

Human Rights and Refugees - 12-14 years Teacher Resources



The Universal Declaration of Human Rights:

A Magna Carta for all humanity

Some 50 years have elapsed since the Universal Declaration of Human Rights was adopted by the United Nations on 10 December 1948. The Declaration was one of the first major achievements of the United Nations, and after 50 years remains a powerful instrument which continues to exert an enormous effect on people's lives all over the world. This was the first time in history that a document considered to have universal value was adopted by an international organization. It was also the first time that human rights and fundamental freedoms were set forth in such detail. There was broad-based international support for the Declaration when it was adopted. It represented "a world milestone in the long struggle for human rights", in the words of a UN General Assembly representative from France.

The adoption of the Universal Declaration stems in large part from the strong desire for peace in the aftermath of the Second World War. Although the 58 Member States which formed the United Nations at that time varied in their ideologies, political systems and religious and cultural backgrounds and had different patterns of socio-economic development, the Universal Declaration of Human Rights represented a common statement of goals and aspirations -- a vision of the world as the international community would want it to become.

Since 1948, the Universal Declaration has been translated into more than 200 languages and remains one of the best known and most often cited human rights documents in the world. Over the years, the Declaration has been used in the defense and advancement of people's rights. Its principles have been enshrined in and continue to inspire national legislation and the constitutions of many newly independent states. References to the Declaration have been made in charters and resolutions of regional intergovernmental organizations as well as in treaties and resolutions adopted by the United Nations system.

The year 1998 marks the fiftieth anniversary of this "Magna Carta for all humanity." The theme of the fiftieth anniversary--"All Human Rights for All"-- highlights the universality, the indivisibility and the interrelationship of all human rights. It reinforces the idea that human rights--civil, cultural, economic, political and social--should be taken in their totality and not disassociated from one another.

Drafting and adopting the Declaration, a long and arduous task

When created in 1946, the United Nations Commission on Human Rights was composed of 18 Member States. During its first sessions, the main item on the agenda was the Universal Declaration of Human Rights. The Commission set up a



drafting committee which devoted itself exclusively to preparing the draft of the Universal Declaration of Human Rights. The drafting committee was composed of eight persons, from Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America. The United Nations Secretariat, under the guidance of John Humphrey, drafted the outline (400 pages in length) to serve as the basic working paper of the Committee.

During the two-year drafting process of the Universal Declaration, the drafters maintained a common ground for discussions and a common goal: respect for fundamental rights and freedoms. Despite their conflicting views on certain questions, they agreed to include in the document the principles of non-discrimination, civil and political rights, and social and economic rights. They also agreed that the Declaration had to be universal.

Personally dedicated to the task of preparing this Declaration, Mrs. Eleanor Roosevelt, who chaired the Human Rights Commission in its first years, asked, "Where, after all, do universal human rights begin? In small places, close to home -- so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

On 10 December 1948, at the Palais de Chaillot in Paris, the 58 Member States of the United Nations General Assembly adopted the Universal Declaration of Human Rights, with 48 states in favour and eight abstentions (two countries were not present at the time of the voting). General Assembly resolution 217 A (III) of 10 December 1948, which proclaimed the Universal Declaration of Human Rights, was adopted as follows: In favour: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, the Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam (Thailand), Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, Venezuela. Abstaining: Byelorussian SSR, Czechoslovakia, Poland, Saudi Arabia, Ukrainian SSR, Union of South Africa, USSR, Yugoslavia. The General Assembly proclaimed the Declaration as a "common standard of achievement for all peoples and all nations", towards which individuals and societies should "strive by progressive measures, national and international, to secure their universal and effective recognition and observance".

The Declaration, a vision of what the world should be

Although the Declaration, which comprises a broad range of rights, is not a legally binding document, it has inspired more than 60 human rights instruments which together constitute an international standard of human rights. These instruments include the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which are legally binding



treaties. Together with the Universal Declaration, they constitute the International Bill of Rights.

The Declaration recognizes that the "inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world" and is linked to the recognition of fundamental rights towards which every human being aspires, namely the right to life, liberty and security of person; the right to an adequate standard of living; the right to seek and to enjoy in other countries asylum from persecution; the right to own property; the right to freedom of opinion and expression; the right to education, freedom of thought, conscience and religion; and the right to freedom from torture and degrading treatment, among others. These are inherent rights to be enjoyed by all human beings of the global village -- men, women and children, as well as by any group of society, disadvantaged or not -- and not "gifts" to be withdrawn, withheld or granted at someone's whim or will. Mary Robinson, who became the second United Nations High Commissioner for Human Rights in September 1997, expressed this opinion when she declared that "human rights belong to people, human rights are about people on the ground and their rights". She has stated that she would take a "bottom-up" approach in promoting human rights, an approach which reflects the first words of the United Nations Charter, "We the Peoples".

