

# Human Rights History and Human Rights Protection Systems

By Mariella Abruzzo

# Definition of Human Rights

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- “*Human Rights are what no one can take away from you*”. (René Cassin)
- “*When we call anything a person’s right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion*”. (John Stuart Mill)
- Human Rights are defined as the supreme, inherent, universal and inalienable rights to life, to dignity, and to self-development.
- It is concerned with issues in both areas of civil and political rights and economic, social and cultural rights founded on internationally accepted human rights obligations.

# The Cyrus Cylinder (Iran, 539 B.C.)

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- Drawn up by Cyrus the Great, the first king of ancient Persia
- Racial equality and freedom to choose any religion
- World's first charter which recognised Human Rights (liberty, security, freedom from slavery, religious tolerance, social and economic rights)

# The Spread of Human Rights

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- Greece and Rome
- Natural Law - all nations are binded, regardless of local laws or customs
- Roman Law (753 BC - 5<sup>o</sup> Century AD) - the Romans believed in a universal law of justice that comes from nature, a Greek philosophy called Stoicism: a divine intelligence ruled the nature. According to Romans, living rightly meant living in agreement with nature
- Documents asserting individual rights from Magna Charta to US Bill of Rights

# The Magna Carta (1215)

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- Great Charter of liberties
- Violations of laws and custom by King John of England - Magna Carta limits the King's powers and states people's liberties:
- Establishment of individual rights
- The right of the church from government interference

# Petition of Right (1628)

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- Produced by the English Parliament and sent to Charles I
- Parliament refuses to finance the King's unpopular foreign policy

Four principles:

- Taxes cannot be raised without the approval of Parliament
- Nobody can be imprisoned without a proofed reason
- Soldiers cannot be deprived of their citizenship
- Martial law cannot be applied in time of peace

# United States in late 1700s

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- US Declaration of Independence (July 4, 1776) - individual rights and the right of revolution: American colonies are no longer part of British Empire
- The US Constitution (1787) - the oldest written national constitution in use and defines the principal organs of government and the basic rights of citizens
- Bill of Rights (1791) the first ten amendments: limit the power of federal government and protects the rights of citizens, residents and visitors. It states:
  - Freedom of speech
  - Freedom of religion
  - The right to keep arms
  - Freedom of assembly

# Declaration of the Rights of Man and of the Citizen (1789)

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- The abolishment of the monarchy and the establishment of the first French Republic
- The first step toward writing a constitution for the Republic of France
- Guaranteed the rights of liberty, property, security, and resistance to oppression



# The First Geneva Convention (1864)

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- 16 European countries and several American states attended a conference in Geneva
- Adoption of a convention for the treatment of wounded soldiers in combat
- Extension of care without discrimination to wounded and sick military personnel
- Respect for red cross marking (red cross on white background)

# The League of Nations

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- Int. Organization created after WWI to solve international disputes
- First proposed by President Woodrow Wilson (part of his Fourteen Points plan): mutual guarantees of political independence and territorial integrity
- American concerns about entanglements in Europe. Republicans supported no US commitment outside the West. They feared:
  - US commitment to an expensive organization
  - Threat to the defense of US interests

# The United Nations (1945)

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- World War II (1939-1945) and its legacy: ruins, dead, hunger
- Delegates of 50 countries met in San Francisco: 1945 UN Conference on International Organization – to promote peace and prevention of future wars
- The Charter of UN went into effect on 24<sup>o</sup> October 1945 (The UN Day)
- UN range of issues: sustainable development, economic and social development, counter terrorism, promotion of democracy and respect of human rights

# How does the UN promote and protect human rights?

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- High Commissioner for Human Rights (OHCHR) – responsible for the promotion and protection of human rights, peacekeeping missions. Comments on HR, investigates and issues reports
- Human Rights Council – the key independent UN intergovernmental body, fosters the promotion and protection of human rights around the world. In 2006, it replaced the 60 years old UN Commission on HR
- Human Rights Treaty Bodies – committees of experts that monitor implementation of the international human rights treaties (Eg: the Human Rights Committee monitors the implementation of the International Covenant on Civil and Political Rights and its additional protocols)

# UN International Bill of Human Rights

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- The International Bill of Human Rights consists of 3 documents:
- 1. The Universal Declaration of Human rights (1948)
- 2. International Covenant on Civil and Political Rights (1966)
- 3. International Covenant on Economic, Social and Cultural Rights (1966)

# Universal Declaration of Human Rights

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- The UDHR is the most important document in the history of human rights. It was adopted by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A). It states fundamental human rights to be “universally protected” and it has been translated into over 500 languages

Preamble - “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”. <https://www.un.org/en/universal-declaration-human-rights/>

