

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 1

2022

© 2022 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Human Rights Importance in International Affairs

DIPANKAR KUMAR¹

ABSTRACT

People are becoming more aware of the significance of human rights in the modern world. There was a time when the United Nations' Universal Declaration of Human Rights was considered the most essential document articulating fundamental equality and human dignity. Every person on the planet is permitted to have the same fundamental rights and freedoms as they were born into this world. Human rights are sacrosanct and regardless of a person's place of origin, beliefs, status, etc., these rights are available all the time. These rights are inalienable, but they can be limited for many reasons, such as when you break the law or if it is in the best interests of the country. Human dignity, fairness, equality, respect, and independence are the cornerstones of these essential rights. There are many ways in which the law defines and protects these values. The guard of human rights relies heavily on international law. Governments must first secure international support and pressure before enforcing restrictions on the rights of people or groups. It's especially true when it comes to freedoms that are more difficult to obtain without international support and pressure. International human rights treaties and other papers have been signed since 1945, creating a major body of international law that is still in existence today. Some of the most important international organisations, like the Human Rights Council, the UN treaty bodies, and the Council of Europe, keep an eye on and monitor their implementation. Countries that have committed to adhere to the terms of an international agreement are legally obligated to do so. Treaties are signed by the Indian Government and ratified by Parliament, which means that the country is legally bound by all of its obligations. Human rights are the very crucial elements of the Equality and Human Rights Commission's role, which includes an international dimension.

I. SIGNIFICANCE OF HUMAN RIGHTS

To be happy and content in life, there are a number of prerequisites that must be met by everyone. A person's basic human rights include these rights, ensuring that everyone has a fundamental degree of dignity. But despite the fact that many people nevertheless lack

¹ Author is a Student at Presidency University, Bangalore, India.

accessibility to these fundamental essentials, campaigners and others may find it difficult to ensure access to them whilst presenting the issue like a human rights violation.

Human rights protect vulnerable people from being exploited. Human rights were shaped in large part by the Holocaust and the horrors of World War II. This was a time in history when people with disabilities and LGBT people were targeted as well as the Jewish population because of their vulnerability. Instead of ignoring the most disadvantaged people of society, human rights organisations focus their efforts on these individuals.²

People's human rights might be invoked in order to speak out against corruption in society. When people are harmed or corrupted, the idea of human rights gives them the power to speak out and demand justice. Due to the fact that no nation is perfect, basic rights, including the freedom to assemble, are essential to human survival. The idea of human rights gives people a sense of agency because it reminds them that they are entitled to respect from all sectors of society, not just the government. If they don't get it, they can choose to stand and raise their voice against it.

The right to free speech and the open exchange of ideas is promoted by human rights. Despite everything you've just read, the freedom to speak without fear of retaliation is substantially greater. But no one should ever feel threatened by the government because of what they believe, even if it entails ideas and expression modalities that not everyone finds appealing or agrees with. Those who disagree with a society's declared views but yet wish to dispute them are protected by this rule.³

Human rights protect the right of individuals to practise their religion as they see fit. The Crusades, the Holocaust, and current acts of terrorism are all examples of religious tyranny and brutality that have happened throughout history. Human rights law ensures that the religious and spiritual beliefs of others are respected and that they may be practised freely. Refusal to follow a religious belief system is likewise recognised as a basic human right by the United Nations.⁴

Amongst the most universal human rights is the ability to love whoever one chooses regardless of their sexual orientation. It is impossible to emphasise the significance of someone being able to openly love. To some, choosing one's romantic future is among the most basic human freedoms. It is clear to see the consequences of failing to preserve this right in countries where

² Jack Mahoney, *The Challenge of Human Rights: Origin, Development and Significance*, Philpapers.org, Wiley-Blackwell (2008).

³ Thomas Pogge, *The International Significance of Human Rights*, *The Journal of Ethics* 4, 45–69 (2000).

⁴ Gordon Butler, *The Essence of Human Rights: A Religious Critique*, 43 U. Rich. L. Rev. 1255 (2008-2009)

LGBTQ people are repressed and mistreated, and even when women are forced into partnerships they do not desire.

