

HARMS-SMITH, L., MARTINEZ-HERRERO, M.I., ARNELL, P., BOLGER, J., BUTLER-WARKE, A., DOWNIE, M., NICHOLLS, J. and MACDERMOTT, D. 2019. *Social work and human rights: the international context*. Birmingham: BASW [online]. Available from <https://www.basw.co.uk/media/news/2019/dec/social-work-and-human-rights-guides-launched>

Social work and human rights: the international context.

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Social Work and Human Rights: The International Context

Linda Harms-Smith and Maria Ines Martinez-Herrero,
Paul Arnell, Janine Bolger, Alice Butler-Warke, Margaret Downie,
Jack Nicholls, Denise MacDermott.

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Linda Harms-Smith, Maria-Ines Martinez-Herrero

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13. THE DEVELOPMENT OF HUMAN RIGHTS IN AN INTERNATIONAL CONTEXT

This publication is a companion to 'Social Work and Human Rights: A Practice Guide'.

Both publications can be read separately or together. To maintain continuity between the two the numbering of 'Social Work and Human Rights: The International Context' starts where 'Social Work and Human Rights: A Practice Guide' ends and thus this publication starts at Section 13.

Introduction

Social work is an international profession and human rights in the UK are set in the context of international laws and treaties. Section 13 covers the development of human rights in an international context, Section 14 examines the contemporary global challenges of human rights while Section 15 concludes with emerging thinking on human rights development and practice.

13.1 Historical overview

The history of human rights ideas dates back to the distant past, linking with ancient philosophies and world religions. And there are important precursors to international collaboration towards the recognition of human rights, such as conventions to protect the rights of workers (especially women and children) drawn upon by the International Labour Organisation (ILO) established in 1919¹, or the Évian Conference in 1938 where representatives from 32 countries sought but failed to agree commitments to protect Jewish refugees fleeing Nazi persecution².

However, the United Nations (UN) human rights machinery is acknowledged to have emerged "from the ashes" of World War II. The shock at atrocities and devastation of the aftermath of the war finally prompted world leaders to establish a Universal Declaration of Human Rights and develop legal mechanisms to protect these³.



¹ Sepúlveda, M., Van Banning, T. and Genugten, WJM. (2004) Human rights reference handbook, Ciudad Colon, Costa Rica: University for Peace.

² EUFRA (European Union Agency for Fundamental Rights) (2018) Learning from the Holocaust to address today's refugee situation <https://fra.europa.eu/en/news/2018/learning-holocaust-address-todays-refugee-situation> Accessed 12/8/19.

³ Reichert E. (2003) Social work and human rights: a foundation for policy and practice, New York: Columbia University Press.

13.2 Global Human Rights instruments

The United Nations **Universal Declaration of Human Rights**⁴ (UDHR) (1948), spans ideas of freedom and dignity through to the environment which promotes their realisation. It begins with 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" and ends with 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 realised".

Numerous **Human Rights Instruments**⁵ exist, extending to matters such as the rights of the child; slavery; administration of justice; asylum and refugees; rights of women; and social welfare, progress and development. The composite set of instruments which includes the UDHR, together with the **International Covenant on Civil and Political Rights** and its **Optional Protocols** (on the complaints procedure and on the death penalty) and the **International Covenant on Economic, Social and Cultural Rights** and its optional protocol is collectively known as the **International Bill of Human Rights**⁶.

There are many additional Human Rights Conventions that expanded the law on Human Rights, some being:

- **Convention on the Prevention and Punishment of the Crime of Genocide (1948)**
- **International Convention on the Elimination of All Forms of Racial Discrimination (1965)**
- **Convention on the Elimination of All Forms of Discrimination against Women (1979)**
- **Convention on the Rights of the Child (1989)**
- **Convention on the Rights of Persons with Disabilities (2006).**

Many of these conventions have monitoring and implementation procedures, but most are only legally binding if states become party to them. Even when states become party to such treaties, the rights do not necessarily create obligations if they are not incorporated within domestic law and so do not allow for protection by courts. States may therefore interpret such treaties according to their own context, or refuse to become party to them⁷. For example, in the UK, the focus of human rights is on civil and political rights while socio-economic and cultural rights are not enshrined. However, an example of a body which does have legal authority is the **European Court of Human Rights**⁸.



The ongoing advocacy efforts of states, non-governmental organisations, social movements and individuals is thus of great importance in monitoring, investigating, exposure, and campaigning on human rights abuses and violations internationally and locally (see resources below).

⁴ United Nations Universal declaration of Human Rights 2019. www.un.org/en/universal-declaration-human-rights/index.html

⁵ United Nations Human Rights Office of the High Commissioner. 2019. Universal Human Rights Instruments www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx

⁶ United Nations Human Rights Office of the High Commissioner 2019. International Human Rights Law. www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx

⁷ Donnelley and Whelan, 2018.

⁸ European Court of Human Rights. 2019. <https://echr.coe.int/Pages/home.aspx?p=home>

13.3 Divergent Human Rights instruments internationally

Every UN member state⁹, despite socio-political, historical, religious and cultural differences, has ratified at least one of the international human rights treaties, although in many cases these are not legally binding. Human rights are thus said to have become a universal value system. However, the moral concepts embraced by human rights are not uniquely Western¹⁰. All societies manifest conceptions of some form of human rights, regardless of the cultural or religious context, and so various instruments of Human Rights operate in addition to or instead of the UDHR. These may include alternative conceptions such as an emphasis on collective rights or a refusal of secularisation, not found in dominant human rights discourse. Examples of such instruments are found among Muslim and African states. United Nations Human Rights instruments are often critiqued for being Western-centric and a colonial imposition.

