

Human Rights – Introduction

Human rights law is a distinct area of public international law and raises a number of challenging questions for international lawyers:

How can international human rights standards be implemented across diverse cultures, nations, religions, economic systems?

What rights and responsibilities does the individual have under international law?

What is the relationship between state sovereignty and human rights?

These questions are of concern not only to international lawyers but also to anyone interested in understanding the difficulties that arise in protecting human rights at an international level.

What are Human Rights?

Human rights are fundamental rights of an individual within a sovereign state, including liberty, personal security, and equality before the law and freedom from discrimination. Human rights are derived from the inherent dignity of the person.

The term “**human rights**” is used to refer to a series of rights and freedoms which are universally accepted. These rights and freedoms are based on the idea that every person should be treated with respect and dignity simply by virtue of the fact that she or he is a human being.

Human rights are:

- **Inherent** – they are the birthright of all human beings.
- **Inalienable** – in the sense that people cannot agree to give them up or to have them taken away from them.
- **Universal** – they apply to all people equally, regardless of their nationality, status, religion, sexuality or race.

Human rights are embodied in international conventions and are adopted under the constitutional provisions of a state's internal laws.

The international agreements that provide the foundation principles for human rights are the

- ***Universal Declaration of Human Rights (1948)***
- ***Covenant on Economic, Social and Cultural Rights*** and the ***Covenant on Civil and Political Rights***. The former provides for rights such as the right to work and to have an adequate standard of living and the latter related to personal liberty, passed by the United Nations General Assembly in 1966 although they were not adopted until 1976.
- **Human Rights and Equal Opportunity Commission**. The Commission established in 1986 to replace the Human Rights Commission, for the purpose of monitoring and investigating any breaches of human rights recognised in Australian law.

Rights are often divided up into two main categories:

1. **Civil and political rights** – guarantee the independent of the individual from the State, for example, the right to vote and the right to freedom of speech.

Many of these rights are contained in the ***International Covenant on Civil and Political Rights 1966*** (ICCPR), an international treaty that Australia has signed.

2. **Economic cultural and social rights** – are generally concerned with the welfare of a person, and to some extent rely on the State to put these rights into practice. Eg, the right to adequate food and shelter or the right to work.

Most of these rights are contained in the ***International Covenant on Economic, Social and Cultural Rights 1966*** (ICESCR), which Australia has also signed.

3. **Collective rights** – a third type of rights which may be developing into a separate category are those which are concerned with the rights that people enjoy as a group – eg the right to enjoy a healthy environment or the Right to peace or the right to indigenous peoples to protect their cultures.