

# Concept of Human Rights

Human Rights are those rights which every human being possesses simply by virtue of being human. They are universal, inalienable, and indivisible.

## 1. Historical Evolution of Human Rights

The modern idea of **human rights** evolved from earlier notions of **natural rights**—ideas that individuals possess inalienable rights simply by being human. Enlightenment thinkers like **John Locke**, **Jean-Jacques Rousseau**, and **Immanuel Kant** laid the philosophical foundation, advocating rights to **life, liberty, and dignity** beyond the reach of rulers.

However, these ideas remained largely confined to Western political thought until the 20th century. It was **the catastrophic events of World War II**, especially the **Holocaust**, that brought global attention to the need for universally accepted human rights standards.

### The Turning Point: Post-World War II Consensus

In the aftermath of **World War II**, the world witnessed the devastating consequences of **unchecked state power**, racism, genocide, and war crimes. The **Nuremberg Trials** (1945–46) established that individuals, including state officials, could be held accountable for crimes against humanity. This marked a shift toward **international accountability** and **legal protection for individuals**.

Amid this moral and political crisis, the **United Nations** was formed in 1945 with a core commitment to uphold **peace, justice, and human dignity**.

### The Universal Declaration of Human Rights (UDHR), 1948

In 1948, the **United Nations General Assembly** adopted the **Universal Declaration of Human Rights (UDHR)**, drafted under the leadership of **Eleanor Roosevelt**, with contributions from global figures like **Charles Malik (Lebanon)**, **Peng Chun Chang (China)**, and **René Cassin (France)**.

The UDHR:

- Proclaimed **30 fundamental rights and freedoms** that apply to all human beings regardless of nationality, race, religion, or gender.

- Covered civil, political, economic, social, and cultural rights.
- Emphasized equality, dignity, and freedom as **foundational human values**.

Although **not legally binding**, the UDHR became the **moral compass and global reference** for all future human rights instruments. It symbolized a **universal consensus** that no state could deny basic rights under the excuse of sovereignty or cultural difference.

## The International Bill of Human Rights

To give legal force to the UDHR, the United Nations developed two binding treaties in 1966, which, along with the UDHR, together form the **International Bill of Human Rights**:

- 1. International Covenant on Civil and Political Rights (ICCPR, 1966)**
  - Came into force in 1976
  - Protects rights such as **freedom of speech, religion, assembly, right to fair trial, protection from torture, and political participation**
  - Includes mechanisms like the **Human Rights Committee** to monitor state compliance
- 2. International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)**
  - Came into force in 1976
  - Ensures rights to **education, health, work, housing, and cultural participation**
  - Emphasizes the **progressive realization** of rights depending on a country's resources

These covenants **bind signatory states in international law**, obliging them to promote and protect the rights outlined.

## The Globalization of Human Rights

Since the 1960s, the human rights framework has grown to include:

- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979)**
- **Convention on the Rights of the Child (CRC, 1989)**
- **Convention on the Rights of Persons with Disabilities (CRPD, 2006)**
- **UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007)**

Each of these instruments extends human rights protections to **historically marginalized or vulnerable populations**.

## **Post-Cold War and 21st Century Expansion**

After the Cold War, human rights became a central part of international discourse:

- **Transitional justice mechanisms** in post-conflict countries (e.g., South Africa's Truth and Reconciliation Commission)
- **International Criminal Court (2002)** to prosecute genocide, war crimes, and crimes against humanity
- **Linking human rights to development, environment, gender justice, and digital rights**

Today, human rights are recognized as **universal, indivisible, interdependent, and interrelated**, meaning no right can be enjoyed fully without others.

## **2. Contemporary Developments in Human Rights**

### **Emergence of Third-Generation Rights**

While the 20th century focused largely on civil, political, economic, and social rights (first and second-generation rights), the **late 20th and early 21st centuries** have seen the rise of **third-generation rights**. These reflect **collective and global concerns**, often requiring **international cooperation** rather than just state responsibility.

Key examples include:

- **Right to Development:** First declared in the 1986 UN Declaration on the Right to Development, it recognizes that every individual and people have a right to participate in, contribute to, and enjoy economic, social, cultural, and political development.

- **Right to a Clean and Healthy Environment:** Recognized by the **UN Human Rights Council in 2021**, this right links environmental sustainability directly to human dignity and health. It acknowledges that **climate change, biodiversity loss, and pollution** threaten the realization of all other human rights.
- **Digital Rights:** These include the rights to **privacy, freedom of expression online, digital inclusion, and data protection**. With the growing influence of technology in daily life, digital rights are now considered essential for upholding civil liberties in the digital age.