ARAB CHARTER ON HUMAN RIGHTS (2004)

Although there is no “one Middle-Eastern” or “Islamic body of thought” on the question of Human Rights, various juridical, political and academic bodies deal with interpretation of law and tradition, and Islam is an important factor in Human Rights discourse in the Muslim world. Furthermore, rather than secularisation, it is regarded as critical that there is an inclusive and representative relationship between the Islamic Ummah (the broader Islamic faith community) and the United Nations¹¹.

The revised Arab Charter of Human Rights adopted by the League of Arab States in 2004 is seen as an important Human Rights instrument in keeping with international standards for Human Rights. It reaffirms in its preamble, the principles of both the UN Charter and the UDHR¹².



AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (BANJUL CHARTER)¹³.

The African Charter on Human and Peoples' Rights (Banjul Charter) was adopted by the Organisation of African Unity in 1986 and is an important instrument departing from Western individualism by acknowledging collective rights of peoples as groups and not only individual rights. It also includes duties and responsibilities. The additional protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (1994) provides a broad range of protections and rights for women, even extending these beyond the Convention on the Elimination of Discrimination Against Women (CEDAW)¹⁴. **The African Charter on the Rights and Welfare of the Child** (1999) is a comprehensive instrument that sets out rights and responsibilities, and defines universal principles and norms for the status of children.

⁹ Only two states in the world are not members of the United Nations: Palestine and Vatican city
www.un.org/en/sections/member-states/non-member-states/

¹⁰ Shestack, J. (1998). The Philosophic Foundations of Human Rights. *Human Rights Quarterly*, 20(2) pp. 201-234
https://is.muni.cz/el/1423/podzim2016/POL502/um/Shestack_The_Philosophic_Foundations_of_Human_Rights.pdf

¹¹ Baderin, M.A. (2007). Islam and the Realization of Human Rights in the Muslim World: A Reflection on Two Essential Approaches and Two Divergent Perspectives. *Muslim World Journal of Human Rights*. 4(1), pp. 1-25.

¹² Rishmawi, M. (2005). The Revised Arab Charter on Human Rights: A Step Forward. *Human Rights Law Review*, 5(2), pp. 361-376.

¹³ African Charter on Human and Peoples' Rights (Banjul Charter). 1981. Organisation of African Unity (OAU).
www.refworld.org/docid/3ae6b3630.html

¹⁴ Baderin, M. A. (2005). Recent developments in the African regional human rights system. *Human Rights Law Review*, 5(1), 117-150.

13.4 Social Work and Human Rights internationally

The **Global definition of social work**¹⁵ and its accompanying principles places human rights at the core of its values, highlighting that social work embraces first, second and third generation rights¹⁶.

There is a rich legacy of social workers individually and collectively as human rights activists, campaigners and advocates since the profession's beginnings. But the relationship between social work and human rights has tended to be implicit and unexplored during most of social work history.

In recent decades this relationship has become increasingly emphasised among the most influential international social work organisations, such as the IASSW, IFSW and ICSW¹⁷.

There is growing support for the view that human rights offer social workers a common vision and approach to address effects of global social injustice resulting from neoliberal globalisation.

A Human Rights perspective can strengthen and reinforce knowledge and practice or challenge and confront **ideological positions**. Social workers can uphold human rights through both deductive and inductive approaches¹⁸. A deductive approach begins with the particular right, exploring what practice implications, or what principle to adopt. An inductive approach starts with practice and asks what human rights are at stake and should inform practice¹⁹.

Internationally, efforts currently focus on developing specific human rights based social work practice models. In the UK, there is debate about a widespread legalistic conception of human rights in social work versus grounding the profession in a broader international human rights perspective^{20/21}.



¹⁵ IASSW/IFSW 2014 Global definition of social work www.iassw-aiets.org/global-definition-of-social-work-review-of-the-global-definition/

¹⁶ According to the global definition statement of social work, first generation rights refer to civil and political rights such as free speech and conscience and freedom from torture and arbitrary detention; second generation to socio-economic and cultural rights that include the rights to reasonable levels of education, healthcare, and housing and minority language rights; and third generation rights focus on the natural world and the right to species biodiversity and inter-generational equity.

¹⁷ Staub-Bernasconi S. (2016) Social Work and Human Rights—Linking Two Traditions of Human Rights in Social Work. *Journal of Human Rights and Social Work* 1(1), 40–49.

¹⁸ Ife J. (2008) *Human Rights and Social Work: Towards rights-based practice*, New York: Cambridge University Press. p.206.

¹⁹ Staub-Bernasconi S. (2016) Social Work and Human Rights—Linking Two Traditions of Human Rights in Social Work. *Journal of Human Rights and Social Work* 1(1), 40–49. Ife 2012, p. 206.

²⁰ Martínez Herrero, M.I. & Nicholls, J. (2017). Beyond Legalism in Turbulent Times: Re-grounding UK Social Work in a Richer International Human Rights Perspective, *Journal of Human Rights and Social Work*, 2(3), pp. 74–85 <https://doi.org/10.1007/s41134-017-0036-1>

²¹ BASW (2015). BASW Human Rights Policy. Birmingham: The British Association of Social Workers. http://cdn.basw.co.uk/upload/basw_30635-1.pdf.

