



11 Human rights

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The emergence of the idea of human rights

Clear and universal awareness of what are now known as human rights is a modern trend which arose and became consolidated basically after the 18th century, following the American and French revolutions. It is only after then that we can properly talk about the existence of human rights. However, the fundamental vindication expressed by the idea of human rights goes way back in history throughout different cultures and civilisations.

When we refer to human rights we have to take into consideration the fundamental ideas which underlie this phenomenon:

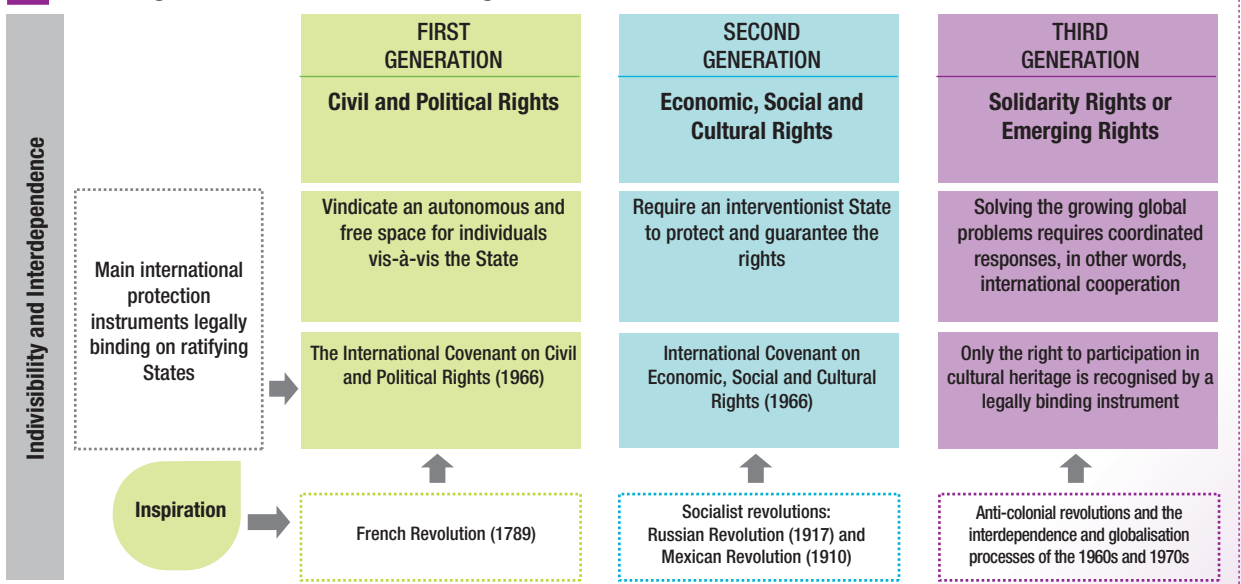
- The first idea is the inherent human dignity whereby human rights seek to defend said dignity.

- The second idea refers to setting limits on power whereby human rights are one of the traditional limits on the omnipresent power of States.

Human rights from the French Revolution up to now

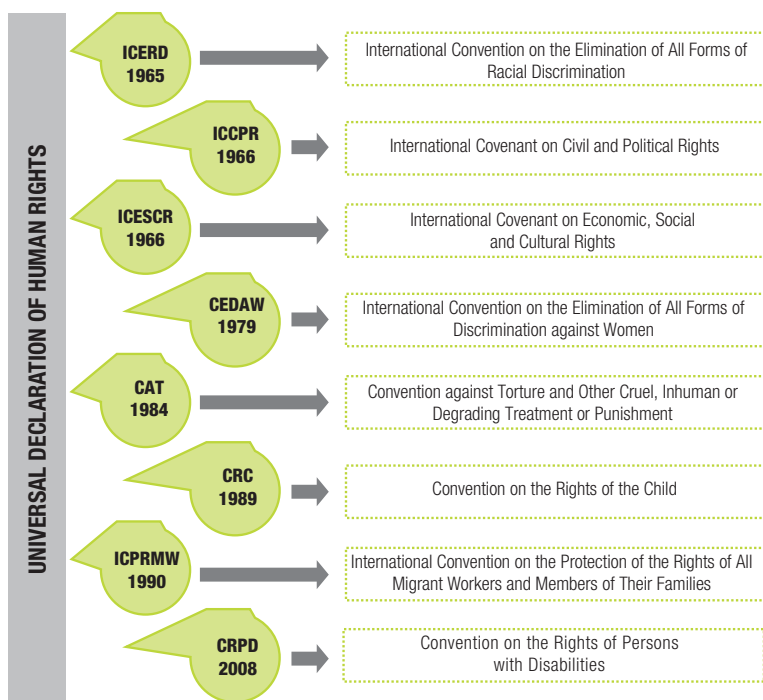
The human rights which arose from the French revolution are what we call the first generation rights or the **civil and political rights**. These rights give prevalence above all to the vindication of an autonomous and free space vis-à-vis the State. These human rights consider that States should not intervene in the life of the citizens. Notwithstanding this, over time it became clear that these civil and political rights were not enough and that they had to be complemented. It was not until the end of the 19th century and the beginning of the 20th century when, due to the rise in the workers' movement

