights also calls the universality of human rights into question. Because the current system of international human rights law grew out of Western European Enlightenment philosophy, some people argue that human rights is a Eurocentric idea that is biased against non-Western countries and cultures. These “cultural relativists” believe that far from being universal, liberal individualism and human rights are philosophies drawn exclusively from the European experience. They argue that human rights doctrine ignores alternative forms of knowledge, such as those developed by collectivist or hierarchical

9) The Political Constitution of the Mexican United States, 1824.

10) Constitution of Cúcuta, 1821.

11) See: Jack Donnelly, *Universal Human Rights in Theory and Practice*, 1989.

12) See: James Griffin, *On Human Rights*, 2008, 33–56; Alan Gerwith, *Human Rights*, 1983.

13) See: John Rawls, *The Law of Peoples*, 1999.

14) Jeremy Bentham, “Anarchical Fallacies”, in *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man*, Jeremy Waldron, ed. (London: Methuen Publishing, 1987), 53.

cultures, and question why some rights, but not others, have been included in international human rights law. Others see human rights as a means for capitalist States to paper over the dark side of liberal individualism and hide the reality of class struggle behind a false screen of egalitarianism.

Agreement on a single moral foundation, however, is not necessarily indispensable for the practice and application of human rights. Indeed, many scholars argue that having plural groundings actually makes the system more legitimate by allowing it to appeal to a broader range of groups than insistence on a single foundation would permit.¹⁵

One thing is certain: whether their foundations are single or plural, questionable or not, human rights are now indisputably a global political phenomenon. States all over the world, from the most democratic to the most oppressive, feel compelled to express their support for human rights, and many incorporate human rights principles as integral parts of their national ideologies. As scholar John Tasioulas notes: “discourse of human rights in recent times [has been elevated] to the status of an ethical lingua franca”.¹⁶

How, though, did this concept of individual rights move from the national to the international sphere? How and when did it become the responsibility of the international community to ensure the protection of individual human rights?

Section 1.2 Human Rights Before the Second World War

Human rights, the State, and international law

The history of human rights is inextricably bound up with the history of the modern State. On the one hand, the State is the organization best suited to, and primarily responsible for, protecting the human rights and fundamental freedoms of its citizens. Indeed, protections for individual freedoms were first introduced and codified in the context of the State. On the other hand, States have often been the perpetrators of human rights abuses, and are frequently the very organizations against which individual rights must be protected.

Human rights mediate this distinction between the State as protector and the State as abuser. They set the boundary between legitimate and illegitimate intrusions by the State on individual dignity and autonomy, drawing the line between acceptable and unacceptable exercises of State power. In other words, they are a way for individuals to enforce their own power against their government and its laws and actions.

In an open society with an established and independent judiciary system, individuals can enforce their human rights against the State by bringing claims before national courts. The court hears the case and makes a judgment on whether the State’s action was permissible or not. This judgment is then enforceable against the State and the individual. For example, if the State of Arcadia imposes a law that prevents blonde-haired people from voting, those affected can bring a case against the government in Arcadia’s courts, and get a judgment saying that they must be allowed to vote. The police of Arcadia would then be obliged to enforce this ruling.

Unfortunately, not every country has strong police and judiciary systems. Laws may be unclear or inadequate, police and judges may lack the resources to act, officials may demand bribes before proceedings can begin, or the courts may not be independent from the legislative and executive branches of government. Even when the police and

15) Michael Ignatieff, *Human Rights as Politics and Idolatry*, Amy Gutmann, ed. (Princeton: Princeton University Press, 2003).

16) John Tasioulas, “The Moral Reality of Human Rights,” in *Freedom from Poverty As a Human Right: Who Owes What to the Very Poor?* Thomas Pogge, ed. (Oxford, Oxford University Press, 2007), 75. See also: Jürgen Habermas, *Religion and Rationality: Essays on Reason, God, and Modernity*, Eduardo Menieta, ed. (Cambridge: The MIT Press, 2002), 153–154.: “Notwithstanding their European origins, ... in Asia, Africa, and South America, [human rights now] constitute the only language in which the opponents and victims of murderous regimes and civil wars can raise their voices against violence, repression, and persecution, against injuries to their human dignity.”

judiciary are strong, State governments may ignore their responsibility to protect the human rights of individuals. When this happens, how can human rights be enforced?