### 3. Human Rights in India

India's commitment to human rights is reflected both in its **constitutional design** and in its **active participation in global human rights initiatives**. While India has ratified several international conventions such as the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, the core of its human rights protection lies in its own **Constitutional framework**.

#### A. Constitutional Foundations

India does not use the term “human rights” directly in its Constitution, but its **Fundamental Rights (Part III)** and **Directive Principles of State Policy (Part IV)** together provide a comprehensive and enforceable framework for protecting human dignity, liberty, and justice.

- **Fundamental Rights** guarantee civil and political rights:
  - **Right to Equality (Article 14–18)**
  - **Right to Freedom (Article 19–22)**
  - **Right against Exploitation (Article 23–24)**
  - **Right to Freedom of Religion (Article 25–28)**
  - **Cultural and Educational Rights (Article 29–30)**
  - **Right to Constitutional Remedies (Article 32)** – described by Dr. B.R. Ambedkar as the “heart and soul” of the Constitution.
- **Directive Principles of State Policy (DPSPs)** lay the foundation for socio-economic rights:

- **Right to adequate livelihood (Article 39(a))**
- **Equal pay for equal work (Article 39(d))**
- **Promotion of education and public health (Articles 41–47)**
- **Environmental protection (Article 48A)**

Though DPSPs are **non-justiciable**, they guide policymaking and have increasingly been used by courts to expand the scope of Fundamental Rights under **Article 21** (Right to Life).

## **B. Judicial Activism and Expansion of Rights**

India's judiciary, especially the Supreme Court, has played a transformative role in **expanding the meaning of rights** through **Public Interest Litigations (PILs)** and **progressive interpretation**.

- **Right to Life (Article 21)** has been judicially interpreted to include:
  - **Right to Livelihood** (Olga Tellis v. Bombay Municipal Corporation, 1985)
  - **Right to a Clean Environment** (Subhash Kumar v. State of Bihar, 1991)
  - **Right to Health** (Paschim Banga Khet Mazdoor Samity v. State of West Bengal, 1996)
  - **Right to Privacy** (Justice K.S. Puttaswamy v. Union of India, 2017)

The courts have also issued **mandatory guidelines** in areas such as sexual harassment at the workplace (Vishaka Guidelines, 1997) and police encounters (People's Union for Civil Liberties v. Union of India, 2014), filling legislative gaps with constitutional reasoning.

## **C. Case Study: Right to Food Campaign and the National Food Security Act (2013)**

In the early 2000s, India witnessed a major civil society movement that successfully turned **access to food** into a recognized **human right**.

- The **Right to Food Campaign** began with a PIL filed in the Supreme Court in 2001 (PUCL v. Union of India), demanding that surplus food stocks be used to prevent hunger and starvation in drought-hit areas.

- The Court responded with **interim orders** directing the government to expand schemes like the **Mid-Day Meal Scheme, Integrated Child Development Services (ICDS), and Antyodaya Anna Yojana.**
- These judicial orders, backed by grassroots mobilisation, eventually led to the passage of the **National Food Security Act (2013)**, which:
  - Recognizes food and nutrition as legal entitlements.
  - Ensures **5 kg of subsidized food grains per person per month** to nearly two-thirds of the population.
  - Makes the Mid-Day Meal and ICDS programs statutory rights.

This campaign stands as a landmark example of how **citizens, civil society, and courts** can collaboratively push the **Directive Principles** into the realm of **enforceable rights.**

## D. Institutions for Human Rights Protection

India also has several statutory and constitutional bodies tasked with monitoring and protecting human rights:

- **National Human Rights Commission (NHRC):** Established in 1993, it investigates complaints of rights violations, advises the government, and conducts awareness campaigns. However, it lacks enforcement powers and often depends on government cooperation.
- **National Commissions for SCs, STs, Women, Minorities, and Children:** These promote the rights of specific vulnerable groups, ensuring representation and redress.
- **State Human Rights Commissions (SHRCs) and Human Rights Courts:** Operate at the state level, though with varying effectiveness.

## E. Contemporary Challenges in India

Despite a strong constitutional and institutional base, several human rights challenges persist in India:

- **Custodial violence, communal violence, and freedom of speech restrictions** raise concerns over civil liberties.
- **Digital surveillance** and controversies around laws like the **Unlawful Activities (Prevention) Act (UAPA)** have triggered debates on the balance between national security and human rights.

