



**AUTHOR: Dr Keith Suter**  
Global Thought Leader  
Real Insights & Authority



## THE HUMAN RIGHTS REVOLUTION

December 10 each year is Human Rights Day: commemorating the day in 1948 when the United Nations General assembly adopted the Universal Declaration of Human Rights. This article is in four parts. It begins with an overview of the "human rights revolution" since 1948 and it assesses the progress to date. It then examines some of the backlash against human rights. It concludes with an indication of how the human rights regime is continuing to expand.



### The Human Rights Revolution

The 20th century saw both some of history's worst violations of human rights and yet also some of the most spectacular advances in their protection. There is still a long way to go. But, at least there is the recognition that human rights are now a global (and not merely a national) issue.

Human rights are fundamental privileges or immunities to which all people have a claim. They are not "given" by governments because they are derived automatically as a result of someone being a member of humankind. Since governments cannot "give" human rights, they should not try to take them away. Human rights thinking - especially since 1945 - is based on the assumption that in essence all human beings have a common core. Human beings may be divided on gender lines, speak different languages, and have different skin colours. But fundamentally there are great similarities and these similarities are manifested partly in the rights that all humans enjoy.

The 1945 UN Charter's Preamble reaffirms "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small". Article 55(c) states that one of the UN's purposes is to achieve "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". In Article 56 "All Member 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".

The basic UN human rights document is the 1948 Universal Declaration of Human Rights. Among its 30 Articles are: the right to life, liberty and security of person; equality before the law; freedom of movement and residence; freedom from torture or cruel, inhuman or

degrading treatment or punishment; the right to seek in other countries asylum from persecution; freedom of thought, religion and conscience; the rights to vote and to participate in government; the right to education; the right to work; the right to form and join trades unions; the right to an adequate standard of living; the right to health protection; and the right to participate fully in cultural life. Human rights are divided into two general categories, and then one category is further divided into three sub-categories. Almost all human rights apply to individuals. There is, however, one collective human right: the right to self-determination (that is, for a "people" to run their own affairs). The collective right to self-determination - although the term itself is modern - has a long history. For example Moses in leading the Hebrews out of Egypt was the leader (in our terms) of a "national liberation movement" and the Hebrews were seeking "self-determination". George Washington, Ho Chi Minh and Nelson Mandela are further examples of leaders of peoples wishing to exercise their right of self-determination.

The category of individual human rights may be divided into three sub-categories. The oldest human rights are civil and political ones, such as the rights to a fair trial and to take part in politics. Second, just over a century ago, as European countries started to create "welfare states", so recognition was given to economic and social rights, such as the rights to work and equal pay for equal work. Third, there are the new "rights of solidarity", which can only be attained through the united efforts of all the global actors (not just governments). For example, the right to a healthy environment began at the 1972 UN Conference on the Human Rights (principle 1 of the Stockholm Declaration) . It has become a rallying point for environmental non-governmental organizations (NGOs) and got further attention in inter-governmental documents (such as the Rio Declaration on Environment and Development at the 1992 UN Conference on Environment and Development). It is only by looking back over some decades that it becomes clear just how much progress has been made.

Human rights received considerable attention during the drafting of the UN Charter. Hitler had shown that a country that violates human rights at home may eventually violate human rights overseas. As US Secretary of State George Marshall was to tell the UN General Assembly session that adopted the Universal Declaration of Human Rights (UDHR): "Governments which systematically disregarded the rights of their own people were not likely to respect the rights of other nations and other people, and were likely to seek their objectives by coercion and force in the international field".

Thus, it was necessary to try to nip such potential violations in the bud.

Additionally, the Allied countries were embarrassed that none of them had complained officially between 1933 (when Hitler came to power) and 1939 (the onset of World War II) about the treatment of Jews. They claimed at the time that countries were not allowed to interfere in the internal affairs of other countries - and this ban prohibited even making criticisms of other countries' internal policies.

It was proposed that the UN Charter should have an international bill of rights attached to it (as per the model of the US Constitution). There was not enough time for this to be written and so it was agreed that priority should be given to this task as soon as the UN came into being (October 24 1945). The work was overseen by Mrs Eleanor Roosevelt, widow of the US President.