13.5 Human Rights violations internationally

Where states are not party to specific human rights treaties, or where states are party to human rights treaties but the rights are only aspirational, or where such rights have not been incorporated into domestic law (and thus cannot be enforced in court), in practice realising human rights is limited. Further, human rights violations are ubiquitous due to deliberate and/or unintended actions and omissions by states in the context of global and within-state **structural inequalities**, conflicts and **power asymmetries**. The current **neoliberal era** and the liberal emphasis by mainly Western governments on individualist civil and political rights rather than collective, socio-economic and cultural rights, means that such global structural inequalities are ignored²². The implementation of rights is therefore relative to the context. It is crucial that social workers have a critical awareness of how to conceptualise, take positions and engage with human rights violations through practice but also through advocacy, activism and protest.



CASE EXAMPLE: Contradictory outcome of activism: Child Labour

Child labour is a serious violation of children's rights. Worldwide, about 168 million children aged 5 to 17 are engaged in child labour, accounting for almost 11 per cent of all children²³. Child labour is a violation of The UN **Convention on the Rights of the Child (1990)**. The **Worst Forms of Child Labour Convention (2000)** of the ILO (International Labour Organisation) requires that states ratifying the convention must prohibit and eliminate the worst forms of child labour as a matter of urgency. However, lack of attention to global inequalities can compromise good intentions of human rights activists. For instance, campaigns against child labour and 'sweat-shops' must consider the realities of global inequality as drivers of child labour. This can never be justified, but efforts to stop the practice must be grounded in understanding the economic realities that poor children and their families face. In countries where there is no social safety net, campaigns to stop these human rights violations can result in children being exposed to more dangerous conditions such as prostitution, bonded labour or being trafficked²⁴.

²² Aziz, N. (1995) The human rights debate in an era of globalization: Hegemony of discourse, *Bulletin of Concerned Asian Scholars*, 27(4), 9-23.

²³ Unicef 2014. Child Labour and UNICEF in action. www.unicef.org/protection/files/Child_Labour_and_UNICEF_in_Action.pdf

²⁴ Deepack, A.C. (2011). Globalization, power and resistance: Postcolonial and transnational feminist perspectives for social work practice. *International Social Work* 55(6), pp. 779-793.

CASE EXAMPLE: Violation of indigenous people's rights and right to protest

The main threat to the territorial, cultural and physical integrity of indigenous peoples in Brazil, is the erosion of human rights through the near total power of the agribusiness and mining sector supported by the new right-wing government²⁵. President Jair Bolsonaro, has "vowed to freeze demarcations of new indigenous reserves, revoke the protected status of others, and free up commercial farming and mining on others such as the **Yanomami** territory."²⁶ This may be regarded as an infringement of **United Nations Declaration on the Rights of Indigenous Peoples**²⁷ Article 8(2)(b) which states that "States shall provide effective mechanisms for prevention of, and redress for: Any action which has the aim or effect of dispossessing them of their lands, territories or resources". The gathering of indigenous peoples in the Brazilian capital is an invocation of Article 11 (The right to protest) of the UNUDHR. In Britain, if such a protest was prevented or denied, legal action backed up by the Human Rights Act 1998 Article 10 and 11, could be taken to allow such a protest.



RESOURCES

The Office of the High Commissioner for Human Rights (UN Human Rights) (OHCHR) is the leading UN entity on human rights and has the mandate to promote and protect all human rights for all people www.ohchr.org/EN/AboutUs/Pages/WhoWeAre.aspx

Human Rights Watch www.hrw.org/ investigates and reports on abuses from all over the world.

Amnesty International www.amnesty.org/en/ research and campaigning to fight abuses of human rights worldwide.

Commission for Human Rights, Council of Europe www.coe.int/en/web/portal/home independent institution within the Council of Europe mandated to promote awareness of and respect for human rights in Europe Member States.

Universal Declaration of Human Rights www.un.org/en/universal-declaration-human-rights/index.html

Amnesty International The Right to Protest Resource www.amnesty.org.au/wp-content/uploads/2017/02/Teaching-resource-right-to-protest.pdf

²⁵ Ioris, A.R., Benites, T. and Goetter, J.D. (2019). Challenges and contribution of indigenous geography: Learning with and for the Kaiowa-Guarani of South America. *Geoforum* 102, pp. 137–141 www.researchgate.net/publication/332395619_Challenges_and_Contribution_of_Indigenous_Geography_Learning_with_and_for_the_Kaiowa-Guarani_of_South_America

²⁶ Phillips, D. (2019). Brazil: indigenous people rally in capital to protest against Bolsonaro onslaught. *The Guardian* www.theguardian.com/world/2019/apr/24/brazil-indigenous-people-bolsonaro-protest

²⁷ United Nations (2007) Declaration on the Rights of Indigenous Peoples. www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html

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- Sepúlveda M, Van Banning T and Genugten WJM. (2004) *Human rights reference handbook*, Ciudad Colon, Costa Rica: University for Peace.
- Shestack, J. (1998). The Philosophic Foundations of Human Rights. *Human Rights Quarterly*, 20(2), pp. 201-234 https://is.muni.cz/el/1423/podzim2016/POL502/um/Shestack_The_Philosophic_Foundations_of_Human_Rights.pdf
- United Nations. *United Nations Convention on the Rights of People with Disabilities* www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html
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14. CONTEMPORARY GLOBAL HUMAN RIGHTS CHALLENGES

Overview

The 21st century presents countless human rights challenges. These reports have shown some of the challenges that social work faces in the human rights landscape. Social work is an international profession. This section takes a step back from practice and considers the global rights landscape, providing a background for understanding human rights and social work in a wider context.

