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Human Rights: *FAQs*



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Human Rights: FAQs

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1. What is the definition of human rights?

Human rights mean the rights named in the Universal Declaration of Human Rights (UDHR) (United Nations General Assembly [UNGA] 1948), and also incorporate a number of Covenants and Protocols adopted by the United Nations (UN) and signed, ratified or otherwise accepted by the members of the UN.

Human rights are therefore not based on any one definition, but are the result of years of discussion, deliberation, consultation, and agreement amongst the members of the UN. As the members of the UN have different social, political, and cultural systems, they each have different individual definitions of what should constitute human rights. Because of this, it has not been possible to arrive at a single definition, or to make human rights as a whole definition-based. However, the members of the UN were able to arrive at specific, common rights that should be regarded as human rights (UNGA 1948; United Nations [UN] 2015). The UN continues to add to these rights from time to time, as required.

2. How we define rights and who guarantees these rights?

The search for a single, concise definition of rights has been going on for centuries, and the debate continues. For the majority of people, using common sense understanding is sufficient to form a sensible working definition of rights. As for the guarantor of rights, the primary responsibility of protecting rights lies with the government of each country. Indeed, one of the most important reasons for the creation of nations and governments is to guarantee the rights of that nation's people and to provide a system of justice.

3. What is the difference between human rights and civil liberties?

There is a world of difference between human rights and civil liberties. Human rights are the birth rights of every human being. They are also inalienable rights – that is, the governments of the nations of the world have no legitimate right to take them away. If any government enacts a law that takes away or curtails human rights, that government is guilty of the violation of human rights. A nation's legal system provides the means of making human rights available to its people by enforcing human rights as legal rights. Unlike human rights, civil liberties are not conferred under an international obligation, and are not considered to be birth rights. Civil liberties are additional legal rights granted at the will of the government of a country.

Apart from the difference between the status of these two types of rights, there is a significant difference between their respective scopes. Human rights are extremely vast in their extent. Human rights generally relate to survival, but may sometimes be interpreted to include civil and political rights as well as economic, social and cultural rights (refer to the answer to Question 2. below). Civil liberties are liberties related specifically to a person's individual rights, such as the right to freedom of independent thought, the right to freedom of speech, and the right to assemble peacefully in to protest issues. For further information on the differences between human rights and civil liberties, please refer to the UDHR (UNGA 1948).

4. What is the difference between human rights and fundamental rights?

As with civil liberties, even fundamental rights are not birth rights. Fundamental rights, like civil liberties, are the products of the legislative body of a country, which are granted only at the will of this body. Fundamental rights are guaranteed by the constitution of a country, and can be enforced by a court of law in that country. Some nations give high priority to some of rights, giving them a special name (such as fundamental rights). All nations do not necessarily give such priority to some rights. Even those nations which give a high priority to some rights, do not necessarily call them fundamental rights. Thus, while human rights are universal by definition, fundamental rights are country-specific and may not exist by the same (or any) name in every country. For detailed information about the various aspects of human rights, please refer to the publication *Human Rights – A Handbook for All* (Sinha 2002).

5. Do human rights include a 'duty', or not?

First and foremost, human rights impose a duty on nations to protect and promote the human rights of all people living in their territory. This means that each nation, or 'state', must make human rights available to all people, and must refrain from doing anything which may violate anyone's human rights. It also means that there is an equal duty on everyone to respect the human rights of others. In fact, the following Articles of the UDHR cast duties on all people, in an unambiguous terms:

“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.” (UNGA 1948).

However, performance of duty is not a condition for the enjoyment of human rights. As human rights are inalienable birth rights, their enjoyment is not subject to any prerequisite.

6. If human rights are inalienable birth rights and their enjoyment is unconditional, then do terrorists, murderers, rapists, and other criminals have the same human rights as everyone else? Does that mean that these people have a right to commit crimes?

Yes, criminals have the same human rights as anyone else, but the right to commit crimes is not a human right. Persons accused of any offence, including acts of terror, murder, or rape, have only one human right, which is to be tried by an impartial and independent court of law and to be dealt with according to the law. If the court finds them guilty, they must be punished according to the law, in order to protect the rights of others in the society. However, if found innocent, they should not be made to suffer unjustly. It is very clear that nobody has the right to commit a crime, thereby depriving others of their rights.