One way is through intervention by other States or by the international community under the aegis of international law.

Traditionally, international law was defined as the law that governed relations between and among sovereign States. Sovereignty, in this context, referred to the idea that States are autonomous political units that recognize no higher authority. Under this system, sovereign States had total control of what happened within their borders, and other States had an obligation not to intervene in their domestic affairs (known as the principle of non-intervention). The States imagined by this system are sometimes compared to billiard balls: solid, opaque and impenetrable spheres that interact with one another only as unified wholes. This international order based on the principles of sovereignty and is known as the Westphalian system, because many scholars trace its origins to the 1648 Peace of Westphalia, which ended the Thirty Years' War in Europe.

The "Billiard Ball" Model

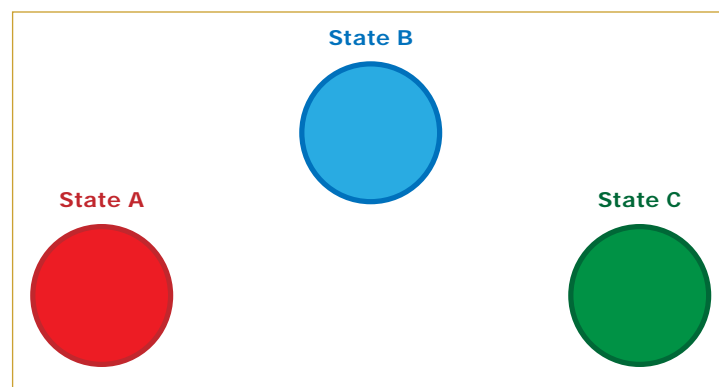


Figure 1-1

Under this system of State sovereignty, only States, not individuals, could be the subjects of, or the right-holders under, international law. Individuals existed only as objects of international law: any obligations owed to them were deemed to be obligations to their State of nationality. A State could bring a claim against another State on behalf of its own mistreated citizens, but these claims were made under the legal theory that an injury done to a citizen of a State was an injury done to that State, not under any theory of direct protection of individuals. How a State treated its own nationals or Stateless persons was neither the business of international law nor of other States. The veil of sovereignty was largely impermeable. Under this system, human rights were a domestic political matter, and the international community had no right to intervene. As one scholar put it:

"Until World War II, most legal scholars and governments affirmed the general proposition, albeit not in so many words, that international law did not impede the natural right of each equal sovereign to be monstrous to his or her subjects."¹⁷

It may seem surprising that it was only very recently that international law began to apply to individuals as well as to States, and that human rights became a subject of international concern and regulation. In fact, there

17) Tom J. Farer and Felice Gaer, "The UN and Human Rights: At the End of the Beginning", in *United Nations, Divided World* (Second Edition), Adam Roberts and Benedict Kingsbury, eds. (Oxford: Oxford University Press, 1993), 240.

were exceptions to the hard-and-fast rule of State sovereignty that gave nations total control within their borders. These exceptions, though, were limited by the nature of the system of sovereign States to a very narrow range of issues that could be said to “directly concern” foreign States in the sense of infringing on their political or economic interests.

International human rights law represented a major change from this traditional pattern. In the eighteenth and nineteenth centuries, concern for the rights of individuals and groups began to appear in international law, and States began to acknowledge that certain human rights situations were legitimate targets for international action.

One of the earliest human rights movements was the effort to abolish the slave trade, and later the holding of slaves, in Europe and the Americas. Beginning with the 1815 Congress of Vienna, the major powers of Europe¹⁸ worked together to draft treaties that called for an end to the international slave trade. Even with respect to slavery, however, the early treaties dealt only with the international trade of slaves — that is, the transportation of slaves between States — and not with slavery per se, or the treatment of slaves within States. It would take more than a hundred years before a major international treaty abolished slavery altogether.¹⁹

Modern international human rights law is grounded in a number of historical legal doctrines and institutions dating from the period before the Second World War. In particular, early international laws governing the protection of minorities, State responsibility for injuries to aliens, and humanitarian intervention formed the backbone of pre-WWII international human rights practice.