Human rights promote equal work opportunities. As long as people are able to work and make money, they are able to thrive in their own cultures. Abuse or a lack of opportunity are the result of those who refuse to accept that their work environment is biased or restrictive. As a guide for how employees should be treated, the human rights idea supports fairness and equality for all workers.

Human rights ensure that everyone has the opportunity to receive an education. The importance of education cannot be overstated; this is mainly true in low-income areas. To end poverty, human rights organisations and governments provide a variety of services, including education, school supplies, and other resources. If education is considered a basic right, then everyone, not just the wealthy, can benefit from it.⁵

In order to protect the environment, all people's human rights must be respected. As a result of climate change and the consequences it has on people's lives, human rights and environmentalist beliefs and practises have become increasingly interwoven. Everything that transpires to the ecosystem has an impact on us since we are completely reliant on the earth for our livelihood, and this is an established fact. The protection of other fundamental human rights, such as access to healthy food, clean water, and clean air, is made all the more difficult. As a way of keeping governments responsible, human rights are widely accepted across the globe. During WWII, human rights were consistently violated, and the UDHR was created to give direction for the future and compel states across the world to admit that they had been violated as a result. Governments can indeed be made accountable for their acts so long as there is a clear definition of what constitutes human rights. The UDHR and other human rights agreements are important because they recognise injustice and point to a precedent.

II. ORIGINS OF HUMAN RIGHTS

Human rights have been in existence for a long period of time now. Ethical behaviour, fairness, and human dignity have been essential to the development of human civilizations throughout history. Babylon, China, and India are attributed with introducing these ideas to the world. Their contributions to Greek and Roman civilization, as well as to many other religions, have been substantial and have influenced many other religions as well.

⁵ *10 Reasons Why Human Rights Are Important*, Human Rights Careers, <https://www.humanrightscareers.com/issues/10-reasons-why-human-rights-are-important/> (last visited Dec 6, 2021)

Ethics, fairness, and human dignity must also be taken into account when working with groups like the Aboriginal and Torres Strait Islander peoples of Australia and other indigenous civilizations throughout the world that have not left written records but have retained oral histories.⁶

Justice and fairness were a major concern for philosophers throughout the Middle Ages, Renaissance, and Enlightenment. According to this school of thought, a natural law that was superior to the law of kings and queens constituted a fundamental thread in the fabric of society. Individuals were entitled to some benefits just because they were human beings, and hence possessed certain rights.

The English barons convinced King John of England for signing the Magna Carta (also known as the "Great Charter") in 1215. To put boundaries on the ultimate power of the king and to hold him accountable to his subjects, Magna Carta was the first contract. In 1215, it was ratified by the king of France. In addition, it established other essential rights, such as the right to a fair trial, to protect citizens.

During the 17th and 18th centuries, human rights were seen in a quite different light. Individuals were awarded a wide ranging set of rights in 1776, including a fundamental right to life, liberty, and pursuit of happiness. The French Declaration of the Rights of Man and of the Citizen (1789), which marks a comparable challenge to aristocratic control, recognises individual liberty, equality, and fraternity. While the United States' Bill of Rights (1791) contained the right to 'peaceable' assembly as well as the right to a trial by jury, it also included the right to freedom of speech and religion.⁷

Advances in social mobility were made during this time period, including the abolition of slavery, universal education, and the expansion of political participation. However, international collaboration on human rights is still very restricted. A common belief held by many was that nations were free to do whatever they pleased within their own borders, with no cause for other countries or the broader international community to intervene. If you live in the United States, "state sovereignty," as it is commonly referred to, refers to the concept of a country's political leaders having the ability to rule and enact laws within their territory. Sovereignty is significant because countries have decided to mutually recognise it. As a result of this agreement, they undertake to abstain from intervening in the in-house or foreign affairs

⁶ C. McCrudden, *Human Dignity and Judicial Interpretation of Human Rights*, 19 *European Journal of International Law* 655–724 (2008).