14.1. The rise of nationalism and the far right

Nationalism is the belief that individual nations bear certain characteristics that are unique to those nations and, crucially, nations should remain independent from each other²⁸. Extreme nationalism and belief in the supremacy and exclusivity of one's own nation is a key feature of far-right and populist politics.²⁹

Recent years have seen an increase in violence associated with far-right movements where members attack those that they deem a threat to their nation and national identity³⁰. Social workers must be aware of the rise of the far-right as it threatens the wellbeing and dignity of many groups in society. In this climate, social workers must be ready both to support victims and to rehabilitate perpetrators often through restorative justice approaches.

REFLECTION

The effects of far-right and nationalist extremism are felt in daily life as minority groups are subjected to hate speech and discrimination. In the UK, between 2017 and 2018, hate crimes rose by 123%³¹ and this was, in part, blamed on the Brexit vote. Although the right to freedom of speech is enshrined in Article 19 of the UDHR³² and in the UK in the Human Rights Act (1998), this is balanced by constraints around hate speech found in various laws and the **United Nations strategy and plan on hate speech**³³. Social workers must navigate between protecting the right of the individual to speak freely and protection of individuals and groups from hate speech through provisions such as the **Public Order Act 1986**³⁴, Racial and Religious Hatred Act 2006, and the Criminal Justice and Immigration Act 2008.

²⁸ Fielder, L. (2018). Is Nationalism the Most Serious Challenge to Human Rights: Warnings from Brexit and Lessons from History. *Texas International Law Journal*, 53.

²⁹ Bar-On, T. (2018). The radical right and nationalism. *The Oxford handbook of the radical right*, pp.17-41.

³⁰ Sweeney, M.M. and Perliger, A. (2018). Explaining the Spontaneous Nature of Far-Right Violence in the United States. *Perspectives on Terrorism*, 12(6), pp.52-71.

³¹ Weaver, M. (2018). Hate crime surge linked to Brexit and 2017 terrorist attacks. [online] *The Guardian*. Available at: www.theguardian.com/society/2018/oct/16/hate-crime-brexit-terrorist-attacks-england-wales

³² United Nations Universal Declaration of Human Rights, 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".

³³ United Nations (2019). Strategy and plan of action on hate speech www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf

³⁴ United Kingdom (1986). Public Order Act (POA). www.legislation.gov.uk/ukpga/1986/64



14.2 The right to protest

Over the centuries collective protest has been a powerful means, to bring about social change. It is enshrined in UNUDHR and in the Human Rights Act 1998 in Article 11³⁵ where it is described in terms of Freedom of Assembly and Association, and protects the right to protest and hold demonstrations with other people (Equality and Human Rights Commission, 2019)³⁶.

These provisions offer important protections to citizens with respect to such freedoms. The current era has seen many examples of citizen protest. Following the global financial crisis, austerity measures and rise in inequality, waves of protests throughout Europe sought to challenge the neo-liberal order and led to new initiatives of socio-political transformation³⁷. Similarly, the Global Justice Movement and the Occupy Movement arose from inequality and unjust economic orders of neoliberal globalisation. In Britain, increasingly conservative policies, the rise of far right, racism and anti-immigration sentiment has also led to a proliferation of organisations mobilising and organising protest actions. Recently, Extinction Rebellion³⁸ is an example of a global movement on Climate Change.

There are however concerns around increased state intolerance and repression of protest through legislation and policing. At the conclusion of his visit to Britain, the UN Special Rapporteur on the Right to Freedom of Association and Assembly expressed concerns about freedom of association and freedom of assembly³⁹.

For example, certain aspects of the Prevent⁴⁰ strategy were described as problematic, such as the definition of 'domestic extremism' being too broad and "having the opposite of its intended effect: by dividing, stigmatizing and alienating segments of the population" (UNHROHC, 2016). In January, after calls from organisations such as Amnesty International, the Security Minister announced an Independent Review of the strategy⁴¹.

CASE EXAMPLE: The right to protest

A recent example of an outcry driven by Human Rights concerns, was about the proposed curtailment and restrictions on freedom to protest and to take industrial action, by the Trade Union Bill of 2015, to which major concessions were made by the government⁴² in its final form (Ewing and Hendy, 2016). Although it is argued that the changes to this Bill seem to have been due to political rather than human rights motivations, the desire for compliance with human rights by governments generally, may have a positive impact on legislative processes.

³⁵ Human Rights Act (1968) Article 11: "Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests; No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

³⁶ Equality and Human Rights Commission (2019). Article 11: Freedom of Assembly and Association www.equalityhumanrights.com/en/human-rights-act/article-11-freedom-assembly-and-association

³⁷ Fominaya, C.F. (2017) European anti-austerity and pro-democracy protests in the wake of the global financial crisis, *Social Movement Studies*, 16:1, 1-20, DOI:10.1080/14742837.2016.1256193.

³⁸ Extinction Rebellion <https://rebellion.earth/>

³⁹ UNHROHC (2016) Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the United Kingdom. www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19854&LangID=E

⁴⁰ Prevent Duty Guidance www.gov.uk/government/publications/prevent-duty-guidance

⁴¹ The Guardian. (2019). Prevent strategy on radicalisation faces independent review. www.theguardian.com/uk-news/2019/jan/22/prevent-strategy-on-radicalisation-faces-independent-review

⁴² Ewing, K.D. and Hendy, J. (2016). The Trade Union Act 2016 and the failure of human rights. *Industrial Law Journal*. 45(3), pp. 391-422.



