



History of Human Rights *and* *Human Rights Principles*

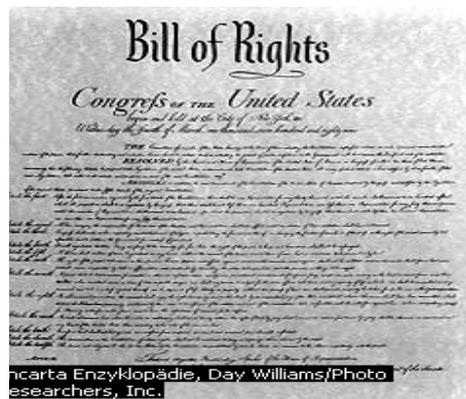
A) The History of Human Rights:

The basis of human rights - such as respect for human life and human dignity - can be found in most religions (for example in Buddhism, Islam, Christianity, Judaism, Hinduism and Taoism). The development of human rights has its roots in the struggle for freedom and equality everywhere in the world.

The following timetable shows some of the most important achievements of this struggle¹:

1689: “Bill of Rights” (England)²

For the first time in human history the claim that the law is of divine or royal source was abandoned. It was declared that the King also is subject to the rule of law like any other citizen. More over it was stated that the King has to respect the power of a Parliament which has been elected freely by the people. The “Bill of Rights” was the first declaration which prohibited cruel punishments and unfair trials. It guaranteed juries, impartial courts and independent judges.



1776: Declaration of Independence (USA)³

This declaration states that governments have to be established by the consent of the people to protect their rights. It expressed these rights in its Section 1 as follows:

¹ For a detailed reading on the history of human rights see: Asbjorn Eide (1998) under www.rightsreform.net/texts/eide.html

² see www.duhaime.org/uk-billr.htm

³ see www.yale.edu/lawweb/avalon/declare.htm



“All men are by nature equally free and independent and have certain inherent rights ... namely the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.”

At that stage the Declaration did not yet extend human rights to all human beings but only to whites and not to blacks who were treated as slaves.

1789: Declaration des Droits de l'Homme et du Citoyen (France)⁴

This declaration was very much inspired by the American Declaration of Independence of 1776. It spells out such "natural and inalienable" rights as liberty, property, security, and the right to resist oppression. In its famous first article it also recognizes equality, notably before the law and justice:

Men are born and remain free and equal in rights.

Beside that it also asserts the principle of the separation of powers. King Louis XVI ratified it only under pressure of the Assembly and the people, who had marched out to Versailles.

1935 – 1945:

During this period the human rights idea suffered a severe setback. Mankind had yet to suffer barbarous acts during the totalitarian regimes of Nazi-Germany and Japan who started World War II that left 50 million dead people worldwide.



Mass grave in Nazi Germany



Mass deportation of Jews in the 1940's

From that experience the world learned that

⁴ see [www.elysee.fr/ang/instit/text1 .htm](http://www.elysee.fr/ang/instit/text1.htm)



“... 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...”
(Universal Declaration of Human Rights, Preamble)

1948: Universal Declaration of Human Rights (UDHR)⁵

The Declaration was unanimously adopted on the 10th December 1948 by the United Nations. Cambodia refers to it in Article 31 of its constitution (1993). It is the most widely accepted statement of human rights in the world. Its core message is the inherent value of every human being. It sets out a list of basic rights for everyone in the world whatever their race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It states that governments have promised to uphold certain rights, not only for their own citizens, but also for people in other countries. That means that national borders are no barrier to helping others achieve their rights.

Its legal status:

Even though the UDHR is the inspiration for most international human rights laws, it is not itself a legally binding document. However, as a general statement of principles, it does have power in the world of public opinion and helps interpreting and understanding national norms about human rights. Its principles have been translated into legal force in the form of the International Covenant on Civil and Political Rights (ICCPR, see below) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, see below). Countries that have ratified these Covenants commit themselves to making laws in their country to protect these human rights. However, over half the countries of the world have not ratified the ICCPR or the ICESCR.

Even though the UDHR was adopted mankind had to experience more atrocities and terrible human rights violations in the coming years committed for example by Russia and China in the 50s and 60s who persecuted, imprisoned and killed many 100.000 persons because of their different political believes.

1966: International Covenant on Civil and Political Rights (ICCPR)⁶

This Covenant which entered into force in 1976 spells out in more detail the civil and political rights enumerated earlier in the UDHR and is legally binding on those countries that have ratified it (by now: 148). Cambodia ratified it on 26th August 1992.