The Universal Declaration of Human Rights was adopted by the UN General Assembly on December 10 1948. It was adopted with no negative votes. But there were some abstentions: the USSR and its satellite countries (Byelorussia, Czechoslovakia, Poland, Ukraine and Yugoslavia) did not vote for it because of the Declaration's right to own property, South Africa opposed the principle that blacks were equal to whites, and Saudi Arabia disagreed with the principle that women were equal to men. (Honduras and Yemen were absent).

All UN General Assembly declarations are expressions of governmental opinion - they are not binding on anyone (including the governments which vote for them). The next stage is to convert a declaration into a treaty - which is binding on all governments which ratify it.

The Declaration was used as the basis of two treaties: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both completed in 1966. Two treaties were written because of the different problems of implementing the two types of rights. Civil and political rights are rights which the individual has against his or her own government - and so since the government is the potential violator of those rights, it is also the protector of them. Economic, social and cultural rights require, by contrast, the active involvement of the government in the life of the country, so as to ensure, for example, that the economy is growing in such a way as to provide opportunities for employment and that there is equal pay for equal work. A government can claim, however, that although it is in favour of full employment, for example, the economic conditions do not permit it. Thus, both treaties have a common system of periodic reports. Each government ratifying each treaty agrees to provide the UN on a regular basis with a report on what it has been doing to respect the human rights listed in the treaty.

The International Covenant on Civil and Political Rights also provides for a system of state-to-state complaints. Governments that agree to be bound by this system agree that the UN may receive complaints from other governments that have also agreed to this system and to investigate the complaints. This is a system of encouraging governments to encourage each other to respect civil and political rights. The First Optional Protocol to this Covenant goes a step further. Governments that agree to be bound by the Protocol agree that the UN may receive complaints from their own citizens and investigate them.

These implementation measures all seem very mild. Even if the UN's investigation finds that a government has behaved badly, the UN has no power to do anything about its findings other than make them public. For example, there is no world police force to "arrest" a "guilty" government and there is no "world prison" for guilty governments. Additionally, the UN's human

rights budget is minute - much less than, for example, the total funds spent each year by human rights US NGOs.

## ✓ Progress in Protecting Human Rights

However, when viewed in the context of the pre-1939 history of human rights violations, the progress in the protection of human rights, the post-1948 developments have been spectacular. First, human rights are part of the political vocabulary. Political claims are expressed in terms of "human rights". Even if people are unfamiliar with the details of the UN's declarations and treaties, there is widespread interest in human rights and people are now more likely than even before to oppose abuses of governmental power that violate human rights. People are still treated badly - but they now know their rights are being violated. People are not dying in ignorance.

Second, the human rights revolution has been aided by the growth of a global middle class. As societies become richer, so there is more attention to human rights matters. As the US economist the late John Kenneth Galbraith pointed out: A poor peasantry, scattered over the landscape, working from dawn to dusk in order to live, can, with little effort, be controlled and politically disenfranchised. For accomplishing this, there is the amply available assistance of the landlords. The vast and functionally inevitable contingent of scientists, journalists, professors, artists, poets, self-anointed saviours of the public soul and students - especially students - all of them seeking and then demanding participation in the modern industrial society, cannot be similarly manipulated. South Korea and Indonesia are two examples of where modernization and wealth-creation have resulted in the overthrow of dictators, with either their being tried and punished (South Korea) or a trial being attempted (Indonesia).

Third, the UN has produced a diverse range of declarations and treaties flowing from the Declaration. There is no precedent at all for this level of inter-governmental action on human rights

Fourth, the UN is also creating a network of techniques to assist governments protect human rights. For example, UN officials have helped the recent governments in Eastern Europe devise electoral reforms and it has advised on the creation of national human rights institutions. The UN also has advisory services and technical assistance in the field of human rights, such as training programmes.

Fifth, the UN's work is being copied at the regional level. The best example is the Council of Europe (which contains almost all Europe's countries). The Council's work is particularly good on civil and political rights and the Council's human rights machinery has the power to coerce member-governments to change their policies or risk expulsion from the Council. This happened when the Colonels took over in Greece in 1967 and began torturing their opponents.