14.3 Global women's rights

It is argued that '**women's rights are human rights**', but beyond the failures of realising human rights generally, the position of women and girls remains one of gross inequality. Although there have been some improvements, areas of inequality include violence against women, under-representation in political institutions, discriminatory laws, the burden of household care, education, women's health and reproductive rights and poverty⁴³.

The Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)⁴⁴ adopted in 1979 by the General Assembly of the United Nations, is seen as an international bill of rights for women as well as a plan of action.

Although it has led to some positive outcomes with regard to women's political rights, this is less so with social rights and not at all with economic rights⁴⁵. These outcomes depend largely on responses of individual countries.

Special measures should be undertaken to achieve substantive equality and to address historical discrimination and disadvantage. Beyond statutes and policies, a change in attitudes towards women is required as well as "a comprehensive understanding of the underlying societal structures and power relations that define and influence women's ability to enjoy their human rights" (UNHROHC, 2014, p.31)⁴⁶.

⁴³ Mlambo-Ngcuka, P. (2019). The 2019 Madeleine K. Albright Development Lecture by Phumzile Mlambo-Ngcuka, UN Under-Secretary-General and Executive Director of UN Women. www.unwomen.org/en/news/stories/2019/8/speech-ed-phumzile-madeleine-albright-development-lecture

⁴⁴ United Nations Human Rights Office of the High commissioner. (2019) Convention on the Elimination of All Forms of Discrimination against Women (1979). www.ohchr.org/en/professionalinterest/pages/cedaw.aspx

⁴⁵ Englehart, N.A. & Miller, M.K. (2014). The CEDAW Effect: International Law's Impact on Women's Rights, *Journal of Human Rights*, 13(1), pp. 22–47.

⁴⁶ UNHROHC (2019). Human Rights are Women's Rights. www.ohchr.org/Documents/Events/WHRD/WomenRightsAreHR.pdf

14.4 Persecution of groups and peoples

Persecution is “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity” (Art. 7.2.g of International Criminal Court Statute 1998⁴⁷). Within the space available it would be impossible to list all groups currently suffering or in fear of suffering persecution but key cases include:

Persecution of the Kurds. The Kurds are an ethnic minority in the Middle East who have been denied a state. They have endured centuries of persecution and genocide, particularly under Saddam Hussein. Most recently during ISIS’s occupation of Iraq and Syria, the Yazidi Kurdish minority were subjected to genocide⁴⁸. During the ISIS occupation and the Syrian Civil War, Kurdish groups in the region established a self-declared republic called Rojava, which has a ‘Charter of the Social Contract’ protecting the rights of women and minorities⁴⁹.

Persecution of the Rohingya. The Rohingya are a mainly Muslim minority in Myanmar who have been subjected to decades of oppression by the state, which has withdrawn the Rohingya’s legal status and attendant rights to healthcare and education.

Israeli-Palestinian conflict. Israel has occupied the West Bank and the Gaza Strip since 1967 and denies Palestinians in the occupied territories basic human rights such as denial of water and detention without charge⁵⁰. The Palestinian Authority and Hamas who control the West Bank and Gaza respectively, use arrests and detention to penalize critics, prisoners and protesters. LGBTQ+ people and women are subject to violence⁵¹.

Detention of immigrant children. Currently in the US, migrant and refugee children are being held in inhumane conditions. They are often separated from their parents, forced to sleep on the floor in overcrowded cells and denied adequate food, water and sanitation⁵². Their conditions are in violation of human rights that allow for the rights to liberty and a lack of cruel or inhumane treatment (Article 3 and Article 5, UDHR).



⁴⁷ Statute of the International Criminal Court (1998) http://legal.un.org/icc/statute/99_corr/cstatute.htm

⁴⁸ Murad, N. (2017). *The Last Girl*. London: Virago.

⁴⁹ Finn, K. (2018). Rojava an oasis of progress in Syria. [online] Law Society Ireland. Available at: www.lawsociety.ie/gazette/legal-analysis/rojava-an-oasis-of-progress-in-syria/

⁵⁰ Human Rights Watch. (2019). Israel/Palestine. [online] Available at: www.hrw.org/middle-east/n-africa/israel/palestine

⁵¹ Amnesty International. (2018). Palestine (State of). [online] Available at: www.amnesty.org/en/countries/middle-east-and-north-africa/palestine-state-of/

⁵² UN News. (2019). UN rights chief ‘appalled’ by US border detention conditions, says holding migrant children may violate international law. [online] Available at: <https://news.un.org/en/story/2019/07/1041991>

14.5 Racism

As noted in the United Nations Declaration and Programme of Action (2001)⁵³, it is of great concern that there is an **"increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Jewish, Muslim and Arab communities."** In Britain, where racism is presently evidenced in the growth of the Far Right, the rise of Islamophobia, and anti-immigration rhetoric of some Brexiteers, there was an increase in racist attacks by 47 per cent since the referendum⁵⁴. Recent new evidence of open racism emerged through the policy of 'hostile environment' such as the Windrush scandal⁵⁵.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1969) in Article 1 defines racism as **"any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."**

In the UK, European 'whiteness' is often seen as normative and correspondingly 'Anglo-Saxon' culture is viewed as superior. This leads to views about which religious practices are regarded as civilised. It also leads to a hierarchical view of racial identity⁵⁶.

However, various definitions of specific forms of racism are contested. The All-Parliamentary Group on British Muslims Definition of Islamophobia⁵⁷ is that **"Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness."**⁵⁸ Islamophobia as "a generalized hatred or contempt of Islam and its civilization" places pressure on social, political and moral life and characterises Muslims as inferior and dangerous⁵⁹.