Protection of minorities and the League of Nations

Some of the earliest international human rights treaties were designed to protect minority rights. For example, following the “liberation” of the Balkans from Turkish domination in nineteenth century, nations signed international agreements to protect Christian minorities in the Ottoman Empire.²⁰ These treaties were selective in their application and, some have argued, could be said to have imperialistic rather than altruistic aims. Nevertheless, they represented an internationalization of certain human rights issues, allowing States to intervene in other States’ affairs on behalf of protected populations.

Following the First World War, there was renewed interest in protecting the rights of minorities. In his “Fourteen Points” and elsewhere, then-United States President Woodrow Wilson stressed the ideals of freeing minorities and self-determination of peoples as key components of liberal nationalism. He went so far as to propose the inclusion of generalized norms of minority protection in the 1920 Covenant of the League of Nations, but the other major powers rejected this approach.²¹ In the end, the Covenant of the League of Nations did not include any general provisions on human rights. It did, however, contain two articles establishing protections for certain groups:

- **Article 22** transformed colonies held by States that lost the First World War into “League Mandates” to be administered by the victorious powers pursuant to “the principle that the well-being and development of [native] peoples form a sacred trust of civilisation ... ”



The medallion of the British Society for Abolition of the Slave Trade. 1795. Josiah Wedgwood.

18) The “Great Powers” of Europe at the time were Austria, France, Russia, the United Kingdom, and Prussia.

19) Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia: University of Pennsylvania Press, 2003), 37–45.

20) These agreements included the Treaty of Paris (30 March 1856) and the Treaty of Berlin (13 July 1878).

21) Henry J. Steiner, Philip Alston, and Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals* (Third Edition) (Oxford: Oxford University Press, 2007), 98.

- **Article 23** obliged States, among other things, to “endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend”. It also called for the establishment of an international organization to promote this objective, which led to the establishment of the International Labour Office (now the International Labour Organization).

In addition to these two articles, the League of Nations served as guarantor for the system of so-called Minorities Treaties that were imposed on the States of Central and Eastern Europe. This “minorities system” was established by a series of post-First World War treaties that included provisions for the protection of ethnic and religious minorities.²² Under these treaties, nations agreed not to discriminate against protected minorities, and also to grant certain special protections necessary for the preservation of minority religious, ethnic and linguistic traditions. The League of Nations helped to ensure compliance with these provisions by developing a system for reviewing petitions alleging violations of minority rights. According to this system, a Committee of Three of the League Council would hear the petition as well as arguments by the States, and give its opinion on the complaint.

This early protection of group rights was a significant development.²³ Though it faded quickly and was ultimately incapable of halting the tragic events of the Second World War, it represented a clear incursion on the State’s absolute internal control over its citizens.²⁴ These advances were not made in a purely altruistic spirit, nor did they represent a complete shift from the earlier phase of intervention only on the grounds of potential damage to a State’s political or economic interest. In fact, minority rights were promoted by the victorious States following the First World War largely as a strategy to preserve international peace, and were enforced only within the borders of recently defeated or newly created nation-States, not within the territories or colonies of the victors. Nevertheless, they formed one of the early pillars of human rights law, and one that paved the way for innovations to come.