⁵ see www1.umn.edu/humanrts/instree/b1udhr.htm

⁶ see www1.umn.edu/humanrts/instree/b3ccpr.htm



The ICCPR includes the right (see Article 6 – 27)

- to life,
- to be free from torture and slavery,
- to liberty and security,
- to freedom of movement, association, thought, religion and expression,
- to equality before the law,
- to privacy,
- to equality within marriage and
- to the enjoyment of culture.

The ICCPR provides the following control mechanisms:

- The Covenant establishes the so called “Human Rights Committee” (HRC) with 18 members (Article 28) to monitor its implementation by considering periodic reports from states parties (Article 40).
- In certain circumstances, the HRC may consider complaints from other countries (Article 41) that have ratified the Covenant. This did – so far – never happen.
- Individuals who believe their rights under the Convention have been violated can also complain to the HRC (Article 1 of the Optional Protocol of the ICCPR⁷, 1966). Up until now 345 individuals used this legal possibility. 182 claims are still pending.
- The HRC also formulates General Comments (GC) that may help to clarify what countries must do to comply with the ICCPR.

1966: International Covenant on Economic, Social and Cultural Rights (ICESCR)⁸

This Covenant also entered into force in 1976. It gives more details on the economic, social and cultural rights enumerated earlier in the UDHR. It is legally binding on those countries that have ratified it. Cambodia ratified it on 26th August 1992.

The ICESCR includes the right

- to work, to just and favorable conditions of work,
- to form and join trade unions,
- to family life,
- to an adequate standard of living,
- to the highest attainable standard of health,
- to education, and
- to take part in cultural life.

⁷ see www1.umn.edu/humanrts/instree/b4ccprp1.htm

⁸ see www1.umn.edu/humanrts/instree/b2esc.htm



Unfortunately there is only one control mechanism provided by the Covenant: the reporting obligation of each State party (Article 16). One objective is to ensure that the State party monitors the actual situation with respect to each of the rights on a regular basis and is thus aware of the extent to which the various rights are, or are not, being enjoyed by all individuals within its territory or under its jurisdiction.

Together, the UDHR, ICCPR and ICESCR are known as the International Bill of Rights.

Four more essential human rights conventions need to be mentioned as they build – together with the International Bill of Human Rights – the core of the international treaties:

1969: International Convention on the Elimination of All Forms of Racial Discrimination (CERD)⁹

The Convention requires States parties in its important Article 4 to penalize four categories of misconduct:

- dissemination of ideas based upon racial superiority or hatred;
- incitement to racial hatred;
- acts of violence against any race or group of persons of another color or ethnic origin; and
- incitement to such acts.

To satisfy these obligations, States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced.

The prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression. This right is embodied in Article 19 UDHR and is recalled in Article 5 CERD.

Control mechanisms are provided in Articles 8 – 11 CERD.

1979: Convention on the Elimination of Discrimination against Women (CEDAW)¹⁰

The Convention, which entered into force in 1981, is the only human rights treaty which affirms the rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life – including the right to vote and to

⁹ see www1.umn.edu/humanrts/instree/d1cerd.htm

¹⁰ see www1.umn.edu/humanrts/instree/e1cedaw.htm



stand for election – as well as education, health and employment (Article 1). Also measures aiming at accelerating de facto equality between men and women can be taken until equality has been achieved (Article 4).

By accepting the Convention, States parties are legally bound to put its provisions into practice and must commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises (Article 16; for example: social discrimination because of being divorced or being a widow).

Control mechanism: States parties are obliged to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations. Individuals can not file a claim.

1984: Convention against Torture (CAT)¹¹

To increase the efficiency of the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world the CAT declares in its Article 2 that

“... No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture...”

Control mechanism: The so called “Special Rapporteur against Torture” has a mandate to monitor efforts to combat torture in all countries of the world. S/he is able to visit countries to which s/he has been invited, to observe at first hand the situation and to make recommendations to the authorities. On 18th December 2002 the Optional Protocol to the UN Convention against Torture was adopted by the UN General Assembly. It establishes a system of regular visits by independent international and national bodies to places of detention in order to prevent torture and other forms of ill-treatment.



1989: Convention on the Rights of the Child (CRC)¹²

The CRC is the most widely ratified treaty in the world (only Somalia and the U.S. have not ratified it). It promises children around the world the right

- to life,
- to liberty,
- to education, and
- to health care.

It provides protection to children

- in armed conflict
- from discrimination
- from torture or cruel, inhuman or degrading treatment or punishment,
- within the justice system, and
- from economic exploitation.

