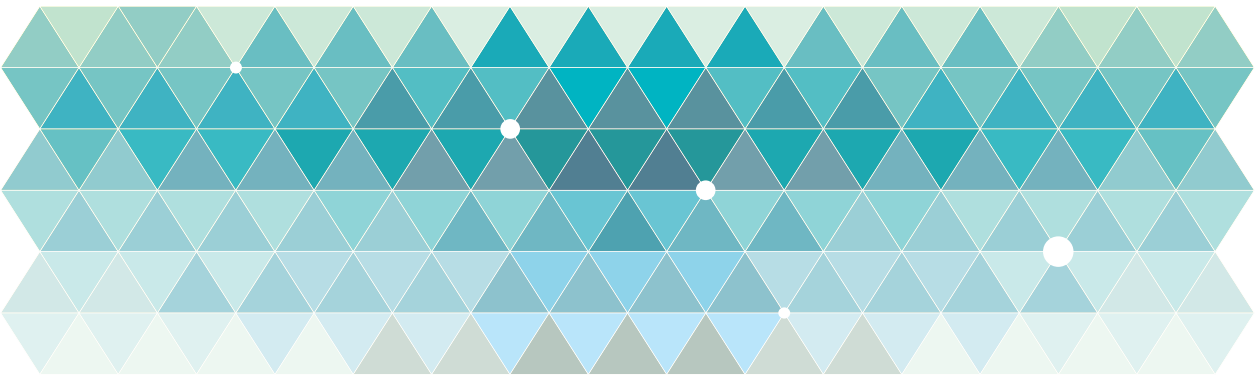


GUIDELINES FOR DEBATE

WHAT IS A HUMAN RIGHTS PERSPECTIVE?






BY DANIEL JOLOY AMKIE

This edition of *Guidelines for Debate* looks at various current discussions on human rights and tries to define what a human rights perspective is and how to integrate this viewpoint into the design, implementation, monitoring and evaluation of public policy. With this goal in mind, the guide offers several different activities to question and deepen our understanding of human rights and their implementation into our daily lives.

The aim of the series **GUIDELINES FOR DEBATE is to influence the formulation, implementation and evaluation of programs and policies through guidelines that foster the debate of ideas from a progressive approach. The collection features a cool exchange of data and theoretical and methodological tools for analysis and action aimed at emerging political generations.**



OFF WE GO

Lately there is a lot of talk about human rights and it seems as though the topic has become somewhat fashionable and politically correct. Reading the international section of any newspaper or watching the news on TV, there will not be a single day when human rights are not discussed. But, what do we mean when we talk about “human rights”?

The concept of human rights as we understand it today has not always been the same. The typical and widely known description of human rights as “inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being” is actually quite recent. Although abuse of power and oppression are historically ever-present and have been addressed by various societies through the ages, human rights as we now know them today were only born at the end of the Second World War, when they were included into The Charter of the United Nations.¹

Respecting human dignity is a value that has been present in different societies throughout history and, that during the modern age derived in the concept of human rights. In the Ancient Greece, key philosophical concepts such as justice, power and tyranny were developed, and provided a first approach to the respect for the person. Towards the end of the Middle Age, the first legal documents were framed and they outlined, to some degree, the power of monarchs. Namely, this was the Magna Carta (1215) in England.

In the XVII century, during the Enlightenment, philosophers such as John Locke transformed the way in which the world was understood by way of a new ethnocentric paradigm in which, for the first time, the individual was viewed as the centre of the universe. This required the development of mechanisms that guaranteed the protection of the individual against the absolute power of the sovereign.

All of these ideas had serious philosophical and political consequences that resulted in large revolts in various parts of the world, notably the French Revolution and the Independence of the United States. Both the French and the U.S. established their social and political changes in two highly-relevant documents: *The Declaration of the Rights of Man and of the Citizen* (1789) and *the Bill of Rights* (1791). Both texts enshrine the ideas of equality and freedom, and greatly contributed to the development of the concept of human rights as we now understand it.²

However, it wasn't until the creation of the United Nations in 1945, after the social and political impacts caused by the Second World War and the tragedy of the Holocaust, that human rights became enshrined as a universal value. In pursuit of this, the United Nations Charter in its Article 1 outlines its aim to promote "the respect for human rights and fundamental freedoms without regard to race, sex, language or religion". Since then, the international community has quickly developed a complex juridical and legal system of recognition, protection and respect for human rights. It has also further strengthened a series of international and regional institutions for the supervision of this system.