The rights contained in the Declaration and the two covenants were further elaborated in such legal documents as the International Convention on the Elimination of All Forms of Racial Discrimination, which declares dissemination of ideas based on racial superiority or hatred as being punishable by law; the Convention on the Elimination of All Forms of Discrimination Against Women, covering measures to be taken for eliminating discrimination against women in political and public life, education, employment, health, marriage and family; and the Convention on the Rights of the Child, which lays down guarantees in terms of the child's human rights.

International mobilization in favour of the Declaration: Government commitment

At the World Conference on Human Rights held in Vienna (Austria) in June 1993, 171 countries reiterated the universality, indivisibility and interdependence of human rights, and reaffirmed their commitment to the Universal Declaration of Human Rights. They adopted the Vienna Declaration and Programme of Action, which provides the new "framework of planning, dialogue and cooperation", to enable a holistic approach to promoting human rights and involving actors at the local, national and international levels. The five-year review of the Vienna Programme of Action will also take place in 1998. This review provides a substantive dimension to the fiftieth anniversary, which many human rights activists and professionals see as a time for States to renew their commitment to the promotion and protection of human rights.

It is a time for Governments to ensure that the rights set forth in the Declaration are reflected in their national legislation and to move to ratify those international human rights treaties that are still pending. Governments could consider formulating and implementing a pro-active strategy in favour of the promotion of and respect for human rights. This could be translated into action by adopting national plans of action for advancing human rights and fostering human rights



education. This anniversary also provides the opportunity for more countries not only to condemn blatant violations of human rights but also to take responsibility and action to break the cycle of impunity whenever human rights are violated.

Public awareness campaign

The fiftieth anniversary is a time to promote public awareness of the meaning of the Universal Declaration and its relevance to our daily lives. Providing information about human rights in the languages understood by peoples everywhere is one aspect of a global public awareness campaign. Falling during the Decade for Human Rights Education (1995-2004), the anniversary also provides another focus for education and action. In addition to the 200 language versions already available, a number of other local language translations are to be released for the fiftieth anniversary.

The fiftieth anniversary of the Universal Declaration is an opportunity for people worldwide to commemorate the adoption of this landmark document. It also represents an opportunity to mobilize all strata of society in a reinvigorated and broad-based human rights movement. The involvement of civil society and non-governmental organizations in fighting for and demanding recognition of basic rights has played a central role in the advancement and promotion of human rights around the world. National Committees have already been set up in many countries, with the aim of undertaking activities to mark the Anniversary.

Grass-roots movements to encourage entire communities to know, demand and defend their rights will send a positive and strong message: that people everywhere are adamant that human rights should be respected. At local level, concerned citizens can approach their congressional or parliamentary representatives and ask their Governments to ratify international human rights treaties if they have yet not done so.

The United Nations

In accordance with the recommendations made at the 1993 World Conference on Human Rights for increased coordination within the United Nations system, Kofi Annan, Secretary-General of the United Nations, stated, "I will be a champion of human rights and will ensure that human rights are fully integrated in the action of the Organization in all other domains". Human rights, indeed, cut across all the work of the United Nations, from peacekeeping, child rights, health and development to the rights of indigenous peoples to education, social development and the eradication of poverty. Consultations have already taken place among all agencies and programmes of the United Nations, leading to strategies and campaigns being devised.

Challenges

Since the inception of the United Nations, the promotion and protection of human rights have been at its very core. Reference to the promotion of and respect for human rights was made in Article 1 of the United Nations Charter and in the establishment of a commission for the promotion of human rights, mentioned in Article 68 of the Charter. Over the years, the United Nations has created a wide range of mechanisms for monitoring human rights violations. Conventional mechanisms (treaty bodies) and extra-conventional mechanisms (UN special rapporteurs, representatives, experts and working groups) have been established in



order to monitor compliance of States parties with the various human rights instruments and to investigate allegations of human rights abuses. In recent years, a number of field offices have been opened at the request of Governments, *inter alia*, to assist in the development of national institutions for the promotion and protection of human rights and to conduct education campaigns on human rights. Challenges still lie ahead, despite many accomplishments in the field of human rights. Many in the international community believe that human rights, democracy and development are intertwined. Unless human rights are respected, the maintenance of international peace and security and the promotion of economic and social development cannot be achieved. The world is still plagued with incidents of ethnic hatred and acts of genocide. People are still victims of xenophobic attitudes, are subjected to discrimination because of religion or gender and suffer from exclusion. Around the world, millions of people are still denied food, shelter, access to medical care, education and work, and too many live in extreme poverty. Their inherent humanity and dignity are not recognized. The future of human rights lies in our hands. We must all act when human rights are violated. States as well as the individual must take responsibility for the realization and effective protection of human rights.