01 The 3 generations of Human Rights



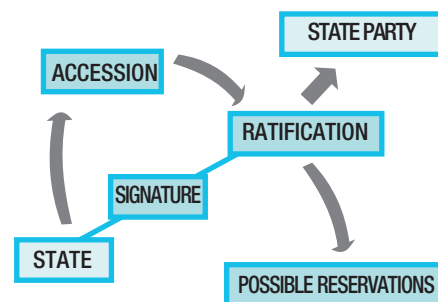
[>>] Source: Own preparation

02 Main International Human Rights Treaties



[>>] Source: Own preparation

How does a State form part of an international treaty?



International legally binding protection instrument: once a State voluntarily adheres to a treaty (ratification), the State acquires the relevant legal obligations.

and the appearance of socialist parties, that civil and political rights started to be classified as mere “formal freedoms”, in the Marxist sense, if they do not in turn guarantee other types of rights, **the economic, social and cultural rights**. The view is held that human dignity relies both on the recognition of the civil and political rights and on the recognition of the economic, social and cultural rights. This second generation of human rights received an important boost with the triumph of the Russian and Mexican revolutions which sought to effectively implement these rights. This new generation of human rights are not satisfied with the purely passive role of the State, but rather demand a positive attitude by the State towards guaranteeing these rights. Hence we witness the advent of the Interventionist State backed by Keynesian economics. From then on the citizens started to demand State intervention in order to protect and guarantee rights like access to health care, housing, education, the right to work, etc.

Despite the historical existence and appearance of the two generations of human rights mentioned above, they are not placed in watertight compartments or two completely autonomous categories, but are in fact deeply interrelated. This is known as the **indivisibility and interdependence** of the two generations of human rights (see figure 1).

The internationalization of human rights

Following the end of World War II in 1945 and the discovery of the horrors of the concentration camps and the genocide of the Jews, human rights became one of

the United Nations’ principle objectives. The document which constituted the new organisation, the Charter of the United Nations, was to echo this renewed interest in human rights and proclaims in its Preamble its “faith in fundamental human rights”.

At any rate, the fact is that from the very beginning of the new International Organisation, human rights became one more weapon employed by the superpowers which were by then immersed in the Cold War which would last from the end of the Second World War up to the beginning of the nineties. Human rights have been completely politicised and influenced by external factors rather than concentrating on the essence and *raison d’être* of the human rights: the defence of human dignity.

The Universal Declaration of Human Rights

Such politicization was present through the preparatory process of the Universal Declaration of Human Rights, with very conflicting positions between the Soviet Bloc and the Capitalist Bloc. Finally, on the 10th of December 1948, the Universal Declaration of Human Rights was passed by the United Nations General Assembly (see figure 2). The final vote at the General Assembly reveals where the main problems lay in passing the Universal Declaration. At this point we should point out that the Declaration had 48 votes in favour, 8 abstentions and no votes against it, which was a triumph. This enabled it to become humanity’s essential reference on the issue of human rights.

The 1966 International Human Rights Covenants

Another important step adopted by the United Nations in order to advance the human rights' internationalisation process was the passing of the International Human Rights Covenants in 1966 – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The passing of these two Covenants was an essential complement to the 1948 Universal Declaration of Human Rights. The problem facing the 1948 Declaration was that it was passed by a Resolution of the General Assembly of the United Nations, and Resolutions, as we know, merely constitute non-legally binding recommendations for States. It was therefore of paramount importance to pass fully legal human rights instruments which could bind the States ratifying them. However, as had occurred when the Universal Declaration of Human Rights was passed, it was an enormously difficult task. To give us some sort of idea, initially only one human rights covenant was to be passed which would contain all of the fundamental rights and freedoms, although in the end, due to the conflict between the Western Bloc and the Socialist Bloc, two human rights covenants were passed.