⁷ *Declaration of Independence*, Britannica, T. Editors of Encyclopaedia (2021, February 12), <https://www.britannica.com/topic/Declaration-of-Independence>, (last visited Dec 6, 2021)

of sovereign states. On the other hand, the World War II tragedies and human rights breaches galvanised the world's attention and catapulted human rights to the centre of public discourse. Millions of people were killed or injured during the World War II. The Nazi regime in Germany constructed concentration camps for Jews, communists, homosexuals, and other political opponents. Some of these people were forced to work as slaves, while others were killed in mass slaughters. Japan's invasion of China and other Asian countries during World War II resulted in severe violence against civilians on a large scale. Thousands of POWs were taken prisoner by the Japanese and made to work as slaves without access to medical treatment or enough nutrition. Following World War II, the allies focused their energies on advancing and safeguarding human rights. The 'Four Freedoms,' which President Franklin D. Roosevelt stated in 1941, are freedom of speech and religion, freedom from want, and from fear. Millions of people died throughout the conflict, including in the first and only use of atomic weapons, which took place in 1945 at Hiroshima and Nagasaki. The war ended in 1945. Millions of people were killed or forced to flee their homes as a result of the war ravaging several countries.

III. FOUNDATION FOR INTERNATIONAL HUMAN RIGHTS

A new world organisation was formed in 1945 soon after World War II was over, with the goal of preventing future wars and promoting peace and prosperity around the world. This was called the United Nations or the UN. Human rights have always been a priority for the United Nations, setting it apart from previous international organisations. They believed that protecting human rights will lead to greater freedom, justice, and peace for all people around the world. The Universal Declaration of Human Rights, which was established in 1948, provides a framework for international human rights legislation. Many international human rights treaties have sprouted since then. As we battle injustices, navigate conflict, live in restrictive settings, or work toward universal human rights, it continues to serve as a source of inspiration to us all.⁸

Symbolically, the universal understanding that all of humanity has the same basic freedoms is one of the most essential emblems. We all made a promise on December 10, 1948, when the international community pledged to work together no matter what our nationality or where we live or what our racial, religious, or ethnic background may be.⁹

⁸ United Nations Universal Declaration, *International Covenant: United for Human Rights*, <https://www.unitedforhumanrights.in/what-are-human-rights/international-human-rights-law/international-human-rights-law-continued.html> (last visited Dec 6, 2021)

⁹ *The Foundation of International Human Rights Law*, United Nations, <https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law> (last visited Dec 6, 2021)

Since its beginnings, the commitment has been institutionalised in several types of international law, spanning customary law, general principles, regional agreements, and local legislation. Numerous national and state constitutions, human rights treaties, and declarations have drawn inspiration from the UDHR.

A decade later, in 1976, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) came into effect, building on their predecessors. The two Covenants, which build on the rights enshrined in the UDHR bind all states which have approved on to them. Some of these rights include life, equal treatment under the law, and freedom of speech. These Covenants along with the UDHR make up the International Bill of Human Rights.¹⁰

As a result of their increased regard to specific issues and protection of certain socioeconomic groups over the last several years, these international humanitarian protocols have expanded in both breadth and specialism over the last few generations. There is a growing body of international human rights laws that addresses issues such as the promotion of gender equality, as well as the entitlements of migrants, ethnic minorities, and indigenous peoples. All of these issues are addressed in the growing body of existing human rights legislation.¹¹

IV. THE ESSENCE CONCEPT FOUND IN HUMAN RIGHTS

An analysis of "essence" in international law requires comparison between distinct human rights categories. The ICCPR and ICESCR vary greatly on human rights. The Constitution guarantees individuals the right to participate in governmental and civil society affairs. Article 17 of the ICCPR guarantees personal freedoms including privacy, whereas Article 18 protects the right to think, believe, and practise one's religion. A person's civil and political rights are guaranteed under Articles 2(1), 26 of the ICCPR, as well as 14 and 15. Article 25 of the ICCPR protects democratic participation. Article 2(1) of the ICCPR guarantees human rights, which nations must "respect" and "ensure." However, historically, official activity has focused on the first requirement, a "negative" promise to defend human rights, with the second obligation taking precedence when the first obligation is gradually overturned.¹² To the extent permitted by the ICCPR, Article 2(1) stipulates that obligations must be met immediately and without regard to a country's ability to provide the necessary resources.¹³