The non-legally binding Definition of Anti-Semitism⁶⁰ adopted by the International Holocaust Remembrance Alliance (2016): **"Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities"** has also been contested, including by the Jewish Voice for Peace (17 July 2018⁶¹) claiming that it conflated **"anti-Jewish racism with opposition to Israel's policies and system of occupation and apartheid"**

In Britain, the Equality Act (2010)⁶² consolidated a group of anti-discrimination laws including the Race Relations Act (1976) and protects people from discrimination, harassment and victimisation. The Equality and Human Rights Commission⁶³ was established in 2006 with the duty to promote equality and not just address discrimination.

⁵³ www.ohchr.org/Documents/Publications/Durban_text_en.pdf

⁵⁴ Dominelli, L. (2018). Anti-Racist Social Work. London: Palgrave MacMillan.

⁵⁵ Amnesty International (2019) Yes Minister, it's a human rights issue www.amnesty.org.uk/blogs/yes-minister-it-human-rights-issue/windrush-scandal-just-tip-iceberg

⁵⁶ Essed, P., Farquharson, K., Pillay, K. and White, E.J. (Eds). (2018). Relating Worlds of Racism: Dehumanisation, Belonging, and the Normativity of European whiteness. Switzerland: Palgrave Macmillan.

⁵⁷ All Parliamentary Group on British Muslims (2018). Definition of islamophobia. www.camden.gov.uk/documents/20142/4794543/APPG+Definition+of+Islamophobia.pdf/f747d5e0-b4e2-5ba6-b4c7-499bd102d5aa

⁵⁸ The Conversation (2018). Why UK's working definition of Islamophobia as a 'type of racism' is a historic step. <https://theconversation.com/why-uks-working-definition-of-islamophobia-as-a-type-of-racism-is-a-historic-step-107657>

⁵⁹ Ahmed, A.S. (2003). Islam Under Siege: Living Dangerously in a Post-Honor World. Oxford and Malden, USA: Polity Press and Blackwell Publishing Ltd.

⁶⁰ International Holocaust Remembrance Alliance (2018). Definition of Anti-Semitism. www.holocaustremembrance.com/working-definition-antisemitism

⁶¹ Jewish Voice for Peace (2018). First-ever: 40+ Jewish groups worldwide oppose equating antisemitism with criticism of Israel. <https://jewishvoiceforpeace.org/first-ever-40-jewish-groups-worldwide-oppose-equating-antisemitism-with-criticism-of-israel/>

⁶² UK Government (2010). Equality Act (2010) www.legislation.gov.uk/ukpga/2010/15/contents

⁶³ Equality and Human Rights Commission (2019). Your rights under the Equality Act 2010. www.equalityhumanrights.com/en/advice-and-guidance/your-rights-under-equality-act-2010

14.6 Environmental concerns

Climate change and the resulting spread of illness (e.g. through flooding), drought, and extreme weather events threaten our planetary home and our “fundamental rights to life, health, food and an adequate standard of living”⁶⁴. While there is no explicit mention of the right to a healthy environment in the UDHR, European Court of Human Rights or the Human Rights Act, there is growing opinion that health of the environment is foundational for other human rights.

The 1972 U.N. Conference on Human Environment (the Stockholm Conference) led to the Declaration on the Human Environment (the Stockholm Declaration), which recognised the right to a healthy environment, and the United Nations Environment Program (UNEP), which advocates for caring for the environment.

In 2012, the UN Human Rights Council (UNHRC) established a mandate and appointed a Special Rapporteur to investigate the impact of climate change on human rights.

Social workers need to be aware of the impact of climate change, which disproportionately affects already vulnerable populations living in precarious conditions. These populations—urban or rural—are, as a result of climate change, likely to suffer impingement on their “right to life, right to housing, right to health, right to water and sanitation, right to an adequate standard of living, right to property”⁶⁵.



RESOURCES

Amnesty International www.amnesty.org/en/
Amnesty International (UK) www.amnesty.org.uk
www.facebook.com/AmnestyUK

World's leading human rights organisation, campaigning against injustice and inequality everywhere.

Extinction Rebellion <https://rebellion.earth>

Extinction Rebellion is an international movement that uses non-violent civil disobedience in an attempt to halt mass extinction and minimise the risk of social collapse.

Human Rights Watch www.hrw.org

Investigates and reports on human rights abuses

UK Equality and Human Rights Commission
www.equalityhumanrights.com/en/about-us/who-we-are

Promotes and uphold equality in Britain, identifies and tackles areas where there is still unfair discrimination or where human rights are not being respected. Offers guidance on all human rights and on discrimination with respect to racism, gender, disability

⁶⁴ UNEP (2015). Climate Change and Human Rights. [online] United Nations. Available at: http://apps.unep.org/publications/index.php?option=com_pub&task=download&file=011917_en

⁶⁵ Ibid

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- UNEP (2015). *Climate Change and Human Rights*. [online] United Nations. Available at: http://apps.unep.org/publications/index.php?option=com_pub&task=download&file=011917_en
- Weaver, M. (2018). *Hate crime surge linked to Brexit and 2017 terrorist attacks*. [online] The Guardian. Available at: www.theguardian.com/society/2018/oct/16/hate-crime-brexit-terrorist-attacks-england-wales





15. EMERGING THINKING ON HUMAN RIGHTS THEORY AND PRACTICE

15.1 Introduction

Section 13 highlighted that human rights concepts and legal instruments have a long international history and are evolving. Such advances crucially arising from grassroots social movements and civil society, with the aim of the improvement of international, regional or domestic human rights. However, a backlash against human rights achievements is also common.

