

### Human Rights in the United States

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

*-Preamble of the Universal Declaration of Human Rights*

#### ***What are human rights?***

Human rights are a part of international law, which is made by agreement among governments of the world. Human rights are intended to protect human freedom and dignity and represent a consensus among governments about what rights must be guaranteed to all people simply because they are human. These include:

- Free of Expression & Association
- Voting & Participation
- Due Process
- Freedom from Torture
- Freedom from Discrimination
- Freedom of Religion
- Life & Security
- Health
- Housing
- Work
- Education
- Food
- Social Security
- Rest & Leisure

#### ***Where did they come from?***

Before World War II rights were protected by national law in various countries and guaranteed to the citizens of that country, except for some rights international law gave to refugees and foreigners. But when the world woke up to the Nazi genocide and realized there was no law at all that protected the victims (since German law made the genocide legal under national law and many victims were German citizens) the world saw an urgent need to create human rights that were not dependent on the government you lived under.

#### ***What did the U.S. have to do with it?***

The U.S. participated in creating the Universal Declaration of Human Rights, which is the framework's founding document. Much of the Universal Declaration was taken from the vision of President Franklin D. Roosevelt, who laid out his vision in national speeches. Eleanor Roosevelt was the president of the human rights commission that drafted the Declaration and the U.S. strongly promoted it across the globe. This attitude by the U.S. changed after the cold war started with the Soviet Union, and after the U.S. realized that human rights could be used to challenge the practices of racial segregation in the South. After the fall of the Soviet Union, the door opened to begin the work of implementing human rights standards in the U.S. and building U.S. accountability to these norms. Today, there is a vigorous movement working towards these ends. *See [www.ushrnetwork.org](http://www.ushrnetwork.org)*

## BASIC PRINCIPLES OF THE HUMAN RIGHTS FRAMEWORK

The human rights framework protects civil, political, economic, social and cultural rights. But no matter what kind of right is at issue, there are basic principals that are always part of human rights standards and implementation. These principals include:

### ***Universality***

Human rights must be afforded to everyone, without exception. The entire premise of the framework is that people are entitled to these rights simply by virtue of being human.

### ***Indivisibility***

Human rights are indivisible and interdependent, which means that in order to guarantee civil and political rights, a government must also ensure economic, social and cultural rights (and visa versa). The indivisibility principal recognizes that if a government violates rights such as health, it necessarily affects people's ability to exercise other rights such as the right to life.

### ***Participation***

People have a right to participate in how decisions are made regarding protection of their rights. This includes but is not limited to having input on government decisions about rights. To ensure human rights, governments must engage and support the participation of civil society on these issues.

### ***Accountability***

Governments must create mechanisms of accountability for the enforcement of rights. It is not enough that rights are recognized in domestic law or in policy rhetoric, there must actually be effective measures put in place so that the government can be held accountable if those rights standards are not met.

### ***Transparency***

Transparency means that governments must be open about all information and decision-making processes related to rights. People must be able to know and understand how major decisions affecting rights are made and how public institutions, such as hospitals and schools, which are needed to protect rights, are managed and run.

### ***Non-Discrimination***

Human rights must be guaranteed without discrimination of any kind. This includes not only purposeful discrimination, but also protection from policies and practices which may have a discriminatory effect.

*I think it is necessary to realize that we have moved from the era of civil rights to the era of human rights —*

The Reverend Martin Luther King Jr.

## ***What are Economic and Social Rights?***

Human rights are based on principles of dignity and freedom. Both are severely compromised when human beings cannot meet their basic needs. Economic and social rights guarantee that every person be afforded conditions under which they are able to meet their basic needs. In particular, they include:

- ◆ ***The right to health*** ensuring the right to the highest attainable standard of physical and mental health including access to all medical services, nutrition, sanitation, and clean water and air.
- ◆ ***The right to food*** guaranteeing freedom from hunger and access to safe and nutritious food.
- ◆ ***The right to housing*** ensuring access to a safe, secure, habitable, and affordable home with freedom from forced eviction.
- ◆ ***The right to work*** guaranteeing the opportunity to have fulfilling and dignified work under safe and healthy conditions and with fair wages affording a decent living for oneself and ones family. It also provides for freedom from unemployment and the right to organize.
- ◆ ***The right to education*** ensuring an education that enables all persons to participate effectively in a free society and is directed to the full development of the human personality.
- ◆ ***The right to social security*** guaranteeing that everyone regardless of age or ability to work is guaranteed the means necessary to procure basic needs and services.

## ***Where are Economic and Social Rights Protected?***

Economic and social rights are protected under a wide range of international documents including declarations and covenants. Human rights declarations represent a commitment by countries to meet stated human rights standards. Covenants, also known as treaties or conventions, are international law agreements entered into by governments. Once they are ratified they become part of domestic law.