¹⁰ Anthony D'Amato, *The Concept of Human Rights in International Law*, 82 Columbia Law Review 1110 (1982)

¹¹ *International Human Rights*, Equality and Human Rights Commission, Equalityhumanrights.com, (last visited Dec 6, 2021)

¹² Frédéric Mégret, *Nature of Obligations*, In *International Human Rights Law* 97, 98 (Daniel Moeckli et al. eds., 3rd ed. 2018).

¹³ U.N. Human Rights Committee (HRC), *General Comment No. 31 [80]*, *The nature of the general legal*

At both the macro and micro levels, international law emphasises the importance of civil and political rights. The ICCPR's Articles 4(1) and 4(2) specify just a few basic freedoms when it comes to gaining civil and political rights. They are regarded as holy and cherished as a group. Article 5(1) of the ICCPR prohibits a breach at the micro level. The upshot is that each civil and political right has a core component. For the most part, it is not evident what the practical consequences of violating a fundamental right are. Such a "absolute" definition of the core has been adopted by the majority of interpretations, leaving no room for any attempts at explanations like proportionality analysis to be performed, as a result. There are a few exceptions to the general rule that the right to privacy must be respected under all circumstances under the ICCPR's Article 5(1), although the rule is largely appropriate to all ICCPR rights in most situations.

Instead of being considered equally by the law and by the people, these three categories of human rights are treated as distinct from one another. It's in everyone's best interest to maintain or improve their individual economic, social, as well as cultural standing within the state and society. A fair quality of life is guaranteed by Article 11, the essential right to education is guaranteed by Article 12, and participation in cultural activities is guaranteed by Article 15 of the ICESCR.¹⁴

In accordance with a trio of legal requirements, member nations are required to "respect, preserve, and fulfil" social and economic rights. According to this definition, the state must abstain from impeding with human rights of all people; safeguard the safety and well-being of its citizens by preventing infringement on the protections they have, and ensuring that their rights are progressively realised through time. Henry Shue,¹⁵ who advocated for a duty to minimize deprivation, to safeguard from exclusion, and to assist people who have been stripped of their rights, conceived this triad. The United Nations legally recognised this triad as a genuine political entity in later years.¹⁶ State governments are not obligated to immediately and resource-independently fulfil their responsibilities under Article 2 of the ICESCR. States' efforts are frequently centred on their commitments to protect and accomplish in most circumstances, constructive state action is needed rather than civil political rights' fulfilment, such as building homes or financing a hospital.

obligation imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004)

¹⁴ Pierre Thielbörger, *The "Essence" of International Human Rights*, 20 German Law Journal 924–939 (2019).

¹⁵ Henry Shue, *Basic Rights, Subsistence, Affluence, And Us Foreign Policy* 52 (2d ed. 1996).

¹⁶ U.N. Commission on Human Rights, *The Right to Adequate Food as Human Right*, U.N. Doc. E/CN.4/Sub.2/1987/23 (Mar. 7, 1988)

V. CONCLUSION

Through the above study, we conclude that human rights indeed play a very important role in the international sphere as they act as the universal law for protection of basic human rights applicable on every single individual. They also help to keep a check on the administration of State Governments when they infringe upon the human rights of their subjects and turn tyrant fundamentalists.

On the worldwide level, efforts to defend the rights of all individuals started in the nineteenth century with the abolition of slavery as well as improvements in the conditions of the ill and wounded during wartime. At the conclusion of the First World War, various treaties were signed with ally or newly constituted states with the goal of guaranteeing particular protection for minorities under the laws of those countries. Because of the atrocities perpetrated during the Second World War, an urgent need to find methods to improve international collaboration, particularly cooperation aimed at defending the human person against the arbitrary use of state authority as well as improving living conditions was felt. This paved the way towards the UDHR which serves as the bedrock of human rights in the international space
