

Constitutions and Laws: The Universal Declaration of Human Rights

Table of Contents

Introduction.....	3
Historical Context of the UDHR.....	3
Analysis of Freedom in the UDHR.....	4
Case Studies: Impact of UDHR on National Laws.....	4
Contrasting Interpretations of Freedom	5
Conclusion	5
Bibliography	7

Introduction

1948 is the year when the United Nations General Assembly adopted the Universal Declaration of Human Rights UDHR, which can be considered as one of the best moments in human rights history.¹ 1948 Sudan saw the first world document defining the most basic human rights that should be available for all people of the planet Earth In response to the unthinkable horrors of World War II The declaration contains a wide variety of rights — civil, political, economic and all – in order to demonstrate how these types of freedom are linked with one another. The principles preserved in UDHR have likewise been reflected in the Composition of South Africa, and a major part of it has been adopted into the United Kingdom’s Human Rights Act 1998, making it possible that the international standards could contribute to national legislation.² This analysis studies what the UDHR has outlined and realized the idea of freedom in the sense of incorporating them in international and national legal systems, as well as their role in providing any global standard of liberty.

Historical Context of the UDHR

Another desperate move to find premises for universal human rights was the Universal Declaration of Human Rights UDHR, a global declaration which arose in the wake of the atrocity of World War II, including but not limited to Holocaust. 1948, one of the most defining moments in human rights history United Nations General Assembly approves UDHR after drawing from different legal as well as cultural legacies.³ This wonderful charter, made up of 30 articles, established a universal standard for the rights and freedoms throughout the world. The UDHR had far-reaching effects beyond its inception. It opened the way to major international treaties including the ICCPR, International Covenant on Economic, Social and Cultural Rights ICESCR forming together the International Bill of Human Rights. The principles of the UDHR penetrated into national legal systems – an example of this is Japan’s 1947 Constitution that incorporated some elements of a

¹ Mackinnon, E.S., 2019. Declaration as disavowal: The politics of race and empire in the Universal Declaration of Human Rights. *Political Theory*, 47(1), pp.57-81.

² López, J.J., 2023. 11. Human rights as ends or means of a global moral horizon. *Research Handbook on the Sociology of Globalization*, p.127.

³ Landman, T., 2018. Democracy and human rights: Concepts, measures, and relationships. *Politics and Governance*, 6(1), pp.48-59.

work. Another example of the profound effect UDHR had is seen in European Convention on Human Right adopted in 1953, and which demonstrates its lasting influence on regional and national legal systems.⁴ Its pivotal role in shaping the contemporary view of human rights as enshrined by the UDHR and its impact on global jurisprudence make it historically significant.

Analysis of Freedom in the UDHR

The Universal Declaration of Human Rights UDHR is a fundamental document that defines and helps to safeguard freedom worldwide. Article 1 of the UDHR gives rise to a general premise that all individuals by nature are free as well as equal in dignity and rights. This is the philosophical basis of freedom.⁵ Article 3 further strengthens this by highlighting individual freedom in the legal sense through the right to life, liberty and personal security. Article 18 plays such an important role because of the focus on freedom of thought, conscience and religion. It includes freedom to change one's religion or beliefs; and the right to teach, practice, worship and observe these beliefs. Article 19 relates to the freedom of opinion and speech as it proposes that individuals should be free in formulating their opinions without any obstacle, similar to the right to pass on ideas or information across boundaries. This principle has guided justiciable dispute on freedom of speech as evidenced by cases such as *Handyside v. United Kingdom*, which sought to elucidate the limits of free expression in consideration of public morality.⁶ Article 13 on the Freedom of Movement has heavily influenced immigration and asylum policies globally. These four articles provide a full picture of freedom that is firmly grounded in legal norms and judicial precedents that highlight the UDHR path towards transformation of an abstract idea about freedom into concrete, legally enforceable right everywhere.

Case Studies: Impact of UDHR on National Laws

⁴ Burgess, P., 2020. The rule of law in the rule of law: putting the problem of the rule of law in context. *Hague Journal on the Rule of Law*, 12(2), pp.333-361.