Published by the United Nations Department of Public Information

DPI/1937/A--December 1997



Protecting Refugees: questions and answers

Who is a Refugee?

A refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country..." -*The 1951 Convention relating to the Status of Refugees*

Protecting refugees is the core mandate of UNHCR. This booklet answers some of the most commonly asked questions about refugees themselves and how the agency attempts to help them. Who, for instance, can qualify as a refugee and on what grounds? Can people be excluded and why? -- a particularly sensitive issue given the international preoccupation with terrorism. What rights does a refugee enjoy and what obligations? What is the role of governments and of UNHCR itself? It also explores related issues including the development of 'temporary protection', the future of millions of so-called internally displaced persons and statelessness.

How are refugees protected?

Governments normally guarantee the basic human rights and physical security of citizens. But when civilians become refugees this safety net disappears. UNHCR's main role in pursuing international protection is to ensure that states are aware of, and act on, their obligations to protect refugees and persons seeking asylum. However, it is not a supranational organization and cannot be considered as a substitute for government responsibility.

Countries may not forcibly return (refoulement) refugees to a territory where they face danger or discriminate between groups of refugees. They should ensure that refugees benefit from economic and social rights, at least to the same degree as other foreign residents of the country of asylum. For humanitarian reasons, states should allow a spouse or dependent children to join persons to whom temporary refuge or asylum has been granted. Finally, states have an obligation to cooperate with UNHCR.

What rights does a refugee have?

A refugee has the right to safe asylum. However, international protection comprises more than physical safety. Refugees should receive at least the same rights and basic help as any other foreigner who is a legal resident, including freedom of thought, of movement, and freedom from torture and degrading treatment. Economic and social rights are equally applicable. Refugees should have access to medical care, schooling and the right to work.

In certain circumstances when adequate government resources are not immediately available, such as the sudden arrival of large numbers of uprooted persons, international organizations such as UNHCR provide assistance. This may include financial grants, food, tools and shelter and basic infrastructure such as schools and clinics. With projects such as income-generating activities and skill training programs, UNHCR makes every effort to ensure that refugees become self-sufficient as quickly as possible.



What are the obligations of a refugee?

Refugees are required to respect the laws and regulations of their country of asylum.

Who decides who is a refugee?

Governments establish status determination procedures to decide a person's legal standing and rights in accordance to their own legal systems. UNHCR may offer advice as part of its mandate to promote refugee law, protect refugees and supervise the implementation of the 1951 Refugee Convention. The agency advocates that governments adopt a rapid, flexible and liberal process, recognizing how difficult it often is to document persecution.

UNHCR's 57-member Executive Committee sets non-binding guidelines that may be useful in this respect and the agency's "Handbook on Procedures and Criteria for Determining Refugee Status" is an authoritative interpretation of the 1951 Convention. In countries which are not party to international refugee instruments but who request UNHCR's assistance, the agency may determine a person's refugee status and offer its protection and assistance.

Are persons fleeing war or war-related conditions such as famine and ethnic violence refugees?

The 1951 Geneva Convention, the main international instrument of refugee law, does not specifically address the issue of civilians fleeing conflict, though in recent years major refugee movements have resulted from civil wars, ethnic, tribal and religious violence.

However, UNHCR considers that persons fleeing such conditions, and whose state is unwilling or unable to protect them, should be considered refugees. Regional instruments such as Africa's OAU Convention and the Cartagena Declaration in Latin America support this view.

Some countries, particularly in western Europe, argue that civilians fleeing generalized war or who fear persecution by non-governmental groups such as militias and rebels, should not be given formal refugee status. It is UNHCR's view that the origin of the persecution should not be decisive in determining refugee status, but rather whether a person deserves international protection because it is not available in the country of origin.

Who helps the internally displaced

Internally displaced persons (IDPs) flee their homes for the same reasons as refugees, but remain within their own country and are thus subject to the laws of that state. In some crises, and though it does not have a specific mandate in this area, UNHCR assists several million, but not all of the estimated 20-25 million IDPs worldwide.

These operations are initiated at the request of the U.N. Secretary-General or the General Assembly, with the consent of the country involved and have included recent crises in the Middle East, the Balkans, Africa and Afghanistan.

Must every refugee undergo individual status determination?