Greece wanted to join the then European Economic Community (which was separate from the Council) but the EEC's membership would not accept it while it was ruled by an undemocratic government. The Organization of American States is also developing a system for the regional protection of human rights. The Organization for African Unity (now African Union) has encouraged the creation of the African Commission on Human and Peoples' Rights, which began in 1981.

Finally, the protection of human rights has been enhanced by the work of non-governmental organizations (NGOs), such as Amnesty International and the International and the Commission of Jurists, notably in their lobbying of governments to improve their human rights records. Similarly there has been the role individuals such as Martin Ennals (1927-1991) who oversaw the early days of Amnesty International (1968-80) and then went on to create International Alert and who inspired a younger generation of human rights campaigners (including myself). The Ennals disciples have institutionalized human rights: it is no longer necessary work in a human rights NGO if you want to work in the human rights field because there are now so many other employment opportunities. Human rights has become a mainstream employment activity. There is now, in effect, a "human rights industry" such as UN and Council of Europe organizations, a separate branch of national legal practice, and school and university courses.

### ✓ Is the Revolution Slowing Down?

Is the drive for the international protection of human rights contracting or expanding? The future of the international protection of human rights remains as controversial as ever.

The essence of the international protection of human rights is that of holding governments accountable to a higher authority. The current system of nation-states, which dates back to the 17th century, is based on state sovereignty: governments make their own rules and cannot be forced into accepting international agreements. There can be no outside interference in a country's internal affairs.

After World War II the international community decided that state sovereignty had to have some limitations in the interests of stopping the mass violations of human rights. Since the Declaration was adopted, there has been a flood of human rights treaties and declarations.

Meanwhile, national governments have had to become reconciled to the international scrutiny of their human rights records. They used to try to argue that such matters were purely internal and of no interest to the international community. For example, I was at the 1974 session of the UN Commission of Human Rights at which the September 11 1973 coup in Chile was discussed. The Chilean representative tried to argue that the overthrow of Allende was of no business to the commission. But it was clear that a new attitude was sweeping through the

Geneva corridors and so this matter was discussed. Even China is now reconciled to the fact that its human rights record in Tibet is an international matter.

Governments still do not necessarily like this development and may resent the activities of such NGOs as Amnesty International and the International Commission of Jurists, as well as the intrusive media reporting. There is a new era of human rights transparency for governments.

## ✓ Backlash

One overall trend is a backlash against human rights. This may be seen in four ways. First, there are complaints from conservatives (in whatever political form they may appear) that there is now too much attention on a person asserting their rights and not enough acceptance that they also have responsibilities.

The 1948 Declaration does in fact conclude with two responsibilities: that everyone has duties towards the community and a responsibility to respect the rights of others. Therefore the idea of responsibilities is not novel. Indeed the previous Australian Prime Minister, John Howard, even speculated that the national Australian Human Rights Commission should have “responsibilities” incorporated into its title and that its role be expanded to include the propagation of such duties. Nothing came of the idea but it attracted some support among jaded people who had become tired of individuals constantly referring to their rights.

A second issue has been the anger among the broader community that human rights have become vehicles for special interests to push their own particular concerns. In political science terms, this process is called “public choice theory”. Instead of the broad-based campaigns for human rights in general (as characterized the pioneering post-war years of protecting human rights), the tendency is now for groups of people to use human rights mechanisms to lobby for their own narrow interests rather than the overall good of society. Thus a group of individuals will come together who are self-seeking, possessing no larger interests than the preservation of their own interests (such as ending a particular form of discrimination against them).

Third the pace of change in protecting human rights has stunned some older people. They can still remember an era when white men ran the world and set the basic standards. They now complain about the new “political correctness”, where previous activities or statements that were once tolerated are now banned. They resent being forced into using, for example, new forms language (for example, non-sexist “chairperson”).

Finally, there is an overall sense of “compassion fatigue”. Many people in developed countries are tired of being generous. People don’t want to accept any more asylum seekers or give more foreign aid or have their defence personnel deployed overseas in obscure combat

zones. They get short-tempered with those who are seen as giving the country away to foreigners. Charity begins at home.

There is in fact a basic difference in perception between human rights NGOs and the broad community. On the one hand, many NGOs operate on the principle that wealth should be shared, and for those who have gained much a great deal is expected of them. Such NGOs are motivated by ideals of compassion and charity and they have an international perspective.