In the UK, Brexit and the Conservative party's pledge to replace the HRA 1998 with a British Bill of Rights that would introduce a differential use of rights according to circumstances which include country of birth⁶⁶, thus setting up a two tier system of rights, means that human rights are particularly fragile⁶⁷. This means that social workers must be ready to engage with related debates, and remain faithful to the profession's global commitment to place human rights principles at the core of social work practice.

15.2 Human rights ideological critiques, limitations and demands for transformation

Human rights are a contested area in that there are ideological differences in interpretation of their value and application. They may be advanced – but also reversed.

Key criticisms bring to light concerns and shortcomings.

These include:

Human Rights being confined only to civil liberties (such as fair trial, freedom of expression, association, and religion, absence of torture), ignore second and third generation economic and social and cultural rights⁶⁸ as such countries may selectively ratify only certain conventions of the Bill of Rights (e.g. the USA has signed but is not a party to the United Nations Convention on the Rights of the Child)⁶⁹.

Human rights as a tool of Western domination, through the enforcement of universalist cultural norms, emphasizing individualistic political and civil rights to the exclusion of collectivist economic, social, and cultural rights. Alternative conceptions of rights from the global South, the Middle East or Asia, are disregarded? as these may resist inequalities of the current world system in which the West has a privileged position of dominance⁷⁰.

Human rights are too compatible with neoliberalism in their support of individualism, economic freedom, lack of emphasis on the collective, and private property. History has shown that human rights have failed to ameliorate between and within country inequality⁷¹, and seem to have ignored structural accounts of such inequality⁷².

⁶⁶ Martínez Herrero, M.I. & Nicholls, J. J. (2017) Beyond Legalism in Turbulent Times: Re-grounding UK Social Work in a richer international human rights perspective, *Human Rights and Social Work* 2(3), pp. 74–85.

⁶⁷ It needs to be noted, however, that within the UK Scotland can be seen to be taking a particularly progressive approach to human rights. The Scottish Government has committed to creating a new statutory framework that will enhance the protection of human rights. This includes giving force to the UK's international human rights obligations beyond those under the ECHR. See New National Taskforce to Lead on Human Rights in Scotland, at <https://news.gov.scot/news/new-national-taskforce-to-lead-on-human-rights-in-scotland> and Boyle, K., (2019). The Future of Economic, Social and Cultural Rights in Scotland: the prospects for meaningful enforcement, *Edinburgh Law Review* 110, 23(1), pp. 110–116.

⁶⁸ Evans T and Ayers AJ. (2006) In the Service of Power: The Global Political Economy of Citizenship and Human Rights. *Citizenship Studies* 10, pp. 289–308.

⁶⁹ United Nations Convention on the Rights of the Child <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11.en.pdf>

⁷⁰ Aziz, N. (1995) The human rights debate in an era of globalization: Hegemony of discourse, *Bulletin of Concerned Asian Scholars*, 27(4), pp. 9–23.

⁷¹ Centre for economic and social rights. Inequality: can human rights make a difference? New York www.cesr.org/inequality-can-human-rights-make-difference-0

⁷² Moyn, S. (2014). A powerless companion: Human rights in the age of neoliberalism.

In the light of global environmental and climate changes through human activity⁷³, **the current model implicates human rights** as excluding the rights of other species and the world itself. In the current era of climate change urgency, human rights' promotion of economic and social freedoms, cultural imperialism, and liberal individualism that justifies complete human mastery over the world⁷⁴ by creating entitlements instead of responsibilities for the world as a whole.

Western international Human Rights ignore differing conceptions of rights of non-western 'indigenous'⁷⁵ or 'traditional peoples, who may embrace alternatives such as collective wellbeing, culturally-appropriate practices, respect for nature, and the subordination of economic objectives to the criteria of ecology, human dignity, and social justice⁷⁶.

Despite these limitations and critiques, human rights may be seen as the greatest human achievement for the defence against cruel treatment, injustice, and oppression in recent history.



15.3 Emerging thinking on human rights theory and practice in social work

Emerging thinking on human rights theory and practice may take many directions. However, current challenges to the human rights landscape in the UK offer opportunities for social workers to reconsider the widespread, narrow legalistic understanding of human rights in practice, only involving compliance with the 1st generation (civil and political) rights of the HRA 1998, and to engage with a broader understanding of human rights based social work. This broader perspective compels social workers to consider the whole spectrum of human rights, to be agents of empowerment and social change to defend and extend human rights, and to develop corresponding practice methods⁷⁷.

Human rights approaches also offer unique opportunities for social workers to reflect on whether they have become complicit in legitimising inequalities in society, and highlight the profession's track record on human rights⁷⁸. One emerging area of human rights thinking, including in the UK⁷⁹, relates to the history of social services⁸⁰, involving practices of social work complicity with systematic human rights violations (such as collaboration with dictatorships, political repression, engagement with eugenics, knowledge of abuse, baby trafficking). In order to move forward, historical practices, however hidden and uncomfortable must be acknowledged and their ramifications addressed.

⁷³ "Recent global environmental changes suggest that Earth may have entered a new human-dominated geological epoch, the Anthropocene. Human activity is now global and is the dominant cause of most contemporary environmental change ...(and) the impacts of human activity will probably be observable in the geological stratigraphic record for millions of years into the future, which suggests that a new epoch has begun" Lewis, S.L. and Maslin, M.A. (2015) defining the Anthropocene. Nature www.nature.com/articles/nature14258

⁷⁴ Kotze, Human rights and the environment in the Anthropocene p. 254.