People who apply for refugee status normally need to establish individually that their fear of persecution is well-founded. However, during a mass exodus such as occurred from Kosovo or Africa's Great Lakes, it may not be possible to carry out individual screening. In such circumstances, particularly when civilians are fleeing for similar reasons, it may be appropriate to declare 'group' determination of refugee status, whereby each civilian is considered as a refugee, prima facie – in other words, in the absence of evidence to the contrary.

How does UNHCR distinguish between a refugee and an economic migrant?

An economic migrant normally leaves a country voluntarily to seek a better life. Should he or she elect to return home, they would continue to receive the protection of their government. Refugees flee because of the threat of persecution and cannot return safely to their homes in the prevailing circumstances.

May governments deport persons who are found not to be refugees?

Persons who have been determined, under an equitable procedure, not to be in need of international protection are in a situation similar to that of illegal aliens, and may be deported. However, UNHCR does urge that protection be granted to people who come from countries devastated by armed conflicts or generalized violence. The agency also advocates that rejected asylum seekers be granted the right to a review before being deported.

Can a draft evader be a refugee?

Every country has the right to ask its citizens to bear arms in periods of national emergency. However, citizens should have an equal right to conscientious objection. In cases where the option of conscientious objection is not observed, or where a conflict violates international norms, draft evaders who fear persecution on political or other grounds may be eligible for refugee status.

Can a criminal be a refugee?

A criminal who has received a fair trial for a common law offense and who flees his country to escape jail is not necessarily a refugee. However, a person accused of these or other non-political crimes, whether innocent or guilty, may also be persecuted for political or other reasons, and is thus not necessarily excluded from refugee status. Furthermore, people convicted of the 'crime' of political activism may well be refugees.

Can a war criminal be a refugee?

Persons who have participated in war crimes and violations of international humanitarian and human rights law – including the crime of terrorism – are specifically excluded from the protection accorded to refugees.

In practice, especially during a mass exodus, it is sometimes difficult to separate persons suspected of serious human rights violations from bona fide refugees especially for a humanitarian organization such as UNHCR which is neither a police force or a judicial body. In the 1990s, for instance, known violators were living in the huge refugee camps for Rwandans established in surrounding countries.

The most viable solution is to provide support initiatives such as the international tribunals for Rwanda and the former Yugoslavia, to bring war criminals to justice.



UNHCR is obligated to share with these and other relevant U.N. organizations pertinent facts on such issues while sensitively handling information which refugees have confidentially divulged to field staff.

Can a soldier be a refugee?

A refugee is a civilian. A person who continues to pursue armed action against his or her country of origin from the country of asylum cannot be considered a refugee.

Can women facing persecution because they refuse to comply with social constraints be refugees?

Women, like men, may be persecuted for political, ethnic or religious reasons. In addition, someone fleeing discrimination or severe persecution for her failure to conform to strict social codes has grounds to be considered for refugee status. Such persecution may emanate from a government authority or, in the absence of adequate government protection, from non-state actors. Sexual violence, such as rape, may constitute persecution.

Such discrimination should have consequences that are significantly prejudicial. A woman who fears attack for her refusal to wear a chador or other restrictive clothing, or because of her desire to choose her own spouse and live an independent life, may qualify to be a refugee.

In 1984, the European Parliament determined that women facing cruel or inhumane treatment because they seemed to transgress social mores should be considered a particular social group for the purposes of determining refugee status. The United States and Canada have exhaustive guidelines relating to gender-based persecution, and there has been similar progress in Germany, the Netherlands and Switzerland.

Can a woman who fears that she, or her infant daughter, will be genitally mutilated claim refugee status?

In France, the Netherlands, Canada and the United States, it has been officially recognized that genital mutilation represents a form of persecution and that this can be a basis for refugee status. In one case, a woman who feared persecution in her country because of her refusal to inflict genital mutilation on her infant daughter was recognized as a refugee.

Is a person who fears persecution because of sexual orientation eligible for refugee status?

Homosexuals may be eligible for refugee status on the basis of persecution because of their membership of a particular social group. It is the policy of UNHCR that persons facing attack, inhumane treatment, or serious discrimination because of their homosexuality, and whose governments are unable or unwilling to protect them, should be recognized as refugees.

What is temporary protection?

Nations at times offer 'temporary protection' when they face a sudden mass influx of people, as happened during the conflicts in the former Yugoslavia in the early 1990s and later in Kosovo, when their regular asylum systems would be overwhelmed. In such circumstances people can be speedily admitted to safe countries, but without any guarantee of permanent asylum.