# UN Treaty Bodies

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- **Human Rights Committee** (CCPR) monitors implementation of the International Covenant on Civil and Political Rights (1966) and its optional protocols;
- **Committee on Economic, Social and Cultural Rights** (CESCR) monitors implementation of the International Covenant on Economic, Social and Cultural Rights (1966);
- **Committee on the Elimination of Racial Discrimination** (CERD) monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- **Committee on the Elimination of Discrimination against Women** (CEDAW) monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women (1979) and its optional protocol (1999);
- **Committee against Torture** (CAT) monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984);

# International Covenant on Civil and Political Rights

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- **The International Covenant on Civil and Political Rights (ICCPR)** adopted by the United Nations General Assembly on 16 December 1966 (in force from 23 March 1976) commits its parties to respect the civil and political rights of individuals: the right to life, freedom of religion, freedom of expression, freedom of assembly, right to vote, rights to due process and a fair trial



# International Covenant on Economic, Social and Cultural Rights

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- **The International Covenant on Economic, Social and Cultural Rights (ICESCR)** - adopted by the United Nations General Assembly on 16 December 1966 (in force from 3 January 1976) commits its parties to respect economic, social, and cultural rights (ESCR) including labour rights, the right to health, the right to education and the right to an adequate standard of living.

# UN Treaty Bodies

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- **Committee on the Rights of the Child (CRC)** monitors implementation of the Convention on the Rights of the Child (1989) and its optional protocols (2000);
- **Committee on Migrant Workers (CMW)** monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- **Committee on the Rights of Persons with Disabilities (CRPD)** monitors implementation of the International Convention on the Rights of Persons with Disabilities (2006);
- **Committee on Enforced Disappearances (CED)** monitors implementation of the International Convention for the Protection of All Persons from Enforced Disappearance (2006);
- **The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)** established pursuant to the Optional Protocol of the Convention against Torture (OPCAT) (2002) visits places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.
- The treaty bodies meet in **Geneva**, Switzerland. All the treaty bodies are supported by the Human Rights Treaties Division of OHCHR in Geneva (<http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>)

# UN offices and bodies

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- **General Assembly** – chief deliberative, policymaking and representative organ of the UN and comprised of 193 members. It also make recommendations to States and elects non-permanent members of SC
- **Security Council** – primarily responsible for maintaining international peace and security
- **UN Economic and Social Council (ECOSOC)** – focuses on 3 dimensions of sustainable development: economic, social and environmental. It hosts special meetings, faces global development emergencies or crises, raises awareness on human rights issues at a global level

# UN offices and bodies

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- **International Court of Justice** – judicial organ of the UN. Established in June 1945 by the Charter of among States and gives advisory opinions. It is composed of 15 judges, elected for nine years by the GA and the SC
- **Human Rights Council** - the inter-governmental body made up of 47 States. It fosters promotion and protection of all human rights around the world. Within it, there is the **Universal Periodic Review** which monitors the respect human rights and addresses human rights violations
- **Secretary-General** is chief administrative officer elected by the GA, on recommendation of the SC, for a five-year renewable term

# The Regional Systems of Human Rights Protection

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- Function: monitor, promote and protect human rights in several geographic regions around the world
- Common Features: each was established under the auspices of an intergovernmental organization composed of Member states
- Only States may be held accountable for human rights violations

# Inter-American System

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- The Inter-American Commission on Human Rights – may decide complaints against all 35 Member States of the Organization of American States (OAS) and accepts petitions from individuals, groups and NGO's
- American Convention on Human Rights
- The Inter-American Court of Human Rights – manages disputes among States that ratified the American Convention and accepted the Court's jurisdiction

# European System

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- The European Court of Human Rights – has jurisdiction to decide complaints against all 47 Council of Europe Member States. Even individuals may appeal to the Court
- European Convention on Human Rights
- The European committee of Social rights – monitors compliance with the European Social Charter among the 43 Council of Europe Member States

# African System

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- **African Charter on Human and Peoples' Rights** - adopted June 27, 1981, also known as the Banjul Charter, where the Charter was drafted. It was adopted by the Organization of African Unity (O.A.U.) which, in 2002, was replaced by the African Union
- **African Commission on Human and Peoples' Rights** - addresses complaints (called "communications") to all 53 Member States of the African Union
- **African Court on Human and Peoples' Rights** - gives advisory opinions and regulates complaints among States that accepted its jurisdiction



# Asian System

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- ASEAN Intergovernmental Commission on Human Rights (AICHR) – established in 2009 by the Association of Southeast Asian Nations (ASEAN)
- In 2012, ASEAN adopted the ASEAN Human Rights Declaration

# Middle East and North Africa

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- In 2009, the Arab Human Rights Committee was established to monitor compliance with the Arab Charter on Human Rights
- Criticism: no complaints mechanism, but a process where the Committee receives and reviews State reports. It also makes recommendations

Thank you for your attention!

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