

## CLASS 3 HANDOUT

### **1. WHAT ARE HUMAN RIGHTS?**

<http://www1.umn.edu/humanrts/edumat/hreduseries/hereandnow/Part-1/whatare.htm>

*Human rights are the rights a person has simply because he or she is a human being.*

Human rights are held by all persons equally, universally, and forever.

Human rights are inalienable: you cannot lose these rights any more than you can cease being a human being.

Human rights are indivisible: you cannot be denied a right because it is "less important" or "non-essential."

Human rights are interdependent: all human rights are part of a complementary framework. For example, your ability to participate in your government is directly affected by your right to express yourself, to get an education, and even to obtain the necessities of life.

Another definition for human rights is those basic standards without which people cannot live in dignity. To violate someone's human rights is to treat that person as though she or he were not a human being. To advocate human rights is to demand that the human dignity of all people be respected.

In claiming these human rights, everyone also accepts the responsibility not to infringe on the rights of others and to support those whose rights are abused or denied.

### **2. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) -**

<http://www.un.org/en/documents/udhr/>

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 [General Assembly resolution 217 A](#) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected.

#### **Preamble**

Whereas 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,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and 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,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

**Article 1:**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**Article 2.**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3.**

Everyone has the right to life, liberty and security of person.

**Article 4.**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5.**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6.**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7.**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8.**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9.**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10.**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 11.**

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12.**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 13.**

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

**Article 14.**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article 15.**

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16.**

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17.**

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

**Article 18.**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19.**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20.**

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

**Article 21.**

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22.**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

**Article 23.**

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24.**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

**Article 25.**

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**Article 26.**

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to

all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

**Article 27.**

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

**Article 28.**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29.**

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

**Article 30.**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

### **3. A BRIEF HISTORY OF HUMAN RIGHTS**

[http://www.du.edu/idge/media/documents/Teacher\\_Compendium.pdf](http://www.du.edu/idge/media/documents/Teacher_Compendium.pdf)

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In the wake of World War II the United Nations was formed to promote and protect human rights. Shortly after the United Nations' inception it created the Universal Declaration of Human Rights (UDHR) to solidify and formalize concepts of human rights world-wide. This document was largely to ensure that the tragedies of World War II would never happen again. While our modern conception of human rights derives directly from the UDHR, human rights ideas far preceded this document. Some of the pre-modern theories of human rights will be discussed further in this section.

In the modern conception of human rights, rights are often broken into two distinct categories: *civil/political rights and economic/cultural/social rights*.

Civil and political rights are rights that protect individuals from government and private infringement. These rights allow individuals to participate fully in society and the political realm

without discrimination. Civil rights include the right to not be discriminated against based on age, origin, religion, race, gender, etc. These rights also include freedom of speech, press, etc. Broadly speaking civil rights are all rights that seek to treat individuals equally. Political rights include the right to a fair trial, right to assemble, right to petition, etc. These rights allow full and just participation in the political system.

Cultural, social and economic rights encompass basic needs and broader necessities. Social rights include the right to housing, food, health, education, etc. Economic rights include the right to an adequate standard of living, a livable wage, a job, protection from economic exploitation, etc. Cultural rights include freedom of religion, freedom of one's culture and language, etc. Cultural, social and economic rights represent freedoms that individuals value and hold, while civil/political rights represent rights against State interference.

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Many scholars seek to distinguish the two categories of rights. They argue that most civil/political rights are couched in the negative, while most cultural, social and economic rights are couched in the positive. Further, that civil/political rights can be realized immediately while civil, social and economic rights usually must be realized in a progression. Thus, it is often harder to enforce and regulate cultural, social and economic rights. While these distinctions may be helpful, more and more the line blurs between these categories of rights.

Currently, there exists controversy over the modern concept of rights, with some critics claiming that the prevailing body of human rights stems from Western influences and that it does not adequately take into consideration the different cultures and belief systems of nations functioning outside that sphere. While the Western concept of human rights has impacted 21st century formulations, it would be incorrect to assume that there have been no other cultures or belief systems outside of the West that have influenced current human rights doctrines.