State responsibility for injuries to aliens

As noted in Section 1.2, while individuals were not directly granted any rights under international law, States could bring claims against other States on behalf of their own nationals. When and how States could do this was governed by the **doctrine of State responsibility for injuries to aliens**. Basically, the doctrine applied in situations where a citizen of State X was directly injured by the government of State Y — if State Y, for example, imprisoned the foreign citizen without a trial, or seized her property without due process or adequate compensation. After suffering such an injury in contravention of so-called “minimum standards of treatment”, under international law, the citizen of State X would first be required to exhaust local remedies by bringing suit in the courts of State Y, and then, if the courts of State Y were unavailable or refused to help, the citizen of State X could turn to international law and ask for the diplomatic protection of State X. At that point, the dispute would be transformed into a dispute between States X and Y. It remained up to State X, however, to decide whether or not and to what extent it would intervene. Depending on the circumstances, it could commence informal talks with State Y; make a formal diplomatic protest; exert economic, political, or even military pressure against State Y; bring the case before an international tribunal; or do nothing.²⁵

The doctrine of State responsibility grew out of a number of different channels, including diplomatic protests, arbitral decisions, inter-State negotiations, and scholarly writings. It reflected the increasing identification of the individual with the State and the rise of the age of nationalism. It was also partially a product of Western colonialism

22) Treaty of Versailles, 28 June 1919.

23) For more on group rights, see Lessons 6 and 7 on “collective” rights and Lesson 10 on the rights of minorities.

24) Henry J. Steiner, Philip Alston, and Ryan Goodman, 106.

25) *Ibid.*, 86–87.

and imperialism, and the desire to protect the corporate and individual nationals of Western States against actions taken by Third World or developing States.²⁶ Nevertheless, it represented an important step in the creation of an international norm that individuals should enjoy some basic protection of their rights irrespective of their national origin.

International Humanitarian Law

International humanitarian law (IHL), known as *jus in bello* or “law of war”, governs the protection of rights during armed conflict (not to be confused with *jus ad bellum*, the law that governs whether a given war is just, or legally begun). This branch of international law developed out of States’ desire to reduce the horrors of war for their own citizens. Modern international humanitarian law stretches back to the First Geneva Convention of 1864: the *Convention for the Amelioration of the Condition of the Wounded in Armies in the Field*.²⁷ Adopted as part of the establishment of the International Committee of the Red Cross (ICRC), this convention sought to protect medical personnel, hospital installations, non-combatants giving aid to the wounded, and sick and wounded combatants during combat situations.

After the adoption of the First Geneva Convention, nations came together on a frequent basis to codify the laws of war in international treaties. Several more humanitarian law conventions with human rights aspects were agreed upon prior to the Second World War. For example, the Hague Convention III of 1899 established humanitarian rules during naval warfare,²⁸ and the 1929 Geneva Convention set rules for the treatment of prisoners of war.²⁹ We will return to the topic of international humanitarian law and discuss the four Geneva Conventions of 1949 and other post-Second World War IHL instruments in Lesson 12.

Even these humanitarian treaties, however, failed to pierce the veil of State sovereignty. None addressed the relationship between a State and its own citizens, or provided protections against acts of the home State during times of war.

As evidenced by all of these treaties, the idea that the rights of persons could be protected under international law was gradually gaining favour and becoming an established principle. The majority of nations, however, had still not accepted the idea of generally applicable international guarantees on human rights, and the sovereignty of States continued to be the guiding principle of international law. Human rights remained, for the most part, a domestic concern.

Section 1.3 The Universal Declaration and the Age of Norm-Setting and Codification

The Second World War and the UN Charter

The Holocaust was the catalysing event that sparked the modern human rights movement and indelibly altered the relationship between the individual, the State, and international law. During the Second World War, millions of civilians were imprisoned and murdered by the Nazi regime on the basis of their religion, ethnicity, political affiliation, disability, or sexual orientation. Six million Jews, half a million Gypsies, and tens

26) Ibid., 87–88.

27) The full *Convention for the Amelioration of the Condition of the Wounded in Armies of the Field* can be found at <<http://www.icrc.org/ihl.nsf/FULL/120>>.

28) The full *Convention (III) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention* of 22 August 1864 can be found at <<http://www.icrc.org/ihl.nsf/FULL/155>>.

29) The text of the *Convention relative to the Treatment of Prisoners of War* can be found at <<http://www.icrc.org/ihl.nsf/FULL/305>>.



