

# HABSMUN 2022

## SPECIAL COMMISSION BRIEFING PAPER



# Question of the need for a new Convention on Universal Human Rights

## Background

The Universal Declaration of Human Rights is a landmark document that was adopted by the United Nations on the 10th December. The Universal Declaration of Human Rights contains 30 articles and applies to each individual, regardless of gender, race, religion or cultural background. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. The UDHR is widely recognised as having inspired, and paved the way for, the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels.

Although it is not legally binding, as seen above, the contents of the UDHR have been incorporated into subsequent international treaties, regional human rights instruments, and national constitutions and legal codes. Despite the fact that there is a wide consensus that the declaration itself is non-binding and not part of international law, there is also a consensus that many of its provisions are binding and have passed into customary international law, although courts in some nations have been more restrictive on its legal effect. All states have ratified at least 1 of the 9 core human rights treaties, as well as 1 of the 9 optional protocols. 80% of States have ratified 4 or more. This means that States have obligations and duties under international law to respect, protect and fulfil human rights. On the Commission on Human Rights there are 53 countries, whose delegations meet in Geneva for six weeks each year.

One year later in 1966, the UN adopted the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Both of these contain legally-binding elements, and together with the UDHR, they make up the International Bill of Human Rights. The UDHR itself may not be enforceable, but without it, would there be any legally-binding treaties and conventions? It's hard to say.

## Key Issues

The UDHR includes no clear mechanism of implementation. All UN declarations, including the UDHR, are aspiration. They embody ideals and goals, but in themselves they provide no concrete framework for actually achieving them.

The declaration is not, in itself, a legally binding instrument. It is therefore not followed everywhere as it is opinion to follow, it also means that one does not suffer major consequences if the document is disobeyed. Eight countries and Soviet republics abstained from the Universal Declaration of Human Rights: Czechoslovakia, Poland, Saudi Arabia, Soviet Union, Byelorussian SSR, Ukrainian SSR, South Africa, and Yugoslavia,

The Universal Declaration of Human Rights represents solely western values. The participation and influence of non-western cultures in the codification of the document legitimise its universality has several shortcomings. Some non-western nations such as Saudi Arabia, South Africa, and the Soviet bloc were not as willing to participate in the process as others. Saudi Arabia abstained because of contradictions with Sharia law, and South Africa's government was openly hostile to the Declaration due to the apartheid system that governed civil life in the country at the time. This context of exclusion that these non-western States were left in can be used as an excuse for them to violate human rights, leading the document to sometimes serve the opposite purpose of what it was written. It means that the document was written by mostly western countries, which explains why the UDHR has been subject to criticism due to its supposed ethnocentrism and rhetoric.

The UDHR was written over 70 years ago, and there are now new and growing threats to human rights. These threats are the consequence of a number of global developments, including shifting geopolitical balances, extreme economic and social inequality, climate change, and a weakening of democratic institutions. These threats are very real, and it is important that the proponents of universal human rights monitor and respond to them.

Another possible issue is that human rights ideals have been segmented. The separation of rights into social/economic and civil/political has enabled states to focus on some rights to the neglect of others. Global power shifts, especially under the hegemony of the post-Cold War United States, have led to exaggerated selective emphasis on just some of the rights embedded in the UDHR, when in fact none can be fully realised without a comprehensive approach. Political rights cannot be effectively exercised by those lacking access to basic economic necessities. And those meeting their economic needs may find that their voices as citizens are meaningless in a system characterized by vast inequality or in which national institutions are infected by mechanisms that leave them politically marginalised. Rights must be recognised as being fundamentally interconnected, and they must be advanced in tandem. Emphasis on some principles to the exclusion of others undermines the comprehensive advancement of human rights.

### Timeline of Key Events

1215 - King John signs the Magna Carta, a document which forces him to respect certain rights of his subjects and imposed legal limits on this power

1689 - Bill of Rights is adopted in England. It established the rights of the representatives of the people (the House of Commons) to limit the king's actions and even remove him from power if he should act against their interests. The Bill sets guarantees against unjust taxation and cruel and unusual punishment and for the right to religious toleration.

1762 - Jean-Jacques Rousseau publishes his philosophical tract *The Social Contract, Or Principles of Political Right*. In it Rousseau argues that government must heed the general will of society, and that the needs of society as a whole come before the specific needs of the individual.

1776 - The US *Declaration of Independence*, authored by Thomas Jefferson and others, is adopted by Congress. It presents the rationale for American independence from Britain on

the basis that *"all men are created equal"* and endowed with rights that cannot be taken from them, including the right to life, liberty, and the pursuit of happiness.

