



Introduction to International Human Rights

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Overview

- Definition of Human Rights
- Historical Roots
- Role of Human Rights in Formation of United Nations
- Summary of the major international laws
- Overview of major international mechanisms



Definition

What are human rights?



Definition

- Rights: claims against the state
- Human Rights: Belong to all humans, regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Art. 2, UDHR)



Definition

- What is the source of human rights?



Definition/Source

- Nature?

- “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.”

- --Preamble, UDHR



Definition/Source

- State?

- “the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights...”



Historical Roots

18th and 19th Centuries:

Sovereignty – Nation-State as sole subject of international law

Individuals -- objects of international law whose rights were derivative of state sovereignty



Historical Roots

Precursors to modern HR Protection:

- Rights of Minorities
- Anti-Slavery Movement
- Humanitarian Law
- Women's suffrage
- League of Nations



Intellectual Origins

- Alejandro Alavarez, Chile, American Institute of International Law, 1917 draft declaration
- Andre Mandelstam, Russia, International Law Institute, 1929 adopted Declaration of the International Rights of Man
- Rights of Man campaign – HG Wells 1939, London Times



Rights of Man Campaign

- H.G. Wells, 1939
 - “At various crises in the history of our communities, beginning with Magna Carta and going through various Bills of Rights, Declarations of the Rights of Man and so forth, it has been our custom to produce a specific declaration of the broad principles on which our public and social life is based...”



Rights of Man Campaign

- ...The present time seems peculiarly suitable for such a restatement of the spirit in which we face life in general and the present combat in particular..."
- "Declaration of Rights"
- Final version: "The Rights of Man,"
Daily Herald, February 1940



Four Freedoms

- FDR response to H.G. Wells, 9 November 1939
- January 1940: meeting with church leaders – fundamental principles for new world order
- July 1940: press meeting



Intellectual Origins

- FDR's Four Freedoms, Jan. 1941:
 - From Fear
 - From Want
 - Speech and expression
 - Worship

Response to World War II

- 56 million military and civilian deaths
- Holocaust: 6 million European Jews, Roma, homosexuals, others considered to be threats



- Refugees in Europe and survivors of atomic bombs in Japan

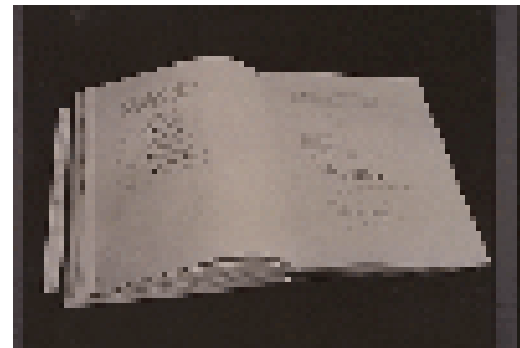
Historical Roots/United Nations

Warsaw, 1939



Historical Roots/United Nations

- Leaders of Allied Powers formed the United Nations
- NGOs lobbied for human rights to be included in the purposes of the new international organization





United Nations

- U.N. Charter adopted in San Francisco, June 26, 1945
 - Human rights referenced in
 - Preamble,
 - Article 1 (Purposes and Principles)
 - Article 55(c) (UN shall promote)
 - Article 56 (Members pledge themselves to take joint and separate action)



United Nations

“No plea of sovereignty shall ever again be allowed to permit any nation to deprive those within its borders of fundamental rights on the claim that they are matters of internal concern. It is now a matter of international concern to stamp out infractions of basic human rights.”

--America Jewish Committee, 1945



International Human Rights Laws

- UN Charter: Art. 1
 - The Purposes of the UN are...
 - (3) To achieve international cooperation...in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”



International Law

- UN Charter

- Article 55: the United Nations shall promote:
 - (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion



International Law

- UN Charter

- Article 56: “All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.”



International Law/UN Commission

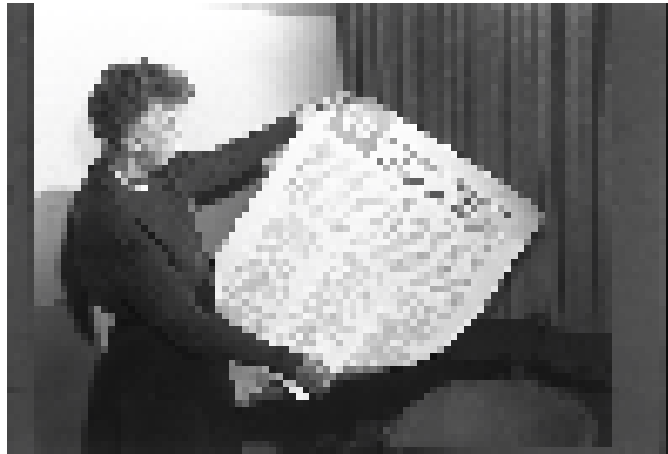
- UN Charter, Article 68:
 - The Economic and Social Council shall set up commissions in economic and social fields and **for the promotion of human rights**, and such other commissions as may be required for the performance of its functions.