As such, we now have in the international ambit the Universal Declaration, the two Human Rights Covenants and a whole range of international Conventions aimed at protecting human rights in specific areas (see figure 3).

The emergence of third generation human rights

Since the 1970s a set of new human rights have appeared which seek to respond to the most urgent challenges facing the international community. These include the following: the rights to development; the right to peace; the right to a healthy environment; the right to participation in cultural heritage or the right to humanitarian aid.

There are different factors which have led, and continue to lead, to the appearance of these new human rights. First of all, the decolonisation process during the 1960s revolutionised international society and the legal order called to regulate it, namely International Law. This change has also influenced the theory of human rights which is increasingly positioned towards the problems and needs of the new category of countries which have appeared on the international scene; the developing countries. If, as we have seen, the Bourgeois and Socialist revolutions led respectively to the first and second generation human rights, it is this anti-colonialist revolution which gives rise to the appearance of the third generation human rights.

Another factor which has had a notable impact on the emergence of these solidarity rights is the

03 Universal Declaration of Human Rights



Eleanor Roosevelt, Chairperson of the Commission entrusted with drafting the Universal Declaration of Human Rights.

Preamble of the Universal Declaration of Human Rights:

“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.”

interdependence and globalisation of international society since the 1970s. States are increasingly aware of the fact that there are global problems which require a coordinated response and require, in short, international coordination processes. As a result of this global change, the third generation rights are rights which emphasise the need for international cooperation aimed basically at improving the collective aspects of said rights.

Having said that, this new generation of human rights has not been accepted lying down, either by the international law doctrine or by the States, and has been the subject of fierce debate. With the exception of the right to participation in cultural heritage, none of the other rights have been recognised by an international treaty which binds ratifying States.

Current human rights challenges

The main human rights challenges currently identified by human rights academics are the following:

- **To establish a broad and all-encompassing concept of human rights.** In order for human rights to be properly understood we need to protect civil and political rights, economic, social and cultural rights, and the third generation rights.
- **To achieve a truly universal concept of human rights.** This is one of the main problems currently facing human rights. The road towards

04 Some examples of human rights violations

01 Forced disappearances, Argentina – Spain

The Madres de la Plaza de Mayo in Argentina and the Historical Memory Act in Spain, seek to clear up, respectively, the cases of disappearances during the Argentinean dictatorship and the Spanish Civil War.



02 Spiritual and religious repression, China

Millions of people are prevented from freely practicing their religion outside of the State-authorised channels.



03 Illegal detentions, USA

Between 2002 and 2009 over 500 foreigners have been illegally detained at the Guantanamo military base.



04 Salary differences, Europe

According to the European Commission, women earn on average 15% less than men.

05 Indigenous people, Guatemala

Various referendums have been held against mining activities, within the framework of the Convention concerning Indigenous and Tribal Peoples in Independent Countries, which have not been respected by the Government.



06 Environmental refugees, Papua New Guinea

The inhabitants of the Carteret Islands had to abandon their homes in 2005. It is expected that these islands will be completely submerged by 2015.



Photo: FOE



07 Basic education, African continent

By 2015, three out of every four children who do not attend school will be African.

Photo: UNICEF/YHQ2008-0991/Kavanagh



08 Access to water and sanitation, Gujarat State

The construction of large dams has led to forced displacement and the lack of access to basic water and sanitation services for a large part of the Adivasi population.

Photo: ALBOAN

[<>] Source: Own preparation

universality must inexorably include intercultural, open and sincere dialogue without prejudice and which progressively brings diverging positions together.

- **The influence of globalisation on human rights.** Globalisation is one of the signs of the times and is exerting increasingly more influence on the enjoyment of human rights in significant areas of the planet.
- **Improve the human rights protection mechanisms both nationally and internationally.** Now that regulatory development in the field of human rights has become very significant, with

the United Nations playing a crucial role, the next task is to perfect the human rights protection system, giving the citizens the power to access authorities which can effectively protect their rights, both in the national and the international arenas.

Finally we must stress the responsibility on each and every one of us to protect and promote human rights. The people, civil society, the human rights NGOs, etc. must all share their responsibility over an issue of such magnitude; human rights. Human rights are too important to be exclusively left in the hands of the governments (see figure 4). <

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