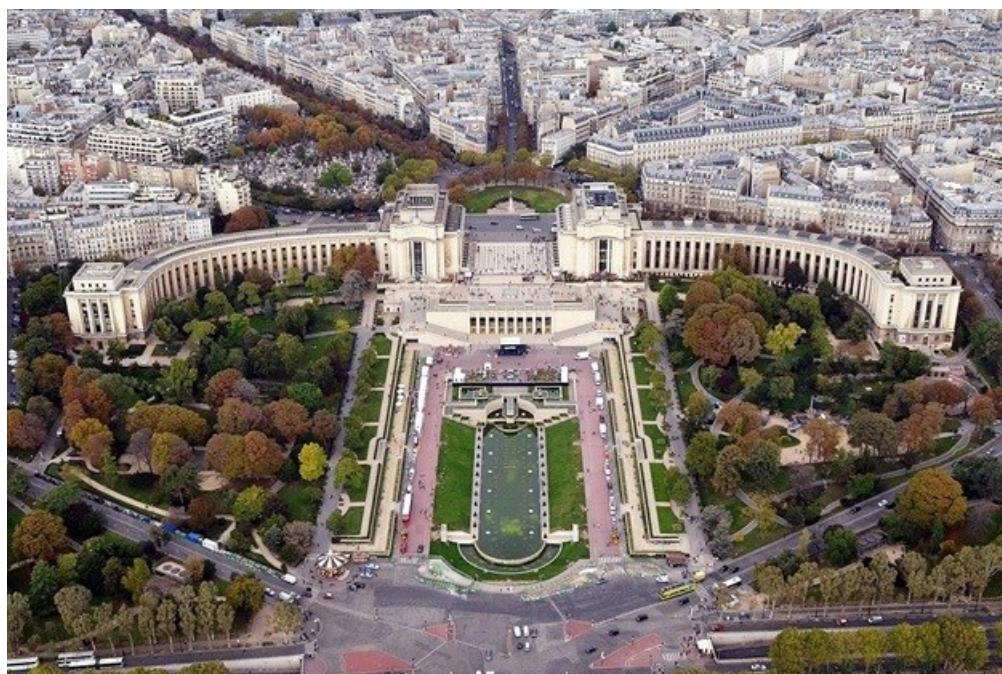


Universal Declaration of Human Rights at 70: the challenges that await the UN

By Olivier de Frouville

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Seventy years after the adoption of the Universal Declaration of Human Rights (UDHR), we do not only have cause to complain, far from it. We must take stock of the distance we have already travelled. Before 1945 and the United Nations Charter, human rights simply did not exist in international law. An individual was only an "object" of international law and states, except in a few specific cases, did not need to justify the way they treated their nationals: their sovereignty effectively granted them power of life or death over their citizens.



Palais de Chaillot, Paris, where the United Nations Assembly signed the Universal Declaration of Human Rights in 1948.

Since then, and using the declaration as its foundation, a complete and coherent system of norms, widely accepted by states, has developed into what is often called “international human rights law”: nine fundamental UN conventions, of which two are the covenants on civil and political rights and on economic, social and cultural rights, and seven other treaties which enumerate states’ obligations regarding certain violations (torture, enforced disappearances, racial and gender-based discriminations...) or toward certain categories of persons (children, people with disabilities, migrant workers); regional conventions such as the European Convention on Human Rights; and a multitude of other texts, treaties and other instruments.

A legal basis for action

What is striking in this ensemble is its coherence: all these texts are grounded in the same principles, those asserted by the UDHR. To say that today human rights are not universally recognised in international law is absurd: over the last 70 years, a process of legal universalisation has occurred, and no state seriously disputes them anymore.

Of course, these norms are not enough to end all human rights violations, but they provide each and everyone with a legal basis to act and oppose them. And beyond the norms, there are also implementation mechanisms. Starting in 1948, an entire apparatus has progressively been established that abounds with procedures and organs which continuously monitor human rights situations all over the world. Ten United Nations committees act as “guardians” of the core conventions, while an ensemble of “special procedures” – special rapporteurs, independent experts and working groups – work on human

rights violations daily and visit countries in order to produce public reports.

Various international commissions of inquiry have also been created on a more *ad hoc* basis in the recent years, in order to document the violations and crimes committed in Syria, Burundi, Yemen, Myanmar or the occupied Palestinian territories... Regional courts have been put in place: the European Court of Human Rights, of course, but also the Inter-American Court and the African Court of Human and Peoples' Rights. We are close to reaching what, in 1795, Kant posited as an ideal: that any violation committed in any part of the world is felt everywhere else.

Here again, this architecture is strikingly coherent: all these experts and judges apply the same standards and, if we exclude some isolated cases, have adopted the same interpretations. By patiently applying them in particular cases, in situations unique to each country, each context, they contribute to ensuring that human rights, which are universal in their principles and at the judicial level, become universal in the daily life of all citizens of the world.

However, although the distance we've come in 70 years is impressive, many challenges remain.

An intellectual challenge

The first challenge is intellectual: we are witnessing a resurgence of anti-human rights ideologies and, more generally, to what underpins human rights: principles stemming from the Enlightenment and its philosophies. Human rights have been accused by some of being complicit with economic neoliberalism, or of being a mask for certain major powers' imperialism.

For others, human rights are "against the people" because they exclusively defend minorities against the majority or give power to "experts" who lack democratic legitimacy. In other circles, human rights are criticised for allegedly distorting human nature by harming anthropological structures such as the family. What is often noticeable in these attacks is the ignorance or intentional distortion of what human rights as legal standards are: those who express such criticisms have rarely read a ruling by the European Court of Human Rights.

If these anti-Enlightenment schools of thought had become a minority after the Second World War, they are finding a new echo in today's public opinions: unscrupulous politicians do not hesitate to offer them as an answer to legitimate feelings of injustice within societies. Nowadays, defenders of democracy and human rights can no longer ignore these criticisms but must confront them and deconstruct their discourses to prove that they provide the wrong answers to what are often the right questions.

An institutional challenge

Another challenge is institutional and chiefly concerns the United Nations system: it has been said, the mechanisms which today protect human rights are numerous and play a crucial role. However, their proliferation has made the system hard to understand and complicated citizens' ability to use it, while lack of resources limits its effectiveness in practice.

Several processes are currently underway to perfect it. In 2020, the UN General Assembly will be called upon to facilitate

the renovation of the essential procedure by which states submit periodic reports to the UN committees, by creating a global and coordinated calendar.

Beyond this, what must absolutely be improved is the procedure for reviewing individual complaints through the creation of a United Nations Human Rights Court which, standing above the relevant committees, would ensure a unified interpretation of the legal standards and strengthen their jurisprudence's authority in coordination with other regional courts and the International Court of Justice.



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The normative challenge

Finally, the last challenge is normative because, if international human rights law is particularly concrete and consistent, it must answer novel questions. New technologies in particular are challenging our relation to freedom and dignity.

Mass surveillance, for example, has given infringements on privacy a new reach and it is unsure whether our current legal standards can address it. Similarly, science's predictive capacity threatens the principle of autonomy: if science can always predict what we will be, what room do we have left to exist?

Another major issue is the degradation of our environment and climate change: even as human rights are based on an anthropocentric philosophy, should we not be rethinking our relationship to nature (and not simply to our human environment)? The challenge will be to reaffirm the principles of political modernity while also acknowledging nature, or even recognising its own rights.

These challenges are important: we must not wait until the declaration's 80th anniversary to rise to them.

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