International Law

- Universal Declaration of Human Rights
 - December 10, 1948
 - UN Commission on Human Rights
 - Eleanor Roosevelt, head of US delegation to UN, first chair
 - Commission had 18 Member States
 - Drafting 1946-48
 - Saudi Arabia, South Africa and Soviet States abstained (6)

Universal Declaration of Human Rights





Preamble

- Enlightenment influences
- Secular (no God, no nature)
- Cumulative human experience – human-made, self-proclaimed rights best guarantee of world peace
- Gender neutral



Universal Declaration of Human Rights

- Defines “human rights”

- 30 Articles

- Article 1: Origin of Rights
- Articles 2-21: Civil and political rights
- Articles 22-27: Economic, social and cultural rights
- Article 28: Communitarian/solidarity
- Article 29-30: Duties to the Community



Universal Declaration of Human Rights

- Civil and Political Rights:

Negative rights – freedom from government intrusion

- Economic, Social and Cultural Rights:

Positive rights – right or entitlement



Universal Declaration of Human Rights

- Many rights in the UDHR are considered binding:
 - 1. Authoritative definition of “human rights” in Charter
 - 2. Customary international law



International Law

Human Rights Covenants



Perceptions of Rights

- Positive/negative
- Long-term/immediate
- Justiciable/non-justiciable
- Ideological/non-ideological



Human Rights Covenants

- International Covenant on Civil and Political Rights, adopted 1966, entered into force 1976
 - 154 States Parties
 - Binding
 - Enforced by Human Rights Committee
- “Civil and Political Covenant”



Human Rights Covenants

- International Covenant on Economic, Social and Cultural Rights, adopted 1966, in force 1976
 - 151 States Parties
 - Binding
 - Enforced by Committee on Economic, Social and Cultural Rights
 - “ESC Covenant”



International Bill of Human Rights

- Universal Declaration of Human Rights
- Civil and Political Covenant
- Optional Protocol to the Civil and Political Covenant
- ESC Covenant



International Legal Instruments

Politically Binding:

- Declarations
- Proclamations,
- Statements,
- Programme of Action



International Instruments

- Legally Binding:

- Treaty
- Covenant
- Protocol
- Convention



International Law

- Customary International Law
 - General practice, and widespread acceptance that practice is lawful
 - A customary norm binds all governments, even if they have not recognized the norm
 - Except “persistent objectors”



Other Human Rights Instruments

- Genocide Convention (1948)
- Race Convention (1969)
- Women's Convention (1981)
- Convention against Torture (1987)
- Children's Rights Convention (1990)
- Migrant Workers Convention (2003)



Enforcement of International Laws

How are human rights enforced?



Human Rights Enforcement

- 1. National and local laws
- 2. U.N. Treaty/Charter Bodies
- 3. International Criminal Court
- 4. Regional Commissions/Courts
- 5. Public pressure



Treaty Bodies

- Members are Independent Experts
- Functions:
 - Review States' Reports
 - Review individual cases, if jurisdiction accepted by State Party
 - Issue General Comments, general interpretations of law regarding their treaty



Treaty Bodies

- Human Rights Committee -- enforces the Civil & Political Covenant
- Committee on ESC Rights – enforces the ESC Covenant



Treaty Bodies

- Race (CERD)
- Women (CEDAW)
- Children (CRC)
- Torture (CAT)
- Migrants



Charter-based Bodies

- Security Council
 - “Perm 5”
 - 10 rotating/regional representation
 - New members?

UN Charter-Based Bodies

- General Assembly
 - main deliberative organ
 - It is composed of representatives of all member states, each of which has one vote





UN Charter-based Bodies

- Human Rights Council
 - Established in 2006, first session June 06
 - 47 state members
 - Universal peer review
 - 3 sessions/year, 10 weeks
 - Resolutions/Reports
 - Special Procedures
 - Reports to GA



UN Charter-based Bodies

- Advisory Committee
 - 18 expert members
 - “think tank”
 - Studies/norm development



Regional Organizations

- African Union
 - African Commission on Human and Peoples' Rights
- European Union
 - European Court of Human Rights
- Organization of American States
 - Inter-American Commission/Court of Human Rights