1789 - Declaration of the Rights of Man and the Citizen is adopted during the early stage of the French Revolution. This document proclaims the end of the monarchy and the rights of all citizens to liberty, property, security, and the resistance to oppression.

1791 - Containing the first ten amendments to the US Constitution, the US Bill of Rights extends citizens' rights to include freedom of speech, of the press, and to a fair trial, among others.

1864 - The first section of the Geneva Conventions, protecting the rights of sick and wounded soldiers, is adopted by European powers, this agreement would eventually be expanded to include the rights of prisoners and of all war victims.

1899 and 1907 - Building on the Geneva Conventions, the Hague Conventions codify laws and customs of war on land, set procedures for use of peaceful diplomacy and arbitration to settle international conflicts, limit the use weapons of mass killing, and provide rules for maritime warfare.

1914 - World War I begins after the Archduke of Austria Franz Ferdinand is murdered in June.

1915 - The Turkish genocide of Armenians begins. One to 1.5 million Armenians are killed. The governments of Russia, France, and the United Kingdom declare the massacres a *"crime against humanity."*

1919 - The Treaty of Versailles, drawn up to end World War I aggressions, sets the terms for world peace on the basis of democratic diplomacy, national sovereignty, and self-determination.

The League of Nations—a peacekeeping international organization—is formed. Ineffective owing to lack of international support, it fails to prevent World War II (1939-1945).

1930 - Led by Gandhi, the Salt March to Dandi—a campaign of nonviolent protest against the British salt tax in colonial India—begins in March. The Salt March draws widespread attention to the independence movement in India, to the injustice of colonialism, and to nonviolence as a powerful political tool.

1939 - World War II begins following Germany's invasion of Poland.

1941 - Signed by Great Britain and the United States, the Atlantic Charter creates a blueprint for the post war peace and the basis of the mutual recognition of the rights of all nations.

US President Franklin Delano Roosevelt (FDR) gives his famous "Four Freedoms" speech in which he claims that post war peace must be rooted in the recognition of "the Freedom of speech and expression, the freedom of religion, freedom from want, and the freedom from fear."

FDR coins the term "United Nations" for the Allies he led against the Nazis.

1942 - The Declaration of the United Nations is signed by the Allied Powers who pledged to form a peacekeeping organization by that name, on the basis of the Atlantic Charter.

1943 - The Tehran Conference, the first of three wartime conferences between Britain, the United States, and the Soviet Union, is held. The most significant development for human rights from this gathering was the agreement by the three powers to form an organization of "united nations" after the war.

1944 - At the Dumbarton Oaks Conference, the charter of the United Nations is drafted and negotiated. Its membership and structure are also debated and set.

Spring to Summer 1945 - World War II ends. The Nazi concentration camps are liberated. The United States drops the atomic bomb on Hiroshima and Nagasaki.

The United Nations Conference on International Organization is held in San Francisco and adopts the United Nations Charter, as ratified by the original 51 signing nations. The UN Charter states that one of its main purposes is the promotion of "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

1945-1949 - At the Military Tribunals at Nuremberg (and later, in Tokyo), the Allied Powers prosecute accused war criminals for crimes against humanity.

1946 - The Commission on Human Rights is established by the United Nations. Eleanor Roosevelt is selected by the General Assembly to be its chairperson. The committee would later draft a declaration of human rights.

1948 - On December 9 the UN General Assembly adopts the Convention for the Punishment and Prevention of Genocide.

On December 10 the UN General Assembly adopts the Universal Declaration of Human Rights as proposed by the Commission on Human Rights.

1961 - In response to a decline in international support for the UDHR, Amnesty International, an international organization devoted to the monitoring and protection of human rights, is established.

1976 - The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights enter into force after sufficient UN member states sign it.

### Questions to consider

1. Does the new UDHR need to include a clear mechanism of implementation?
2. Is it an issue that it does not have the power to be legally enforced (it is not followed everywhere, and is optional to follow without one suffering major consequences if they disobey)?
3. The current UDHR reflects strong Western influences, and it has been subject to criticisms due to its supposed ethnocentrism and rhetoric, how would the new one change this?

4. The current UDHR does not include the right to information, should this be included in the new one?
5. Does the current UDHR fail to include more modern threats to human rights, such as issues like climate change?

### Useful Links

<https://impakter.com/whats-wrong-with-the-universal-declaration-of-human-rights-udhr/>

<https://www.humanrightscareers.com/issues/why-is-the-universal-declaration-of-human-rights-important/>

<https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/>

<https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<https://medium.com/@UNmigration/70-years-since-the-human-rights-declaration-what-challenges-do-we-still-face-daaa0bb5f6>

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