7. Which is the oldest known document that refers to the concept of human rights?

The foundation of today's international human rights law is generally considered to be the UDHR, which sets out, for the first time, fundamental human rights to be universally protected (UN 2015).

With the end of World War II, and the creation of the UN, world leaders decided to complement the UN Charter with document to guarantee the rights of every individual everywhere (UN 2015). The document they considered, and which would later become the UDHR, was the draft Declaration on Fundamental Human Rights and Freedoms (UN 2015). This document was reviewed at the first session of the UN General Assembly in 1946, and was sent to the UN's Commission on Human Rights for consideration in the preparation of an international bill of rights (UN 2015).

The Commission on Human Rights comprised 18 members from various political, cultural and religious backgrounds, and authorized its members at its first session in 1947 to formulate "a preliminary draft International Bill of Human Rights" (UN 2015). The drafting work was later delegated by the Commission on Human Rights to a dedicated drafting committee (UN 2015). This formal UDHR drafting committee included Commission members with different legal and cultural backgrounds, representing all regions of the world, including Australia, Canada, Chile, China, France, Lebanon, the UK, the USA, and the then-USSR (UN 2015). The drafting committee was chaired by Eleanor Roosevelt (diplomat, activist, and former First Lady of the USA), who is considered as having been instrumental in the adoption of the UDHR (UN 2015). Over 50 member states of the UN participated in the final drafting, and each made important contributions to the UDHR (UN 2015).

However, the direct impact of the movements for civil and political rights, which had taken place in European countries prior to 1948, is probably the most obvious influence on the development of the UDHR. These movements resulted in such notable documents as the Magna Carta (Latin for the "Great Charter"), signed by King John of England in 1215, the declarations made during the French Revolution (most importantly, the 1789 Declaration of the Rights of Man and of the Citizen, which expanded the scope of human rights to include women and slaves), and the French Constitution adopted after the Revolution. The impact of the United States' Declaration of Independence (1776) is also clearly discernible. Similarly, the inclusion of economic and social rights may be attributed to the socialist 1936 Soviet Constitution of the then-USSR. But if one must identify the oldest of the documents addressing the concept of human rights, it would be the Magna Carta.

8. Is there some conceptual difference in the sense and concept of human rights in older documents, as compared with the present Universal Declaration of Human Rights (UDHR)?

Yes, differences of a very fundamental nature exist between the concept of human rights in older documents, as compared to the present UDHR (UNGA 1948). In older documents, the rights discussed covered only the rights of the people who fought for them. However, these rights did not extend to support the same rights for others (particularly in the case of the opponents of those who fought for such rights). Human rights today involve no such discrimination (UNGA 1948). Today, it is intrinsic to human rights that the rights of other human beings, including the rights of an individual's enemies, are considered to be as sacrosanct as each individual's rights.

Therefore, the human rights of today stand on a different footing all together from older documents, and the UDHR is a revolutionary concept (UNGA 1948; UN 2015).

9. Do human rights include the rights of other animals?

Human rights are limited to the rights of human beings only. The goal of human rights is to create a humane and just order throughout the world in which a person may live without fear and may have the opportunity and conditions to develop his/her potential to his/her satisfaction. The larger goal is to create social conditions which make it unnecessary for people to resort to violence, or for nations to resort to war. In fact, the devastation caused by World War II, and the inhuman acts committed against millions during that time, impelled the world to guarantee human rights to all people, to prevent the recurrence of such barbaric acts and to avoid a third world war (UN 2015).

10. If human rights are universal and apply to everyone, why do we need children's rights and women's rights separately?

The Universal Declaration of Human Rights (UDHR) is essentially a list of general principles, which need to be further detailed and stated in concrete terms along with the measures for their realisation (UNGA 1948). In other words, the UDHR offers a summary of principles, which need to be further examined so that they may be appropriately interpreted to ensure that the human rights of different sectors of the population are met (UNGA 1948). For example, in many societies, women are subjected to different types of discrimination and inhuman treatment which violates their human rights, and which their male counterparts do not have to suffer. Naturally, those discriminating practices need to be identified and remedied separately. A similar situation often exists in the case of children, indigenous people, physically challenged people, transgender people, and many others. All of these people may suffer some violations of their rights, which are not suffered by others in their society. This necessitates the identification of these people's specific issues and the development of appropriate measures to deal with these concerns.

References:

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