



Andrew Clapham

HUMAN RIGHTS

A Very Short Introduction

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Preface

The aim of this book is to provide the reader with some entry points into the worlds of human rights thinking, activism, and law. This book concentrates on the power of ideas to mobilize people against injustice and indignities. Human rights do not really resolve the tension between competing interests and various visions of how the world should be; rather, human rights ideas provide a vocabulary for arguing about which interests should prevail and how to create the conditions for constraining attacks on dignity.

This short introduction focuses on the content of a number of rights rather than simply telling the human rights story of revolutions, proclamations, and continuing struggles. Calling for a world based on respect for human rights is easy; adjusting current arrangements to achieve full respect for human rights is a never-ending process, even more difficult when we consider that human rights are not just an ideal, but actually consist of concrete rights to life, liberty, equality, free speech, privacy, health, food, and housing. Human rights are about each of us living in dignity, and we are a long way from achieving that on a global scale. We shall see that the human rights project is not simply about implementing a set of obligations fixed in history; rather, the human rights movement is about people standing up to injustice and showing solidarity in the face of oppression.

In order to allow readers to discover for themselves some of the texts and organizations referred to in this introduction there is an accompanying website: <<http://graduateinstitute.ch/clapham-humanrights>>, the full text of most references can be found on this website.

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Lastly, let me express my gratitude to two people from my family: my mother, Margaret Clapham, who provides a press-cuttings service second to none and nourished the project, and my wife, Mona Rishmawi, whose own work for human rights is a daily reminder that the human rights story is not only about past texts,

but also about daily struggles in the face of discrimination, oppression, and brutality.

A.B.C.

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Chapter 1

Looking at rights

These days it is usually not long before a problem is expressed as a human rights issue. This book looks at where the concept of human rights came from and how the human rights movement has developed a set of obligations that apply worldwide. We will consider the trajectory of the idea of human rights and the role that human rights play (and might come to play) in our world.

Different people currently see human rights in different ways. For some, invoking human rights is a heartfelt, morally justified demand to rectify all sorts of injustice; for others, it is no more than a slogan to be treated with suspicion, or even hostility. Lawyers sometimes consider that human rights represent almost a term of art, representing only those claims that have been or can be upheld as legal rights by a national or international court. Yet the application of human rights law in court is almost always contested, with both parties to a dispute demanding that human rights law be applied in their favour. Human rights law is special and popular as it often suggests that other law is inadequate or applied in an unfair way. The language of human rights is deployed to criticize, defend, and reform all sorts of behaviour. Human rights have a pedigree of a distinguished struggle against oppression and the promise of a fairer future. Playing the 'human rights card' can be persuasive, sometimes even conclusive, in contemporary decision making; this is one aspect of what makes

the moral force of human rights so attractive—human rights help you to win arguments and, sometimes, to change the way things are done.

The concept of a ‘human rights culture’ also means different things to different people. To some, it means ensuring that everyone is treated with respect for their inherent dignity and human worth. To others, it means that judges, the police, and immigration officials are required to protect the interests of terrorists, criminals, and migrants at the expense of the security of the population (see Figure 1). This tension has come to a head in some countries, including the United Kingdom, with popular newspapers ridiculing the application of human rights legislation (see Box 1) and campaigning against the role of ‘foreign judges’.

At times, human rights protections may indeed seem to be anti-majoritarian; why should judges or international bodies determine what is best for any society, especially when democratically elected representatives have chosen a particular path? But the point is that human rights may serve to protect



1. Headline from *The Sunday Telegraph*, 14 May 2006: branding the Human Rights Act ‘the refuge of terrorists and scoundrels’.

Box 1 Human rights and the British backlash

Chris Grayling MP, in the *Daily Mail* (2014), ‘We must seize power from Euro judges and return the phrase Human Rights to what it really should be—a symbol of the fight against oppression and brutality’

‘Prisoners being allowed artificial insemination treatment in order to protect their family rights, votes for prisoners in our jails, no whole-life sentences for the most brutal murderers, no deportation for terrorists—some of the decisions that the European Court of Human Rights has taken in recent years—and we came within one vote from one judge of being required to permit US style political TV advertising.

These are not great principles of human rights. They are decisions taken by a Court, made up of people who are not by any means all legally qualified, that sees the original European Convention as a “living instrument”, to be rewritten as the years go by. All of them should be matters for our Parliament and not for the Courts to decide. But right now they aren’t.

Quite simply, that is not what we signed up to. So the next Conservative Government will sort this out once and for all.

We won’t walk away from the principles of human rights. But we will say very clearly that we are a sovereign nation, which upholds the best of human rights, and that decisions about our nation should be taken by our Parliament.’

Susan Marks (2014), *Backlash: The Undeclared War against Human Rights*.

‘There is the same kind of reactive assault that Faludi described in her account of the backlash against women’s rights in America. It is the (likewise limited) gains of the human rights movement that are now to be rolled back. There is the same pattern whereby, in our case, human rights are blamed for