Mrs. Eleanor Roosevelt of the United States holding a Declaration of Human Rights poster in English. 1 November 1949. UN Photo #1292 by United Nations.

of thousands of Communists, homosexuals, church activists, and others were killed during this reign of terror. The Allied governments, though they were the eventual victors, failed to intervene to halt the genocide or rescue the victims of Nazi death camps until the war was coming to an end.

Horried at the barbarism that had taken place during the war, the Allies established the Nuremberg and Tokyo War Crimes Tribunals to prosecute German and Japanese leaders for war crimes and crimes against peace. The Nuremberg and Tokyo Trials have been criticized as legally unjust because they punished the accused for wrongs that were moral but not legal crimes at the time of commission, and as “victor’s justice” because members of the Allied governments were never scrutinized by the Tribunal. Nevertheless, the Trials represented an important step in the internationalization of human rights law, and promoted the idea that individuals could be held legally responsible for violations of international human rights and humanitarian law — even when those violations victimized the State’s own people.

After the Second World War, the international community came together to form a new international organization for the primary purpose of maintaining international peace and security: the United Nations (UN). It was in the Charter of the United Nations that the general protection of human rights was first given formal status as a part of international law.

The term “human rights” is mentioned seven times in the Charter.³⁰ Most importantly, the preamble sets out the determination of Member States “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women of nations large and small”. Article 1 lists “encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” as one of the UN’s primary purposes.

The affirmation of human rights in the UN Charter cemented the protection of individual rights as part of the international agenda. However, the human rights guaranteed in the Charter remained vague and aspirational in tone and were dwarfed by the overall emphasis on security issues. Nowhere does the Charter define human rights or assign States any concrete responsibilities with respect to protecting, enforcing, or otherwise realizing them. If human rights were to become enforceable legal obligations, then these norms would need to be spelled out and codified.³¹

English version of a poster depicting the Universal Declaration of Human Rights. The Declaration was adopted and proclaimed by United Nations General Assembly resolution 217 A III of 10 December 1948. 1 November 1949. UN Photo #63484 by United Nations.



The Universal Declaration of Human Rights

In order to enumerate and codify the content of human rights, the UN Economic and Social Council (ECOSOC) established the 1946 Commission on Human Rights.³² The Commission — whose members included such distinguished founders of the human rights movement as René Cassin of France, Charles Malik of Lebanon, and Eleanor Roosevelt of the United States — was tasked with preparing “a preliminary draft International Bill of Human Rights” that would define the human rights and fundamental freedoms of all human beings.

Even at this early stage, the draft International Bill of Human Rights was controversial. Some States wanted the draft to take the form of a declaration: a recommendation by the General Assembly to UN Member States that would have moral and political — but no legal — force. Others urged the Commission to prepare a draft convention: a legally binding document that would be submitted to the States for ratification.

Ultimately, the Commission took the former path, and their UDHR was adopted by the UN General Assembly on 10 December 1948, with 48 States voting in favour and eight abstaining. In commemoration of this historic event, December 10 is celebrated as Human Rights Day.

30) The Preamble and Arts. 1, 13, 55, 62, 68, and 76.

31) Henry J. Steiner, Philip Alston, and Ryan Goodman, 115.

32) E/RES/9 (II), 21 June 1946.

It was in this landmark document that human rights were first codified at the global level.³³ The UDHR consists of a Preamble and 30 articles defining the human rights and fundamental freedoms to which all people are entitled. It begins with the Statement that the “recognition 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” and that “the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people”.³⁴ It therefore calls on all States to “promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance ...”³⁵

» Take a moment now to read through the UDHR, attached as Annex I.

Recall the preceding discussion of the philosophical foundations of human rights. Article 1 of the UDHR describes the declaration's ideological bases thus:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood.”³⁶

Writing Exercise 1: Updating the UDHR »

You are a member of a UN committee that is tasked with reviewing the UDHR for the new millennium. The General Assembly has asked you to make recommendations on the continuing relevance of the declaration and to suggest changes where you think they may be necessary.

