

Human Rights in the United States

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.

Preamble of the Universal Declaration of Human Rights

What are human rights?

All people have human rights simply because they are human. People's fundamental needs give rise to human rights. Governments are required to guarantee these rights so that all people can meet their needs. Human rights are codified in international law, which is made by agreement among governments of the world and represents a consensus about how to guarantee those rights.

Human rights include:

- Freedom 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 international human rights law 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 law and standards that were not dependent on the government people lived under.

What did the United States have to do with it?

The United States participated in creating the Universal Declaration of Human Rights, which is the founding document of international human rights law. Much of the Universal Declaration was taken from the ideas of President Franklin D. Roosevelt, who laid out his vision of freedom from fear and freedom from want in national speeches. Eleanor Roosevelt was the president of the human rights commission that drafted the Declaration, and the United States strongly promoted it across the globe. This attitude changed after the start of the Cold War, and after the United States realized that human rights could be used to challenge the practices of racial segregation in the South. After the end of the Cold War, the door opened to begin the work of implementing human rights standards in the United States and building U.S. accountability to these norms. Today, there are vigorous grassroots movements across the United States working towards these ends.

I think it is necessary to realize that we have moved from the era of civil rights to the era of human rights.
Dr. Martin Luther King Jr.

Basic principles of the human rights framework

The human rights framework protects civil, political, economic, social and cultural rights. But no matter what type of right is at issue, these basic principles guide how human rights are protected and realized.

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, interdependent and interrelated, which means that in order to guarantee civil and political rights, a government must also ensure economic, social and cultural rights (and vice versa). The indivisibility principle 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 or the right to vote.

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. Effective measures must be put in place so that governments can be held accountable for realizing human rights.

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.

Equity and 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. The standard of non-discrimination is complemented by the principle of equity. Governments must secure the equal enjoyment of human rights by everyone, which may require distributing resources in a way that reduces existing inequities and prioritizing actions that support those with greater needs.

What are economic and social rights?

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:*** 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:*** freedom from hunger and access to safe and nutritious food.
- ◆ ***The right to housing:*** access to a safe, secure, habitable, and affordable home with freedom from forced eviction.
- ◆ ***The right to work:*** the opportunity to have fulfilling and dignified work under safe and healthy conditions and with fair wages affording a decent living for oneself and one's family. It also provides for freedom from unemployment and the right to organize.
- ◆ ***The right to education:*** the right to 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:*** 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, such as declarations and covenants. Human rights declarations represent a commitment by countries to meet stated human rights standards. Covenants, conventions or treaties are international law agreements entered into by governments. Once a state signs and ratifies them, 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 Convention on the Rights of Persons with Disabilities

The American Declaration on the Rights and Duties of Man

What commitments has the United States made to ensure economic and social rights?

- ◆ Through the *Universal Declaration of Human Rights*, the United States was one of the first countries to commit to protecting economic and social rights under the human rights framework. Since then, the United States has been recalcitrant to meet this promise to its people.
- ◆ The United States has ratified the *Convention on the Elimination of All Forms of Racial Discrimination*, which prohibits racial discrimination in civil, political, economic and social rights. It must report regularly to the United Nations on its compliance with this treaty, and civil society has used these reporting processes to highlight serious U.S. shortcomings in realizing racial equality.
- ◆ The United States has signed but not ratified the *International Covenant on Economic, Social and Cultural Rights*, which defines and protects economic and social rights for all people. It has also signed but not ratified the *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Discrimination Against Women* and the *Convention on the Rights of Persons with Disabilities*. Through its signature (by the U.S. President), the United States has agreed not to violate the spirit and purpose of the treaties, but in the absence of ratification (by the U.S. Senate) it has not committed to implement the standards they contain.
- ◆ As a member of the Organization of American States (OAS), the United States is bound under regional law by the *American Declaration on the Rights and Duties of Man*, which protects economic and social rights. Despite rulings by the Inter-American Court of Human Rights that this Declaration is binding on all member states, the United States 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, which means they cannot interfere with people 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 impedes 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.” In all these instances, government actions prevent people from exercising their human rights.

Protect: Governments must protect human rights. When private actors (such as a business, corporation 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 safe conditions, the government is obligated to step in and protect the right to work. Similarly, if a private hospital is refusing to treat a patient, the government has to step in to ensure that this patient gets needed care.

Fulfill: Governments must fulfill human rights, which means they must create the conditions that allow all people to exercise their human rights. For example, everyone has the right to receive health care. Yet many people in this country cannot afford private health insurance (and do not qualify for Medicaid or Medicare). The government is obligated to create conditions that make access to health care universal and equitable, e.g. through a public insurance program that guarantees comprehensive care for all.

How are government obligations monitored and assessed?

Progressive Implementation: Governments must make demonstrable progress in fulfilling economic and social rights until they are completely guaranteed. Governments must have a concrete national plan of action, also expressed in budget allocations, that outlines how these rights will be fully implemented over time.

Non-retrogression: Even if progress in realizing human rights becomes more difficult, e.g. during economic recessions, governments must not allow any backsliding on human rights. Has a government made cuts to programs essential to the fulfillment of the rights to health, food, education, housing or social security? Has it weakened regulations essential to protecting people's rights from actions of private companies? Have policies contributed to shifting a greater burden on already disadvantaged people and thus increased inequity? If so, the government is in violation of human rights standards.

Maximum available resources:

Governments are obligated to use the maximum resources they have available for realizing human rights and meeting people's needs. Unless a government has made every effort to mobilize those resources, there is no justification for backsliding on its obligations. A government cannot point to a lack of funds, by itself, as a reason for failing to provide for people's fundamental needs. This is because the availability of resources depends on spending funds equitably, effectively and efficiently, and also on mobilizing new resources through taxation or, at certain times, through borrowing and deficit spending. Where resources are demonstrably inadequate, the obligation remains for a government to fully protect the most disadvantaged and marginalized people.

Minimum Core Content: While governments are allowed to fulfill rights progressively, there is a minimum standard they must meet immediately. For example, complete failure to ensure a right, e.g. in cases of homelessness and hunger, violates the obligation of satisfying the minimum core content of human rights.

Monitoring: Governments are required to monitor whether economic and social rights are protected. For example, when the Clinton Administration monitored how many people were leaving the welfare rolls (after severely restricting access to welfare) without monitoring the impact of welfare reform on the economic well-being of those families, it failed to meet its obligation to monitor the right to social security.

Equity and Non-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 rectify it immediately. Governments must also prioritize protecting vulnerable and disadvantaged groups and ensure that policies and actions contribute to increasing equity in society. Where inequities exist, governments must mobilize and distribute resources in a way that secures the equal enjoyment of human rights by everyone.

Obligations of Conduct and Result: A government is responsible both for its conduct (i.e. what it does) and for 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 must be held accountable under human rights standards for the result of its failed policies.