Important conferences since then:

1993: In **Vienna, Austria** in a “World Conference on Human Rights”¹³ 171 states representing 99% of the world's population reaffirmed its commitment to human rights.

1995: At the “Fourth World Conference on Women”¹⁴ in **Beijing, China** the world community recognized that the status of women has advanced in some important respects in the past decade but that progress has been uneven, inequalities between women and men have persisted and major obstacles remain, with serious consequences for the well-being of all people.

2001: In **Durban, South Africa** the “World Conference against Racism”¹⁵ noted with grave concern that despite the efforts of the international community, the principal objectives to combat racism have not been attained and that countless human beings continue to the present day to be victims of racism, racial discrimination, xenophobia and related intolerance.

Beside the UN conventions and declarations regional human rights treaties and systems were established in America, Africa and Europe to reaffirm their adherence to the respect of human rights and to provide their citizens with a regional human rights protection shield.

¹¹ see www1.umn.edu/humanrts/instree/h1dpast.htm

¹² see www1.umn.edu/humanrts/instree/k1drc.htm

¹³ see www1.umn.edu/humanrts/instree/l1viedec.html

¹⁴ see www1.umn.edu/humanrts/instree/beijingdec/htm



- 1950:** European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁶
- 1978:** American Convention on Human Rights¹⁷
- 1981:** African (Banjul) Charter on Human and Peoples' Rights¹⁸
- 2000:** The “Commission of Human Rights of the Philippines” announced the “Draft Declaration of Human and Peoples’ Rights of the Philippines” which may contribute to an envisaged Declaration of Human Rights of the ASEAN Countries¹⁹.

B) Human Rights Principles:

I) What are Human Rights?

They are:

- basic standards people need for a life in dignity as human beings
- the foundation of freedom, justice and peace
- a guarantee for a full development of the individual and the community
- a rule for the governments what to do and what not to do to respect the rights of their citizens
- proclaimed in the Universal Declaration of Human Rights (UDHR)

II) Characteristics of human rights:

They are:

- 1) “*inherent*” to each individual:
Human rights do not have to be bought, earned or inherited. They belong to people since the moment of their birth (inborn right) simply because they are human.
- 2) “*universal*”:
Human rights are the same for all human beings all over the world regardless of race, sex, religion, political or other opinion, national or social origin. We are all born free and equal in dignity and rights.
- 3) “*indivisible*”:
People shall live in dignity, all human rights are entitled to freedom, security and decent standards of living concurrently.

¹⁵ see www1.umn.edu/humanrts/instreet/wcarddeclaration.html

¹⁶ see www1.umn.edu/humanrts/instreet/z17euroco.html

¹⁷ see www1.umn.edu/humanrts/oasinstr/zoas3con.htm

¹⁸ see www1.umn.edu/humanrts/instreet/z1afchar.htm

¹⁹ see www.codewan.com.ph/hrnow/body/htm



4) “*inalienable*”

Human rights cannot be taken away or sold (for example: a promise not to demonstrate is illegal) No one has the right to deprive another person of them for any reason. People still have human rights even when the laws of their countries do not recognize them, or when they violate them - for example, when slavery is practiced, slaves still have rights even though these rights are being violate.

III) Categories of Rights:

Rights can be put into three categories:

1) *Civil and political rights* (also called “first generation” rights):

These are “liberty-orientated” and include the rights to: life, liberty and security of the individual; freedom from torture and slavery; political participation; freedom of opinion, expression, thought, conscience and religion; freedom of association and assembly.

2) *Economic and social rights* (also called “second generation” rights):

These are “security-orientated” rights. For example the rights to: work; education; a reasonable standard of living; food; shelter and health care.

3) *Environmental, cultural and developmental rights* (also called “third generation” rights).

These include the rights to live in an environment that is clean and protected from destruction, and rights to cultural, political and economic development.



Study Question 1

Please read the Declaration of Human Rights (1789).

What article of this Declaration refers to “free speech”?



Study Question 2

Some Asian leaders (for example in Singapore and Malaysia) claim that "Asian Values" (= sense of respecting authorities and belief that the group is more important than the individual) prevail over human rights. They say that they can grant economic freedoms (like freedom of possession and freedom of profession) but must not grant other individual freedoms (like freedom of speech) at the same time, because these individual freedoms are an obstacle for state control and economic growth.

Do you agree or disagree with that opinion? Explain your opinion!



Study Question 3

Please read the covenants and declarations which are called the “International Bill of Rights”.

What articles deal with the “right to vote”?