Declarations and covenants that protect economic and social rights include:

*The Universal Declaration of Human Rights*

*The International Covenant on Economic, Social and Cultural Rights*

*The Convention on the Rights of the Child*

*The Convention on the Elimination of All Forms of Racial Discrimination*

*The Convention on the Elimination of All Forms of Discrimination Against Women*

*The American Declaration on the Rights and Duties of Man*

## ***What Commitments has the U.S. Made to Ensure Economic and Social Rights?***

- ◆ Through the *Universal Declaration of Human Rights* , the U.S. was one of the first countries to commit to protecting economic and social rights under the human rights framework. Since then, the U.S. has been recalcitrant to meet this promise to its people.
- ◆ The U.S. has signed but not ratified the *International Covenant on Economic, Social and Cultural Rights* and the *Convention on the Rights of the Child*, both which protect the range of economic and social rights. Through its signature, the U.S. has agreed not to violate the spirit and purpose of the treaties, but it still has not fully committed to the human rights standards that they contain.
- ◆ The U.S. has ratified the *Convention on the Elimination of All Forms of Racial Discrimination* and signed but not ratified the *Convention on the Elimination of All Forms of Discrimination Against Women*, which together prohibit gender and race discrimination in economic and social rights.
- ◆ The U.S. is a member of the Organization of American States (OAS), and as such bound under regional law to the *American Declaration on the Rights and Duties of Man*, which fully protects economic and social rights. Despite rulings by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights finding that the Declaration is binding on all member states, the U.S. rejects this position and claims it is not bound to uphold the Declaration

## ***What Obligations do Governments have Under Economic and Social Rights Standards?***

***Respect:*** Governments must respect human rights, meaning that a government cannot interfere with a person exercising their human rights. For example, a government violates the obligation to respect human rights when school officials expel a student from a public school on arbitrary grounds, such as pregnancy or homelessness, or when a government policy prohibits access to needed medical services or drugs, such as birth control, or when a government engages in mass evictions of public housing residents in the interests of “development” without securing adequate alternative housing for those residents. In all these instances, government actions prevented individuals from exercising human rights (education, health, housing).

***Protect:*** Governments must protect human rights. When private actors (that is, a person or business or institution that is not part of the government) impair the exercise of human rights, the government must step in to protect those rights. For example, if factories are imposing sweatshop conditions on employees that violate the right to work for adequate pay and under reasonable conditions, the government is obligated to step in and protect the right to work.

***Fulfill:*** Governments must fulfill human rights. What this means is that the government must create the conditions that allow all people to exercise their human rights. For example, everyone has the right to receive medical care. Yet, many people in this country cannot afford health insurance (and do not qualify for Medicaid). Over 45 million people are in this situation. The government is obligated to create conditions that make private insurance affordable, or provide an alternative – like an affordable public insurance scheme that guarantees universal quality care. By taking no action, the U.S. government has failed to meet its obligation to fulfill the right to receive health care.

## ***How Does the Framework Assess Government Obligations?***

***Progressive Implementation (non-retrogression):*** Governments must “progressively implement” economic and social rights. What does this mean? It means that the government is not expected to fulfill all these rights immediately and at the same time. But it must make progress in fulfilling these rights until they are completely guaranteed. Most importantly, governments must have a concrete national plan of action that can be reviewed and assessed by the public on how these rights are going to be fulfilled.

***Minimum Core Content:*** While governments are allowed to fulfill rights progressively, there is a minimum standard that they must meet immediately. While it is still not clear where the minimum standard lies for each right and the law is still in development on this concept, complete failure to provide a right, such as in cases of homelessness and hunger, clearly violates the notion of minimum core content.

***Monitoring:*** Government is also required to monitor whether social and economic human rights are protected. For example, when the government was monitoring how many people were leaving the welfare rolls, but not monitoring the impact of welfare reform on the economic security and well-being of those families, it failed to meet its obligation to monitor the right to social security (the right to social security includes resources to maintain an adequate standard of living in the case of extended unemployment).

***Discrimination:*** No matter what level of protection a government affords human rights, it must do so without any discrimination. Discrimination includes both purposeful acts that are discriminatory, and situations where particular groups are especially and disproportionately affected. Where discrimination exists, the government must redress it immediately.

***Obligations of Conduct and Result:*** Finally, the government is both responsible for its conduct (i.e. what it does) and any results from government action or inaction. For example, if educational policies are put in place to improve education, but actually result in poorer educational outcomes for poor children, the government is held accountable under human rights standards for that result.