



Florida High Schools Model United Nations

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**UNITED NATIONS HUMAN RIGHTS COUNCIL
(UNHRC)**

Ad-Hoc: Updating the Universal Declaration of Human Rights
for the Twenty-First Century

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Introduction

As the 1993 Vienna World Conference on Human Rights indicated, whatever the disputes over details and over the politics of implementation, virtually all nations accept as authoritative the international human rights standards laid out in the Universal Declaration of Human Rights (UDHR).¹ Ratified in 1948 after extensive drafting and debate, championed by Eleanor Roosevelt, the UDHR joined the likes of the Declaration of Independence as aspirational documents of equality and human dignity. Much like the Declaration of Independence, however, the UDHR has its share of shortcomings. As you will read, the “Universal” nature of the UDHR envisions quite a small universe, and could not have envisioned circumstances like climate change or the digital revolution.

The Ad Hoc Working Group for the United Nations Human Rights Council (UNHCR) is tasked with deliberating potential revisions to the UDHR, a mighty goal considering the declaration’s renown throughout the international community. The Working Group has the power to make recommendations to the UNHCR, which could then draft new articles, or amendments to the current articles. The recommendations should be supported by any relevant facts and statistics that state the importance of the change or addition. If the UNHCR wishes to append a new right, they should also explain why the current UDHR does not sufficiently capture the right, and why it is not duplicative of other UN human rights instruments.

After the recommendations are voted upon and passed, the UNHCR would then send those articles to the Third Committee of the UN General Assembly (GA3), which will debate, amend, and (hopefully) approve the amendments. Once GA3 approves the amendments, they will be presented to the General Assembly for final approval. At this nascent stage, the Working Group will present a resolution of recommendations to the UNHCR for amending the UDHR for the Twenty-First Century.

Drafting of the UDHR

Guiding Questions

- How well did the UNESCO inquiry work to capture *all* human rights perspectives? Should the UNHCR recommend that another inquiry be sent out? To whom? What would the questions be? What should be done differently/simiarly?

In February 1947, the Commission on Human Rights established a special Universal Declaration of Human Rights Drafting Committee. To assist the committee, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) commissioned a questionnaire designed by the French Christian philosopher Jacques Maritain “to study the Chinese, Islamic, Hindu, American, and European peoples on human rights traditions and legal perspectives.”² In the end, seventy leaders and philosophers, including Mahatma Gandhi, E.H. Carr and Chung-Shul Lo, responded to the questionnaire.³

¹ Rhoda E. Howard-Hassman and Jack Donnelly, “Liberalism and Human Rights: A Necessary Connection” in *The Human Rights Reader: Major Political Essays, Speeches, and Documents from Ancient Times to the Present*, ed. Micheline R. Ishay (London: Routledge, 2023).

² *The Human Rights Reader: Major Political Essays, Speeches, and Documents from Ancient Times to the Present*, ed. Micheline R. Ishay (London: Routledge, 2023), 9-10.

³ Ibid.

The questionnaire itself, as a method by which Maritain drafted the UDHR, is an invaluable source of information on how the content of the declaration was decided.⁴ Firstly, the questions in the survey were divided into two parts, General and Special. The General questions were open-ended, asking about how rights have developed over the past century, though there are hints of bias integrated into the survey. For example, Question 5 asks,

5. What are the relations between rights and duties? (a) for individuals? (b) for groups? And what are the relations of individual freedoms to corporate or social responsibilities?

Notice how the survey asks what the relationship between rights and duties are for both individuals and groups, but when it asks about corporate and social responsibilities, it only asks about individual freedoms. While this may seem minor, the memorandum that preceded the questionnaire painted a grim picture of human rights as a fight between East and West.

UNESCO circulated this questionnaire on July 25, 1948, in the first major phase of the Cold War. The United States had unveiled its Marshall Plan, promising to fund Western Europe's reconstruction after World War II so long as they pledged their allegiance to capitalism, while the Soviet Union (USSR) had just recently begun its blockade of West Berlin, not allowing any goods from the West in or out of the city. This context was not lost on the respondents or the writers of the questionnaire.

As UNESCO explained what the UN was attempting to create with the UDHR, it detailed the development of rights since the Enlightenment Age, giving context to the importance of a universal declaration after the bloodiest war in human history.⁵ UNESCO paints the history of human rights in the twentieth century as a tale of two cities: On one side is the West, with strong individual rights and capitalist ideas. When UNESCO sent this survey, they believed they were at the precipice of:

[A] confrontation of two different working conceptions of human rights.... The one started from the premise of inherent individual rights, and with a bias against a strong central authority and against government interference, while the other was based upon Marxist principles and the premise of a powerful central government, and early wedded to total planning (which automatically magnifies the central power) and to one-party Government (which inevitably restricts certain political freedoms).⁶

While UNESCO's language demonstrates a clear bias against the USSR's vision of human rights, there is a more glaring issue: UNESCO lumps the entire world into a battle between East and West. The writers later go on to say that they