Thus 'temporary protection' can work to the advantage of both governments and asylum seekers in specific circumstances. But it only complements, and does not substitute for the wider protection measures, including refugee asylum, offered by the Convention.

Temporary protection should not be prolonged, and after a reasonable period of time UNHCR advocates that people benefiting from this should be given the right to claim full refugee status. Those rejected should, nonetheless, be allowed to remain in a country of asylum until it is safe to return.

What does UNHCR do to protect refugees from physical assault?

Refugees, especially the elderly, women and children, are often vulnerable to violence. Rape, in particular, is a common element in the pattern of persecution that drives refugee families from their homes, as civilians increasingly become the deliberate targets of sectarian warfare. Civilians may also be sexually assaulted during their flight and on arrival in their country of asylum, by officials, locals, or other refugees.

UNHCR field staff attempt to prevent conditions that may encourage such assaults, offering victims special care and ensuring a proper legal follow-up which could include trials for suspected perpetrators. Preventive measures include improving camp layout or upgrading basic facilities such as lighting and walls and encouraging refugees to institute night patrols.

How can unaccompanied children find their families?

An unaccompanied minor is one "who is separated from both parents and for whose care no person can be found who by law or custom has primary responsibility." The number of unaccompanied child refugees varies widely, but often comprise 2 to 5 percent of a refugee population.

UNHCR works with other agencies such as the Red Cross, UNICEF and Save the Children, to ensure that unaccompanied children are identified and registered, and their families traced. In the Rwandan crisis in the mid 1990s, an estimated 67,000 children were reunited with their families.

What is UNHCR's policy on resettlement?

Voluntary repatriation is the preferred long-term solution for the majority of refugees. However, because of an ongoing threat of persecution or other reasons, some civilians cannot repatriate and are unable to live permanently in their country of asylum. In those circumstances, resettlement in a third country may be the only feasible option.

Can refugees request resettlement in a specific country?

In normal circumstances, no. But in the interests of family reunification, refugees may request resettlement in countries where their close family members are living.

Which countries maintain a resettlement quota?

Of the 189 member states of the U.N., only a handful establish annual resettlement quotas, including Australia, Canada, Denmark, Finland, New Zealand, Norway, Sweden, the Netherlands and the USA. Other countries may consider submissions from UNHCR on a case by case basis, normally because of family reunion or strong cultural links.



Why are quotas not always filled by UNHCR?

Governments are not always ready to adapt their quotas to rapidly changing needs, and often establish them in response to domestic interest groups, targeting specific nationalities. Resettlement countries may also turn down cases such as families with pressing medical problems, who may be more costly in terms of welfare payments, or who may have limited ability to integrate rapidly. In general, although some countries do accept difficult to place hardship cases, most resettlement countries prefer educated refugees with strong family and cultural links, an intact family structure, and a high likelihood of rapid integration. Such families may not always correspond to the pressing protection cases which UNHCR attempts to resettle.

Are there asylum guidelines on stowaways or people rescued at sea?

Shipmasters have an obligation under international law to rescue any persons in distress at sea. In some cases, such as the exodus of Vietnamese boat people, such persons were asylum seekers. Clandestine stowaways may also be asylum seekers. Persons rescued at sea should be disembarked at the next port of call, where they should be admitted, at least on a temporary basis, pending resettlement. Some flag states of rescuing ships have provided guarantees of resettlement for persons rescued at sea.

There is no binding international convention relating to stowaway asylum seekers and their reception varies very widely. UNHCR advocates that, wherever possible, stowaways should be allowed to disembark at the first port of call, where their refugee status may be determined by the local authorities. If a port state does not allow a stowaway to disembark, and the ship's next port of call is in a state where the stowaway's life is threatened, then the action is tantamount to forcible return (refoulement).

In such cases, UNHCR officials try to arrange an on board interview and if the asylum seeker is found to be a refugee, they assist in finding a permanent solution - usually third country resettlement.

What does UNHCR do to prevent statelessness?

The right to a nationality is widely recognized in international law and constitutes a status from which other rights may derive. However, several million people worldwide probably remain stateless especially in some countries of the former Soviet Union. The problem may be particularly acute among children of parents of mixed origin, or who are born in a country other than their parents' country of origin, since they do not necessarily gain citizenship of the place where they are born.

There are several international documents which deal with the issue including the 1948 Universal Declaration of Human Rights, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness which underlines that a person may not be deprived of nationality on racial, ethnic, religious or political grounds. It sketches out measures to prevent statelessness resulting from the transfer of territory; and establishes rules for the granting of nationality to persons born in a country who would otherwise be stateless. The U.N. General Assembly has entrusted UNHCR with overseeing the Convention.