⁵ "Ishay, M.R., 2022. *The human rights reader: Major political essays, speeches, and documents from ancient times to the present*. Routledge."

⁶ "Kittel, L., 2021. Human Dignity in the Universal Declaration of Human Rights: 'Old' or 'New'?. *Menuge, Angus JL and Bussey Barry W.(eds) The Inherence of Human Dignity: Foundations of Human Dignity*, 1, pp.13-30."

The UDHR significantly shaped the national laws and constitutions in various parts of the world, like Japan and South Africa. Countries in Asia, such as Japan's post-World War II constitution, which the UDHR influences, have taken steps to promote human rights in their "Bill of Rights." They copy the UDHR's Articles on freedom of expression and the right to life and Liberty UDHR Articles 3 and 19 under Articles 9.⁷ Based on this alignment, Japan advocates for adherence to the UDHR principles, which it has incorporated into its legal framework through various court decisions. South Africa's constitution, written after the white-ruled era, has been heavily influenced by the UDHR, especially in its progressive Bill of Rights. It echoes UDHR's principles of equality and dignity (Article 1) and freedom of religion and belief (Article 18). Important cases, such as *Minister of Home Affairs v. Fourie*, the first to uphold same-sex marriage rights, showcase the practicality of such notions, promoting how the UDHR influences the development of progressive and fair national laws.

Contrasting Interpretations of Freedom

"In the Universal Declaration of Human Rights, UDHR, definitions and interpretations of freedom can differ." The application of this freedom in national laws is varied. The freedom of expression Article 19 of the UDHR is interpreted differently in different nations.⁸ In countries like the United States, this right is broadly protected by the First Change, enabling various forms of speech, including highly controversial or offensive expressions. Countries such as Germany adopt more strict laws, such as the NetzDG, which control online speech to avoid hate speech and disinformation, reflecting a more conservative approach to freedom of expression. The contrasting approaches demonstrate that the UDHR's principles are understood and applied differently due to cultural, historical, and social factors.

Conclusion

"This assignment has delved into the issue of freedom as a multifaceted concept using the Universal Declaration of Human Rights (UDHR)." Through its historical context, the influential

⁷ "Chan, B.S., 2019. Are international human rights universal? East-west philosophical debates on human rights to liberty and health. *Metaphysics of human rights 1948-2018: On the occasion of the 70th anniversary of the UDHR*, pp.135-152."

⁸ "Burke, R., 2018. The Rites of Human Rights at the United Nations. *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 9(1), pp.127-142."

articles, and the significance of global laws of diverse nations, the UDHR has been powerful in inspiring different consciousnesses towards various understandings of freedom worldwide.

Bibliography

- Burgess, P., 2020. The rule of lore in the rule of law: putting the problem of the rule of law in context. *Hague Journal on the Rule of Law*, 12(2), pp.333-361.
- Burke, R., 2018. The Rites of Human Rights at the United Nations. *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 9(1), pp.127-142.
- Chan, B.S., 2019. Are international human rights universal? East-west philosophical debates on human rights to liberty and health. *Metaphysics of human rights 1948-2018: On the occasion of the 70th anniversary of the UDHR*, pp.135-152.
- Ishay, M.R., 2022. *The human rights reader: Major political essays, speeches, and documents from ancient times to the present*. Routledge.
- Kittel, L., 2021. Human Dignity in the Universal Declaration of Human Rights: 'Old' or 'New'? . Menuge, Angus JL and Bussey Barry W.(eds) *The Inherence of Human Dignity: Foundations of Human Dignity*, 1, pp.13-30.
- Landman, T., 2018. Democracy and human rights: Concepts, measures, and relationships. *Politics and Governance*, 6(1), pp.48-59.
- López, J.J., 2023. 11. Human rights as ends or means of a global moral horizon. *Research Handbook on the Sociology of Globalization*, p.127.
- Mackinnon, E.S., 2019. Declaration as disavowal: The politics of race and empire in the Universal Declaration of Human Rights. *Political Theory*, 47(1), pp.57-81.