Amartya Sen, Nobel laureate and international economist, notes that invocations of distinct Eastern or Asian values are primarily championed by government spokesmen to justify dubious political actions (2005, p. 123). Sen cogently delineates the ideological heterogeneity of purported Western and Eastern traditions regarding freedom and tolerance, problematizing generalizations from the over-aggregated East-West values dichotomy. Given the diversity of perspectives and interests within each nation-state, selectively manufacturing Eastern authoritarian order in opposition to Western individual freedom (2005, p. 137).

“Since many different value systems and many different styles of reasoning have flourished in Asia, it is possible to characterize ‘Asian values’ in many different ways, each with plentiful citations. By selective citations... and by selective neglect... the view that Asian values emphasize discipline and order – rather than liberty and autonomy, as in the West – has been given apparent plausibility. This contrast... is hard to sustain when one actually compares the respective literatures.” (p. 286)

Tremendous variety is found among thinkers in every culture. Across the globe, longstanding and diverse traditions of freedom, tolerance, and human rights are present and valued in modern communities. To hold human rights as the exclusive purview of Western liberalism is both disingenuous and detrimental to human lives and developmental capacities the world over.

Human rights began with religious and secular contributions, and transformed throughout the era of Enlightenment, the Industrial Age and on to the present moment. The following is a brief timeline to provide insight into the number of significant contributions each time period has made to the development, advancement and dissemination of human rights today, as well as how the modern conception of human rights emerged.

### **Brief Timeline of Human Rights**

Pre-1700: Religious foundational principles influenced modern day understandings

Philosophers contributed to the modern day foundations

1689: English Bill of Rights created – England

1776: Declaration of Independence – United States of America

1789: Declaration of the Rights of Man and of the Citizen – France

1848: First publication of the *Communist Manifesto* promoting Karl Marx's thoughts surrounding human rights based on social and economic equality

1861-1865: United States Civil War – many issues related to human rights were labeled as causes, such as fair trade unions, women's suffrage, and abolition of slavery

1939-1945: World War II – both Axis and Allied powers committed horrendous and brutal crimes – after the end of the war, international order started to be restored 1948 Universal Declaration of Human Rights (UDHR) was adopted by the General Assembly of the United Nations

1965: International Convention on Elimination of all Forms of Racial Discrimination was adopted

1966: International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) were completed

1976 ICCPR and ICESCR took effect

1979: The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations

1984: The Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted

1989: The Convention on the Rights of the Child was adopted by the United Nations General Assembly

### **List of Human Rights Issues**

(see <http://www.ohchr.org/EN/Issues/Pages/ListOfIssues.aspx>)

Adequate Housing; Administration of Justice; Albinism; Business and Human Rights; Children; Civil and Political Rights; Climate change; Coercive measures; Cultural rights; Death penalty; Democracy; Detention; Development (Good Governance and Debt); Disability and Human Rights; Disappearances; Discrimination; Economic, Social and

Cultural Rights; Education; Environment; Executions; Food; Freedom of Opinion and Expression; Freedom of peaceful assembly and of association; Freedom of Religion and Belief; Health; HIV/AIDS; Human Rights Defenders; Human rights education and training; Human Rights Indicators; Independence of Judiciary; Indigenous Peoples'; Internal Displacement'; International Order; International Solidarity; Mercenaries; Migration Millennium Development Goals and Human Rights; Minorities; Nationality; Older persons Plans of Action for the Promotion and Protection of Human Rights; Poverty; Privacy; Racism; Rule of Law; Sexual orientation and gender identity; Slavery; Social Security ; Terrorism; Torture; Trade and Investment; Traditional values; Trafficking in Persons; Transitional Justice; Treaty Body Strengthening; Water and sanitation; Women; Youth

### **HUMAN RIGHTS DAY**

Human Rights Day is observed by the international community every year on 10 December. It commemorates the day in 1948 the United Nations General Assembly adopted the Universal Declaration of Human Rights.