[M]ust not... neglect the fact that in other parts of the world other theories of human rights have emerged, are emerging, or are destined to emerge. Fascism is one such. Most thinkers agree that it can be shown to be

⁴ The questionnaire can be found as Appendix I at https://unesdoc.unesco.org/in/documentViewer.xhtml?v=2.1.196&id=p:usmarcdef_0000155042&file=/in/rest/annotationSVC/DownloadWatermarkedAttachment/attach_import_8cf80003-54dd-49ab-a5dc-0beb0631b571%3F_%3D155042engb.pdf&locale=en&multi=true&ark=/ark:/48223/pf0000155042/PDF/155042engb.pdf#%5B%7B%22num%22%3A1187%2C%22gen%22%3A0%7D%2C%7B%22name%22%3A%22XYZ%22%7D%2Cnull%2C0%5D.

⁵ Ibid.

⁶ Ibid.

untenable on theoretical grounds, and in any case it has been discredited and defeated in practice.⁷

Upsettingly, the first example UNESCO could conjure of human rights conceptions not from the United States or USSR was fascism. Already, before asking a single question, UNESCO made clear what it thought were significant issues in human rights to be addressed, and which were not. It is impossible to know whether this affected the way the respondents answered the more open-ended General Questions, but it is not outlandish to believe so.

The Special Questions are much more restrictive: the survey asks what are the grounds, extent, and guarantees of a set of rights, rights that are not unlike those seen in the United States Constitution, such as freedom of speech, religion, and expression.⁸ Only at the end, question #25, are the respondents permitted to write about what rights or freedoms *they* deem important. This automatically brings the discussion, and thus the UDHR, away from the diverse array of people who are responding.

Critiques of the UDHR: Too Western, Too Individual

Guiding Questions

- Do you think that Muzaffar liked how UNESCO approached the discussion of rights in its questionnaire?
- How could Muzaffar's vision be implemented into a possible future survey? Would his strategy include more worldviews than UNESCO's?

How did these questions, and the drafters' choices when constructing the UDHR, affect the declaration? Chandra Muzaffar, a Malaysian political scientist, launched a famous critique of the UDHR in 1999.⁹ A major part of his dissatisfaction with human rights discourse worldwide is that "the term 'human rights' as used by most human rights activists today carries a... restricted meaning. Human rights are often equated with individual rights — specifically individual and political rights."¹⁰

This focus on individual rights, and Western individual rights at that, means that human rights are unable to tackle more structural and systemic issues. The West, Mazaffar writes, "no longer possesses the will and the wherewithal to bring about fundamental changes to society," and those individual rights alone cannot effect meaningful change: "Individual freedom is not the be-all and end-all of human existence." Instead, "the individual and community must both submit to spiritual and moral values which transcend both individual and community."¹¹ As discussed below with climate change and the digital revolution, this is where scholars and practitioners have seen the UDHR's weaknesses show: in seismic changes to the global order that cannot be solved by simply guaranteeing freedoms to individuals.

Mazaffar's goal is to develop human rights that impugns a "dignity culled from our religious and spiritual philosophies" that reflects "a comprehensive charter of values and principles, responsibilities and rights, roles and relationships acceptable to human beings

⁷ Ibid.

⁸ Ibid.

⁹ Chandra Muzaffar, "From Human Rights to Human Dignity," in *Debating Human Rights: Critical Essays from the United States and Asia*, ed. Peter Van Ness (London: Routledge, 1999).

¹⁰ Ibid.

¹¹ Ibid.

everywhere. His solution is a survey of sorts, one more comprehensive, introspective, and diverse than UNESCO's 1948 questionnaire. Mazaffar's vision is a *dialogue* "with people of all religions on the question of human dignity."¹² To him, human dignity underlies all of human rights. His ideas ring intensely of equality and a genuine desire to find the true baseline of what all humans think are their rights and what ensures their dignity.

The focus on religion is a different tact than UNESCO takes, and might appear to spell trouble: how could *all* people be represented by a dialogue of religion. Mazaffar explains that "[r]eligion's primary concern is the dignity of all human beings," and thus is the font from which the conversation can begin.¹³ Instead of starting the conversation in a political sense, as UNESCO did, Mazaffar does so in a way that is more universal, and does not exclude those people or regions that are not in the geopolitical center of the world.

Mazaffar's dialogue would focus on "concrete contemporary issues," rather than vague notions of the development of rights, especially issues that challenge human dignity, such as "global domination and global control of poverty and disease, political oppression and cultural chauvinism, moneyism and materialism, corruption and greed, the disintegration of the community and the alienation of the individual. It would, in other words, be a *dialogue on life and living*."¹⁴

Where has the UDHR Fallen Short?

While it is encouraged that delegates find other places where the UDHR might have shortcomings, two case studies of the UDHR's limitations are detailed below.