Consider the following questions and write a brief report:

- » Do any of the rights contained in the UDHR seem “old-fashioned” or unnecessary? Is something missing that you would like to see included in a revised declaration?
- » What moral foundation are your recommendations based on? Would your answer to the previous question be different if you recognized a different moral foundation for human rights?
- » Do you think that the States would agree with your proposals? Why or why not? What might the points of contention be?

33) It should be noted that the UDHR was actually the *second* international human rights document to be adopted. The “American Declaration on the Rights and Duties of Man” dates from several months earlier, in April 1948. The American Declaration, however, applied only in the region of the Americas, whereas the UDHR was global in scope. See Lesson 5 for further discussion on the Inter-American human rights system.

34) UDHR, Preamble.

35) Ibid.

36) Ibid., Art. 1.

In this programmatic Statement it is possible to identify a number of different moral groundings of human rights. The phrases “born free and equal” and “a spirit of brotherhood” could imply that the human rights contained in the UDHR stem from the equal creation of human beings by God, or in nature. The phrase “equal in dignity and rights” could imply that human rights have their origin in the dignity of persons, and the phrase “endowed with reason and conscience” could signal that these rights grow out of the agency of persons. There is something in this Statement for persons from many different philosophical traditions.

Cultural Relativism: The Debate »

“Sanctimonious to a fault, the UDHR underscored its arrogance by proclaiming itself the common standard of achievement for all peoples and nations. The fact that a half-century later human rights have become a central norm of global civilization does not vindicate their universality ... Non-Western philosophies and traditions particularly on the nature of man and the purposes of political society were either unrepresented or marginalized during the early formation of human rights ...

“There is no doubt that the current human rights corpus is well-meaning. But that is beside the point ... International human rights fall within the historical continuum of the European colonial project in which whites pose as saviors of a benighted and savage non-European world. The white human rights zealot joins the unbroken chain that connects her to the colonial administrator, the Bible-wielding missionary, and the merchant of free enterprise ...”

–Makau Mutua
from “The Complexity of Universalism in Human Rights” (2004)

“It is sometimes suggested that there can be no fully universal concept of human rights, for it is necessary to take into account the diverse cultures and political systems of the world. In my view this is a point advanced mostly by States, and by liberal scholars anxious not to impose the Western view of things on others. It is rarely advanced by the oppressed, who are only too anxious to benefit from perceived universal standards. The non-universal, relativist view of human rights is in fact a very State-centered view and loses sight of the fact that human rights are human rights and not dependent on the fact that States, or groupings of States, may behave differently from each other so far as their politics, economic policy, and culture are concerned. I believe, profoundly, in the universality of the human spirit. Individuals everywhere want the same essential things: to have sufficient food and shelter; to be able to speak freely; to practise their own religion or to abstain from religious belief; to feel that their person is not threatened by the State; to know that they will not be tortured, or detained without charge, and that, if charged, they will have a fair trial. I believe there is nothing in these aspirations that is dependent upon culture, or religion, or stage of development. They are as keenly felt by the African tribesman as by the European city dweller, by the inhabitant of a Latin American shanty-town as by the resident of a Manhattan apartment.”

–Rosalyn Higgins
from *Problems & Progress: International Law and How We Use It* (1994)

Despite this attempt to ground human rights in a broad range of cultural traditions, there remain objections from some cultural relativists. Because of their colonial status, which barred them from being independent members of the UN, many African and Asian countries could not participate in the drafting of the UDHR. Their ideas were therefore not incorporated into this founding human rights document. Because of this, as we will see in Lesson 5, many people have argued that the UDHR and the international human rights system that is founded upon it favour individual civil and political rights over collective solidarity rights, and that the universal system is therefore not truly universal at all.

For example, compare the two passages in the box below, arguing for and against a position that might be termed “cultural relativist”. What does each scholar argue? Why? Do you agree?

The UDHR is classifiable as a “recommendation”, and therefore lacks legal enforceability (although many argue that over time it has become, at least in part, enforceable as customary international law). In fact, Professor Michael Ignatieff has pointed out that the parties to the UDHR “never actually believed that it would constrain their behavior” since it “lacked any enforcement mechanism,” such as a court that could impose penalties on violators.