The formal inception of Human Rights Day dates from 1950, after the Assembly passed resolution 423 (V) inviting all States and interested organizations to adopt 10 December of each year as Human Rights Day.

Source: United Nations Human Rights - Office of the Commissioner (n.d.) *Your human rights*. Available at: <http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx>

### **4. CORRUPTION AND HUMAN RIGHTS: MAKING THE CONNECTIONS**

<http://www.u4.no/recommended-reading/corruption-and-human-rights-making-the-connection/downloadasset/2329>.

#### **p. 49: WHEN CORRUPTION MAY VIOLATE THE RIGHT TO FOOD**

The right to food, also referred to as the right of everyone to be free from hunger, asserts that all people should be in a position to feed themselves. It should be made clear that the right to food does not imply that states must provide food to everyone. The obligation on a state is to take steps that will gradually make it possible for all people to feed themselves, will provide access to food in an equal and non-discriminatory way, and will assist people to obtain food if they are not in a position to feed themselves.

#### **Core content of the right to food**

According to the Committee on Economic, Social and Cultural Rights (CESCR), the core content of the right to food implies that food should be made available in a quantity and quality that is sufficient to satisfy the dietary needs of individuals. Individuals should be able to feed themselves from productive land or other natural resources, and distribution, processing and market systems should be able to move food from the site of production to where it is needed in accordance with demand. Food must be safe (free from adverse substances). This means that the government must set and enforce health and safety standards for food quality. Food should also be acceptable within a given culture. This implies the need to take into account, as far as possible, perceived non-nutrient values attached to food and food consumption and informed



consumer concerns. Accessibility includes both economic and physical accessibility. Economic accessibility implies that personal or household financial costs associated with the acquisition of food for an adequate diet should be such that households can meet other basic needs. Socially vulnerable groups may need specific attention through special programmes. Physical accessibility implies that adequate food must be accessible to everyone, including physically vulnerable individuals, such as infants and young children, elderly people, the physically disabled, the terminally ill and persons with persistent medical problems, including the mentally ill. Refugees, victims of natural disaster and other specially disadvantaged groups may need special attention and priority consideration.

Corruption can seriously undermine the realisation of the right to food. The UN Special Rapporteur on the right to food identified corruption as one of the seven major economic obstacles that hinder or prevent the realisation of the right. In 1996, the Declaration of the World Food Summit expressly mentioned corruption as one of the causes of food insecurity. As it does with other ESC rights, corruption diverts essential resources from social spending and thus, directly or indirectly, hinders realisation of the right to food.

In addition, corrupt practices related to the possession and use of land and natural resources can restrict the availability of food and violate the right. For example, if bribes are required to purchase or obtain a license to farm land, this may prejudice access to food. The right will also be violated if land is allocated in a discriminatory manner as a result of corrupt practises.

Indigenous populations may be particularly vulnerable to violations of their right to food as a result of corrupt sale or expropriation of land on which they depend. Logging, oil and mining ventures, many of which are frequently non-transparent about land acquisition, have displaced numerous indigenous communities from their ancestral lands, and in doing so have sometimes violated their right to food and other ESC rights.

Corruption may also affect other elements of the right to food. Food security may be compromised if food producers obtain licenses by bribing the authorities; and the right to health (and life) may be compromised, if such food producers subsequently put adulterated or unsafe products on the market. Corruption in food programmes and schemes designed to meet the needs of socially vulnerable people may also prevent them from obtaining food; when a person embezzles funds from a food programme, or diverts food into the black market for personal profit, the right to food of those who are embezzled is clearly compromised.

**p.55 - 59: WHEN CORRUPTION MAY VIOLATE THE RIGHT TO EDUCATION**

The right to education is guaranteed in several international instruments, notably Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). In general terms, this right has two main dimensions.

The social dimension affirms the right to receive an education that reflects the aims and objectives identified in Article 13(1) of the ICESCR. States are required to make various levels of education available (primary, secondary and higher) and these should be easily accessible to all.