Climate Change

Guiding Questions

- Which articles from the UDHR do nations struggle to guarantee to their populations with the acceleration of climate change?
- How can we increase accountability for the entities that are responsible for climate-related human rights violations? Who should hold the responsibility that attaches to the right (i.e., who should be accountable)?

Climate change is testing the limits of almost every facet of society, including national and international law. In 2015, the UN Framework Convention on Climate Change (UNFCCC) submitted a plan for mitigating climate change, whose goal was, among other things, to ensure that climate change mitigation and adaptation efforts were compliant with human rights obligations.¹⁵ The convention named several goals, though one of the most ambitious invoked the UDHR: "To ensure accountability and effective remedy for human rights harms caused by climate change."¹⁶ Because the UDHR requires states to guarantee effective remedies for human rights violations (see Article 8), the convention explained that the citizens of a nation can hold their nation accountable for the nation's contributions to climate change, "including for failure to adequately regulate the emissions of businesses under their jurisdiction regardless of where such emissions or their harms actually occur...."

¹² Ibid. He also notes that "even those of secular persuasion should be invited to dialogue with people of faith."

¹³ Ibid. Again, those with secular beliefs are still included in this dialogue.

¹⁴ Ibid. Emphasis added.

¹⁵ Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC, COP21), 27 November 2015.

¹⁶ Ibid.

The last clause of that sentence is a sweeping policy statement. Normally, for a person or state (“entity”) to be held accountable in a court of law (whether national or international), the opposing side must prove that the entity actually caused the issue. This has been a major difficulty for environmental rights organizations in trying to bring their cases to court. Using the UDHR, the convention believes that the state should be held accountable for not regulating the emissions of business activity. While Article 8 of the UDHR is similarly sweeping, national courts of law may still be hesitant to allow persons to bring lawsuits against their nation for failing to regulate emissions, especially if there was no immediate harm done to the citizens bringing the claim.

This is an example of an area where the UDHR’s language and the UN’s strategy for tackling a human rights issue fail to connect cleanly. The UNFCCC is absolutely correct that this level of accountability would be a step in the right direction, although it is possible that “national tribunals” (as specified in Article 8) may not be the best place to do it. Delegates should investigate whether international courts may afford citizens a better remedy when it comes to holding states accountable for their complicity in climate change.

The Digital Revolution

Guiding Questions

- How can the UDHR, or human rights rhetoric generally, help the digital world serve the people, not the other way around? Or is self-policing on the internet using voluntary ethical promises sufficient?
- Does the current UDHR encapsulate rights necessary to ensure human dignity online, such as transparency, fairness, accountability, oversight, and redress?

Cyber-security issues is another area where human rights are vulnerable and that the drafters of the UDHR could not have foreseen. The digitization of public life, away from more conventional ways to engage in political speech or commerce and towards new, novel, and unregulated means of communication presents many risks to human rights. Michelle Bachelet, in a speech to Japan Society, said that in order to respect the rights of the UDHR, “we must ensure that the digital revolution is serving the people, not the other way round.”¹⁷

To achieve this, Bachelet urges leaders to “ensure that every machine-driven process... complies with cornerstone principles such as transparency, fairness, accountability, oversight, and redress.”¹⁸ These, of course, are principles that had significant import on human rights before the age of the internet, but have taken on a new meaning since. One interesting question is on accountability: Who should be responsible for tackling these risks? Much like climate change, the human rights risks associated with cyber-security “cross cultures, national boundaries, and legal jurisdictions,” making it much more difficult to single out a single entity or sovereign with responsibility.¹⁹ While government (or even intragovernmental) regulation might seem an attractive solution, this “can of course raise its own issues, in particular if the fundamental guarantees of rule of law are not respected.”²⁰ While protecting human rights in the digital world is important, it is not worth it to risk people’s ability to speak freely over the internet.

¹⁷ Michelle Bachelet, “Human Rights in the Digital Age - Can They Make a Difference?” Keynote speech to Japan Society, New York, October 17, 2019.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

Bachelet concludes that “the best solutions will be found by working in partnership, sharing best practices, and studying the detailed outcomes of national regulatory systems, including any unintended consequences.”²¹ By having a clear delineation of the responsibilities of businesses and the state, the international human rights community will better be able to regulate and protect the digital space without intruding on any fundamental liberties of the people.

Conclusion

In sum, the case studies above demonstrate that the UDHR’s focus on individual rights has significant limitations when it comes to issues that transcend the individual and touch every part of our world. The reliance on individual rights in the UDHR stems from the political atmosphere of the time it was drafted, and it is up to the delegates of this ad hoc working group to make the requisite recommendations. Whether that be direct amendments, the development of a new survey, or both, it is imperative that the most respected international human rights framework be adapted to the new and growing challenges of the twenty-first century.

The Universal Declaration of Human Rights

Below, for your convenience, is the full text of the UDHR.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

²¹ Ibid.

Now, therefore, 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.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social

services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.