Despite the fact that declarations by the UN General Assembly are non-binding, however, they can have great moral and persuasive force. The UDHR established a common understanding of the human rights and fundamental freedoms referred to in the UN Charter. In principle, it signified that the relationship between States and individuals was no longer a matter of purely domestic law, absolutely exempt by interference from third States or the institutions of the international community. It represented a major break with the Westphalian system: from now on, it would be hard for States to argue that the sovereign had the right to be “monstrous to his or her subjects”.³⁷

Customary International Law »

When we say a something is customary international law, what does this mean?

Customary law is the general practice of States that is accepted as law. In order for something to become a part of customary international law, there must be evidence of:

- » Acts amounting to “settled practice” of States, which may include:
 - National legislation;
 - National policy documents;
 - Judgments of national courts;
 - Actions by State agents (domestically or internationally);
 - Voting patterns in international organizations (according to some); and
- » *Opinio juris*, the belief that a practice is rendered obligatory by the existence of a rule of law requiring it.

Customary law is binding on all States, whether or not they express their consent to be bound, and even in the absence of individual State practice. The only exception is for “persistent objectors”: States that objected to a customary rule during its formation, and continue voicing their objection in a persistent manner.

37) Tom J. Farer and Felice Gaer, 240.

Human rights in the UDHR

The UDHR contains two broad categories of rights:

- Civil and political rights; and
- Economic, social, and cultural rights.

Civil and political rights are rights that protect the personal freedoms and civil liberties of individuals. Most of these are so-called *negative rights*: rights that prevent a government from interfering with individual freedoms (as opposed to requiring a government to do something to fulfil human rights). In other words, negative rights are the right to freedom from something. Civil and political rights were the first set of rights to be protected within the State, and have become a standard part of national constitutions under the classical liberal model. For this reason, they are also sometimes known as *first-generation rights*. The civil and political rights recognized in the UDHR are contained in Articles 3 through 20. They include:

- The right to life, liberty, and security of person;
- The right to freedom from slavery;
- The right to freedom from torture and cruel, inhuman, or degrading treatment;
- The right not to be subjected to arbitrary arrest, detention, or exile;
- The right to a fair trial by a competent tribunal, presumption of innocence, and freedom from the application of ex post facto laws;
- The right to privacy;
- The right to own property;
- The right to freedom of speech, religion, and assembly; and
- The right to freedom of movement.

Economic, social, and cultural rights are rights that protect the socio-economic dignity of persons. Many of these rights are so-called *positive rights*: rights that require a government to do something to fulfil them (as opposed to preventing a government from interfering with them). In other words, positive rights are a right to something. Economic, social, and cultural rights appeared much later than civil and political rights, and are largely a creation of the twentieth century. For this reason, they are sometimes known as *second-generation rights*. The economic, social, and cultural rights recognized in the UDHR are contained in Articles 22 through 27. They include:

- The right to social security, work, protection against unemployment, and equal pay;
- The right to rest and leisure;
- The right to an adequate living standard;
- The right to education; and
- The right to participate in the cultural life of the community.

The split between civil and political rights and economic, social, and cultural rights was in part a result of a similar split within the United Nations itself. During the period after the Second World War and for several decades to come, the UN was divided between a group of Western States on the one hand and socialist States on the other. The Western States were keen to restrict the rights contained in the UDHR to the types of civil and political rights that had been codified in their national constitutions over the past century. The socialist States, by contrast, favoured the inclusion of economic, social, and cultural rights in the text of the declaration. In order to conclude the drafting

phase with the support of both political camps, the UDHR had to be a compromise between the two positions and thus included some aspects of both sets of protections.

The divisions between negative and positive rights, and between first-, second-, and the emerging third-generation rights (which we will encounter in later lessons), are quite controversial and many people object strongly to dividing up rights into these categories. While these distinctions can be useful tools when thinking about human rights, it is important to remember that they are rough and imprecise, and leave out many subtleties. Relying too heavily on such categories can therefore be misleading.