- **Environmental degradation, displacement of tribal communities, and gender-based violence** continue to threaten the rights of vulnerable groups.

These issues point to the **gap between rights on paper and rights in practice**, making the role of civil society, independent media, and judicial accountability ever more critical.

## VI. Challenges and Criticisms of Human Rights

Although human rights enjoy widespread global recognition and normative legitimacy, they continue to face deep **philosophical, political, and practical challenges**. These challenges come not just from authoritarian regimes but also from within democratic societies, economic systems, and evolving technologies.

### 1. Cultural Relativism vs Universalism

One of the most enduring criticisms of the human rights framework is that it reflects **Western liberal values**, such as **individualism, secularism, and rational autonomy**, which may not align with other cultural traditions.

- In many **Asian societies**, particularly those influenced by **Confucianism**, rights are often framed within a **communitarian and duty-based ethos**. The idea is not that the individual stands apart from the community, but that **social harmony, family obligations, and respect for elders** come first.
- For example, the **Bangkok Declaration (1993)**—signed by several Asian states ahead of the Vienna World Conference—affirmed the importance of human rights, but stressed that **national and regional particularities and cultural backgrounds** must be taken into account.
- In Islamic societies, the **Cairo Declaration on Human Rights in Islam (1990)** provided an alternative human rights charter grounded in **Sharia law**, which differs from Western secular legal frameworks on issues like freedom of religion or gender roles.

This tension raises the question: **Can human rights be truly universal**, or are they inherently shaped by the culture from which they emerge?

### 2. State Sovereignty vs Human Rights Enforcement

Another challenge is the **conflict between human rights norms and state sovereignty**. While states have the **legal responsibility to protect rights**, they also claim **sovereignty** as the right to non-interference in internal affairs.

- Governments often invoke sovereignty to deflect **international pressure**, even in the face of serious violations such as **ethnic cleansing, civil war atrocities, or mass surveillance**.
- For instance:
  - **Myanmar** denied UN access and international monitoring during the Rohingya crisis, citing internal security.
  - **China** resists global scrutiny over the treatment of **Uighur Muslims** in Xinjiang, calling it a domestic counter-terrorism issue.

Although the UN has developed concepts like the **Responsibility to Protect (R2P)**, enforcement remains weak without political will or multilateral consensus.

### 3. Corporate and Technological Threats

In the 21st century, human rights are increasingly threatened not just by states but also by **powerful corporations** and **emerging technologies**.

- **Surveillance capitalism**, where tech companies profit from user data, undermines the **right to privacy** and **informed consent**. The practices of Google, Facebook, and others have sparked global debates about digital ethics.
- **AI bias** in facial recognition, predictive policing, and recruitment algorithms perpetuates discrimination, especially against **racial minorities** and **women**.
- The absence of **strong international regulations** for **artificial intelligence, biometrics, and genetic data** means that **human dignity and autonomy** are at growing risk.
- Countries like India have faced criticism over digital profiling and exclusion from welfare schemes linked to biometric ID systems like **Aadhaar**.

These developments show that **technological progress without ethical governance** can widen the gap between rights theory and practice.

### 4. Inequality of Access to Rights

Though rights are **universal in theory**, in practice they are unequally **accessible, enforceable, and experienced**, particularly for **marginalized and vulnerable populations**.

- **Caste-based discrimination** in India continues to deny **Dalits** equal access to education, justice, and dignity, despite constitutional safeguards.

- **Ethnic minorities**, such as the **Rohingyas in Myanmar** or **Uighurs in China**, face **statelessness**, mass detention, or even alleged **genocide**, with limited international protection.
- **Undocumented migrants** across the world are often deprived of healthcare, housing, and legal protections. For example, **migrant workers in Gulf countries** live in precarious conditions under the **kafala system**, which severely limits their rights.
- **Gender and sexual minorities**, particularly in conservative societies, face systemic violence and exclusion from legal recognition and public services.

These realities demonstrate that **formal legal rights** are not sufficient unless backed by **social equity, political will, and active enforcement mechanisms**.

## 5. Climate Crisis and Environmental Injustice

Climate change is now recognized as a major human rights issue:

- Vulnerable communities suffer from **displacement, loss of livelihoods, and food insecurity** due to extreme weather events.
- **Environmental defenders** who protest deforestation, mining, and pollution are often harassed or killed.

**Case Study:** In the **Amazon rainforest**, indigenous groups have fought against corporate encroachment and deforestation. In countries like **Brazil**, many indigenous activists face violence for defending their ancestral lands, showing the intersection between **environmental justice and human rights**.