⁷⁵ The 'othering' of people not defined as Western, as 'indigenous', is contested as it is argued that all groups are 'indigenous' to their context. See Comaroff, J. & Comaroff, J.L. (2012) Theory from the South: Or, how Euro-America is Evolving Toward Africa, Anthropological Forum, 22(2), pp.113-131. <http://iks.ukzn.ac.za/sites/default/files/Theory%20from%20the%20South%20Or%20how%20Euro%20America%20is%20Evolving%20Toward%20Africa.pdf>

⁷⁶ Escobar, A. 2016. Thinking-feeling with the Earth: Territorial Struggles and the Ontological Dimension of the Epistemologies of the South. Revista de Antropologia Iberoamericana www.aibr.org 11(1):11 - 32.

⁷⁷ Wronka and Staub-Bernasconi (2012: 19) explain that: For the narrower conception of human rights protection, one needs close cooperation with lawyers; for the broad conception, one can use various social work methods such as resource mobilization, consciousness raising, mediation, and empowerment. More specific methods include using the official instruments of the UN for complaints, monitoring, lobbying, and, more and more, also whistle blowing. But in many cases, one needs civil courage to stand up against actors in a power structure. Wronka J and Staub-Bernasconi S. (2012) Human Rights. In: Lyons KH, Hokenstad T, Pawar M, et al. (eds) The SAGE Handbook of International Social Work. London: Sage.

⁷⁸ Preston-Shoot M and Höjer S. (2012) Social work, social justice and protection: a reflective review. The Sage Handbook of International Social Work. London: Sage: 249-264.

⁷⁹ It needs to be noted that Latin-American social workers of the reconceptualization movement emerged in the 1960s were pioneers in linking historical memory and human rights based social work.

⁸⁰ Ioakimidis, V. (2015). 'The two faces of Janus; Rethinking social work in the context of conflict'. Social Dialogue 10.

GLOSSARY

Arguable: those rules which are accepted as applying within a country or jurisdiction, which can be put before a judicial body.

Artificial intelligence: the way that machines are programmed and trained to perform intelligence-based tasks and to mimic human intelligence.

Collective action: action taken together by a group of people with the aim of enhancing their status or achieving shared goals.

Colonial imposition: Colonial relationships included the oppressive enforcement and imposition of many various cultural, political, economic and social structures onto the societies which were subjects of the colonial power.

Common law: the body of authoritative judicial decisions which in countries in the UK legal tradition is a source of law which must be followed.

Conflict minerals: Conflict minerals are minerals mined in conditions of armed conflict and human rights abuses, and which are sold or traded by armed groups.

Conscientization: a concept that describes a process of developing critical awareness and consciousness about underlying power relationships and oppression.

Cultural imperialism: the oppressive imposition by a dominant (usually politically or economically) group or country of its own culture onto another group or country

Data-mining: extracting information from data sets for further and other uses.

Devolved matter: areas of government responsibility where Parliament has delegated decision-making to lower level institutions such as the four UK countries government bodies or UK local authorities.

Empowerment / empowering: Empowerment refers to the process of gaining confidence and strength to take control of individual or collective situations and claim rights. Something empowering assists this process.

E-Professionalism: How an individual behaves and engages with norms and behaviours relating to their profession in an online setting.

Governing statute: An Act of Parliament creating binding law which must be followed.

Grassroots social movements: social movements where common people self-organise and engage in mass collective action to push for specific social changes or political outcomes.

Ideology: an organised system of beliefs and values which often are of a political or cultural nature. Underlying ideologies determine perspectives and approaches to phenomena. Ideological positions are held by people, based on such ideologies.

Institutionalized: made part of an organization's language, structure or conventions.

Individual petition: a scheme under the European Convention on Human Rights 1950 (and some other treaties) where countries allow persons within them to take a case to the European Court of Human Rights against them.

Individualist: An ideological a perspective which stresses self-reliance of the individual, who is seen as being personally responsible for their own wellbeing regardless of the context. The individual has primacy over the collective.

Justiciable: accepted as applying within a country or jurisdiction and amenable to judicial consideration.

Jurisdiction: a distinct legal entity (England and Wales, Scotland and Northern Ireland), and also a lawful competence (where a court is entitled to hear a case).

Jurisprudence: a collection of judicial decisions, or the study of the nature of law.

Legal Capacity: The right and ability to understand the consequences of and make decisions.

LGBTQ+: An inclusive initialism referring to Lesbian, Gay, Bisexual, Transgender, Queer and the various communities with evolving definitions.

Managerialism: the demand for greater outcome-based performance efficiency in a market driven, evidence-based practice context.

Neoliberal-era: The era since the 1980s whereby governments specifically commit to and support free-market capitalism emphasising free-trade, privatisation, and reduced state spending on social care. It is characterised by consumerism, individualism and marketisation of wellbeing.

Power asymmetries: describe the unequal power relationships that may exist between persons or groups which have an impact on their ability to influence, engage, or negotiate as equals. Proportionate: an appropriate and balanced weighting.

Secularisation: a separation or disassociation from religious meaning or significance.

Statutory regulated profession: a profession that must, by law, be governed by a professional regulatory body which sets practice and education standards for the profession and deals with professionals' registration on behalf of the government.

Structural (social work): acknowledges and addresses inequality and oppression created by unjust social structures (such as class, race or gender relations, resource distribution, market mechanisms or education and health inequality).

Structural inequalities: those inequalities arising from unjust social and power arrangements

Transgender: An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

Universalism: an approach that sees a concept, right, entitlement, to be applicable to all regardless of any specific criteria or characteristic





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