On the other hand, many people in western countries are reasonably wealthy for the first time in the history of their families. They know what poverty is like and they fear they could slide back into it (the current sub-prime mortgage crisis is currently causing nervousness). Therefore when they hear from NGOs or the media about how there so many suffering people in the world, instead of being overwhelmed by pity for them, they are troubled that a sudden influx could cost them what little wealth they have managed to accumulate. They are not mobilized by the cause of suffering and instead they become insecure – there is a risk that some politician’s grand schemes could end up costing them money.

These reactions are not co-ordinated and they are often expressed in terms of political anger rather than some clearly articulated political response. But the anger is there in the community and can be mobilized at times by some extremist politicians (such as Australia’s Pauline Hanson) or tabloid media.

## ✓ Expansion

The other overall trend is for the momentum to continue. Again here are four issues. First there is an expansion of what constitutes “human rights”. The first generation of rights are civil and political ones, which date back to at least the English Magna Carta of 1215 and then the US Bill of Rights of 1791. They guarantee, among other things, the right to a fair trial, freedom of expression and freedom of assembly. They are a restriction on what governments may do to their citizens. The second generation goes back to the late 19th century and the rise of the welfare state – economic and social rights. They oblige a government to, for example, provide education and fair working conditions. A third generation of rights began in the late 20th century, such as the 1972 UN Conference on the Human Environment, which spoke of the right to healthy environment. These collective rights require governments to work together.

The “human rights industry” therefore continues to gather momentum as further human rights are elaborated upon. For example, in September 2007, the UN General Assembly adopted a declaration on the rights of the world’s estimated 370 million indigenous peoples.

Second, human rights are now embedded in political cultures. For example, there has been the gradual movement in Common Law countries in favour of formal bills of rights, such as the Canadian Charter of Rights and Freedoms incorporated into the Constitution Act 1982, New Zealand Bill of Rights Act 1990 and the UK Human Rights Act 1998, which builds upon its obligations under the European Convention on Human Rights and Fundamental Freedoms. No major country, having adopted such a bill, has later deleted it and in all cases the bills of rights have now broadly been accepted by the majority of citizens.

Third, there are various controversies at the national level which are now framed in the human rights context, such as the “right to die”/ voluntary euthanasia of terminally ill patients, and the treatment of people held in the so-called War on Terror. Human rights are therefore very much part of the political culture and vocabulary.

Fourth, there is the growing impatience with the niceties of respecting national sovereignty when people overseas can see the gross violations of human rights on their television screens. For example in early 2008 the government of Burma/ Myanmar refused to let in foreign aid to the victims of a tidal wave. There were NGO suggestions that foreign planes should simply fly overhead and drop small packets of aid to the isolated communities. More recently there have been calls for international intervention to protect human rights in Zimbabwe. There is, some people and NGOs have argued, a responsibility to protect. If a government cannot or will not protect its own people then the international community should intervene.

To conclude, there are, then, continuing tensions between the need to respect state sovereignty and national boundaries, and the need for the protection of individual humans. This is much the same controversy as Hitler generated in the 1930s. Only this time, thanks to the process that began with the 1948 Declaration of Human Rights, there is now far greater capacity to intervene on the side of human rights to overcome government wrongs.

Keith Suter

---

#### NOTES

1. See: Peter Stone *Did We Save the Earth at Stockholm: The People and Politics in the Conference on the Human Environment*, London: Earth Island, 1973
2. Quoted in: Eric Stein “International Law in Internal Law: Toward Internationalization of Central-Eastern European Constitutions”, *American Journal of International Law* (Washington DC), July 1994, p 427
3. John Kenneth Galbraith *The Culture of Contentment*, Boston: Houghton Mifflin, 1992, p 8
4. There is now the Martin Ennals Foundation based in Geneva: [www.martinennalsaward.org](http://www.martinennalsaward.org)





5. See: Peter Baehr Practicing Universality: The Inter-Disciplinary Imperatives of Human Rights, London: Palgrave, 2001
6. See: A British Bill of Rights: Informing the Debate, London: JUSTICE, 2007
7. See: Ron Suskind The Way of the World: A Story of Truth and Hope in an Age of Extremism, London: Simon & Schuster, 2008