For example, with respect to the distinction between negative rights and positive rights, it is not entirely true that negative rights require that a government refrain from acting, while positive rights require a government to act. In order for the government to respect and uphold the human right “to own property”, for instance, it must not only refrain from preventing individuals from holding property, but also establish a complicated system of law that defines rights and ownership as well as a system of enforcement that polices and protects the property rights of citizens.³⁸

Similarly, a number of scholars and activists criticize the distinction between first-, second-, and third-generation rights because it unfairly implies a hierarchy of rights. These critics worry that the distinction creates the impression that civil and political rights are somehow more important, or must come prior to, economic, social, and cultural rights. These issues are important, and we will return to them in later lessons.

The rights set out in the UDHR are not absolute. Article 29(2) permits States to limit the rights of citizens “for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”. However, the government is constrained in its ability to impose limitations on rights by Article 30, which States that “nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms” proclaimed in the declaration. In other words, a government may limit the rights it affords to its citizens, but only for the reasons stated, and when the limitation is not merely a pretext for the denial of rights.

Conclusion

Once the UDHR had defined the content of international human rights law, the international community embarked on the effort of translating the declaration into legally binding and enforceable treaties and creating international bodies that could carry out this enforcement work. This is the subject of our next several lessons.

Further reading

- Andrew Clapham, *Human Rights: A Very Short Introduction*, 2007.
- James Griffin, *On Human Rights*, 2008.
- Lynn Hunt, *Inventing Human Rights: A History*, 2007.
- Michael Ignatieff, *Human Rights as Politics and Idolatry*, 2003.

Websites for further information

- UN website: <www.un.org>.

38) See: Henry Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (Second Edition) (Princeton: Princeton University Press, 1996), 52.

Annex I: Universal Declaration of Human Rights

Universal Declaration of Human Rights

PREAMBLE

Whereas recognition 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,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

(1) Everyone has the right to freedom of movement and residence within the borders of each State.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right to equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

G.A. res. 217A (III), UN Doc A/810 (1948)

Adopted on December 10, 1948

by the General Assembly of the United Nations (without dissent)

End-of-Lesson Quiz »

1. **Human rights protect ____.**
 - A. the individual
 - B. the State
 - C. the international community
 - D. no one
2. **____ are rights that come from God or nature.**
3. **The moral foundations of human rights are ____.**
 - A. ideas about why we have human rights
 - B. the references to human rights that appear in national constitutions
 - C. ideas about whether or not it is necessary to have human rights
 - D. legal documents that bind States to uphold human rights
4. **The “billiard ball model” describes a world in which ____.**
 - A. States are divided into a bipolar world like the two opposing sides in a billiards game
 - B. States are solid, opaque, and impenetrable spheres similar to billiard balls
 - C. States are manipulable by the “cue” of international law
 - D. States are like a pool table, and the individuals within them react against one another when pushed by outside forces
5. **One of the earliest human rights movements was ____.**
 - A. the effort to abolish the death penalty
 - B. the struggle to ban nuclear weapons
 - C. the fight to abolish the slave trade
 - D. the protection of the rights of lesbian, gay, bisexual, and transgender persons
6. **The modern human rights system emerged following ____.**
 - A. the Iraq war
 - B. the Second World War
 - C. the First World War
 - D. the Cold War
7. **The primary aim of the United Nations is ____.**
 - A. to end discrimination against women
 - B. to enact human rights laws
 - C. to maintain international peace and security
 - D. to abolish the slave trade
8. **Eleanor Roosevelt was a key player in drafting the ____.**
9. **The Universal Declaration of Human Rights was adopted in ____.**
 - A. 1948
 - B. 1918
 - C. 1989
 - D. 1966
10. **Customary International Law is ____.**
 - A. not really law
 - B. law that was created prior to the Second World War
 - C. the general practice of States that is accepted as law
 - D. better than “normal” or “treaty-made” law

Answer Key provided on the next page.

End-of-Lesson Quiz »

Answer Key »

1. A
2. Natural rights
3. A
4. B
5. C
6. B
7. C
8. Universal Declaration of Human Rights
(UDHR)
9. A
10. C