Education also has a freedom dimension: it requires academic freedom and institutional autonomy and implies the personal freedom of individuals or their parents or guardians to choose educational institutions that reflect their educational, religious and moral convictions. This in turn implies that individuals should be free to establish and direct educational institutions.

### **Core content of the right to education**

The core elements of the right to education are availability, accessibility, acceptability and adaptability (CESCR, General Comment No. 13). Availability requires states to ensure free and compulsory primary education to all, while secondary and higher education must be made available and accessible to all through the progressive introduction of free education. In addition, the provision of educational institutions and programmes must be adequate, and educational institutions and programmes must be equipped with what they need to function (buildings, trained and paid teachers, teaching materials, sanitation, drinking water, etc.). Corrupt practices in the education sector harm the availability of education. Most notably, embezzlement removes resources required to equip educational institutions. Accessibility implies that education should be accessible to everyone without discrimination. It refers not only to physical but also economic access. In this context, all education should be affordable, and primary education should be free. Acceptability requires that the form and content of education programmes should be acceptable to students and parents (in terms of relevance, cultural appropriateness and quality). Adaptability implies that education should adapt to the needs of societies as they change.

Corruption is frequent in the education sector. In most countries, educational institutions occupy a large place in the public sector. This creates many opportunities and incentives for corruption. Frequent forms of abuse include: rigged tenders and bids; embezzlement of funds; illegal registration fees; absenteeism; and examination fraud.

Most corrupt practices in the education sector infringe one or more elements of the right to education. Corruption may restrict access to education in many ways. Children may be requested to make informal payments for services, for example, or required to pay a bribe on admission, or parents may be asked to pay the teacher fees for additional private lessons (covering material from the core curriculum that should be taught during the school day) or for correcting their child's work. In such cases, access to education is not based on equality but on ability to pay a bribe, which amounts to discrimination and puts vulnerable groups at particular disadvantage because they are least able to pay. All corrupt practices that entail the disbursement of money for primary education violate the right to education, because primary education should be free.

Corruption that harms the quality of education affects its acceptability. Corruption in procurement affects the acquisition of educational material, meals, buildings, and equipment, and usually lowers their quality. Corruption of recruitment procedures may result in the appointment of less qualified teachers, lowering the standard of education that pupils receive. These effects infringe the right to education.

Corruption in the education system may discriminate against girl children and limit their opportunities. For example, when families living in poverty have to pay a bribe to send their children to school, many will prioritise the education of their male children at their daughters' expense, for religious, socio-cultural or economic reasons.

Corruption in education is particularly damaging because it has long-term effects. It undermines access and harms the quantity and quality of education services and facilities. This has a disproportionate effect on vulnerable groups who, without access to education (or with access only to education of poor quality), stand little or no chance of breaking the cycle of poverty. As a result, corruption in the education sector is a catalyst for other serious rights violations. Children who drop out of school because their parents cannot afford bribes will earn less, and are more likely to work in more dangerous jobs and to live shorter lives.

Moreover, if children are exposed to corruption in school, it is difficult to create a culture of transparency and integrity. The effects of corruption in education, like the effects of education, have lifelong, even generational consequences; it is therefore an area in which corruption has especially deep and pernicious effects.

**Think about and talk to your colleagues about the following:**

- how corruption may violate the right to water;
- how embezzlement of funds allocated to social programmes may violate human rights
- corruption may violate economic, social and cultural rights
- how corruption may violate the rights of political participation

**5. Wadesango, N., Rembe, S. & Chabaya, O. (2011). Violation of women's rights by harmful traditional practices. *Anthropologist*, 13(2): 121-129. Available at: <http://krepublishers.com/02-Journals/T-Anth/Anth-13-0-000-11-Web/Anth-13-2-000-11-Abst-Pdf/Anth-13-2-121-11-720-Wadesango-N/Anth-13-2-121-11-720-Wadesango-N-Tt.pdf>**  
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