DYNAMIC 1

Although the **CONCEPT** of human rights has had a fast development during the past sixty years, there are **STILL MANY OPEN DEBATES**. For this activity, the participants must form themselves into **GROUPS OF FIVE** and discuss their own points of view on the statements below. The groups will have **FIVE MINUTES** to discuss each one of them and offer their opinion.

Each team must **DESIGNATE ONE PERSON** to summarize the discussion, and must outline **A SINGLE ARGUMENT** (the most concrete) that accurately defines the position they have **CONCLUDED** on.

After **20 MINUTES** of discussion by the groups, they will each **PRESENT A SUMMARY** of the one most solid argument that accurately represents **THEIR SHARED STANCE**.

The following table presents, **AS AN EXAMPLE**, some arguments to facilitate the discussion on each dilemma.

HUMAN RIGHTS (HR) ARE:

NATURAL

vs

HISTORICAL

- Have always existed
- Are inherent to all human beings
- Our HR cannot be taken away

- Arose in a specific time and place
- Are a product of modernity
- Arose in the context of Western and capitalist society

HUMAN RIGHTS (HR) ARE:

UNIVERSAL

vs

RELATIVE

- Can be applied to all people in all countries in the world
- Can be applied without regard to religion or culture
- Human dignity, the central value of HR, is present in all societies

- HR are a cultural concept which is part of Western modernity
- Values are human concepts that vary in time and space. Each society has its own prioritization of values
- Every society has found its own way of respecting human dignity

THE OBLIGATION TO RESPECT HR COMES FROM:

THE STATE

vs

NON-STATE ACTORS

- Are an instrument individuals have to limit the power of the State
- The State is the only actor capable of violating HR; if an individual commits a violation, it is a crime

- Are an instrument against the abuse of power, although power may be held by non-State actors (i.e. transnational corporations or organized crime)
- Initially HR arose to limit the power of the State, but along with the weakening of the State, other actors came along with the capacity to violate HR

PROTECTING HR IS AN ISSUE OF:

NATIONAL SOVEREIGNTY

vs

INTERNATIONAL RESPONSIBILITY

- Are an issue of internal competence and national sovereignty
- If another country imposes how to respect HR in my country, it is an unacceptable intervention
- "Dirty laundry is to be washed at home"

- The international community has the responsibility to act before serious HR violations
- When a State is not capable of protecting and respecting HR, then other countries must ensure the protection of the people
- HR are values that transcend sovereignty and national boundaries

ON WE GO

CONSIDERATIONS

The debate on human rights is still open. Although the **THEORETICAL DEVELOPMENT** of human rights has been very fast in a short period of time, the viewpoints on human rights are extensive and varied. Due to this, as the groups probably discovered in their own discussions, there is **NO UNIFIED CONCLUSION** on the debates suggested above.

SO, WHAT ARE HUMAN RIGHTS?

At the moment, as also shown by the earlier debates, there is no single definition of human rights. Without claiming to provide a unique and complete definition, we present our proposal of a definition that manages to encompass the extent of some of the current discussions:

Human rights are a set of demands considered valid and relevant, or legitimate prerogatives derived from a moral doctrine that holds such validity or legitimacy in considering that the individual – all of whom are free and equal in rights – as the fundamental unit of moral value; that is to say, individual has more value than the State, the society or the community of which is part. Therefore, the concept of human rights implies, in an intrinsic or fundamental way, the existence of a series of obligations on the State to respect the individual or human being and their rights.³

DYNAMIC 2

For this activity, you will need **A STICKY LABEL** for each participant. On each label, write a **PREJUDICED ATTRIBUTE** or one which is “badly viewed” by society, or a marginalized group excluded by society. You must then stick a label onto each participant **WITHOUT HIM OR HER SEEING IT**. Some examples of such labels could be: prostitute, addict, gay, elderly person, agitator, lesbian, teenager/youth, indigenous person, etc.

The group will have, depending on the number of participants, between **5 AND 10 MINUTES** to mix, walking around the room, each person trying to guess what it says on their label. To do so, they must approach as many people as possible and ask, “**WHAT OR WHO AM I?**”.

The other participants may only say **UP TO THREE WORDS** defining what is written on the label, while never mentioning the word that is written. They may also behave as if in reaction to that person (as represented by the label). The participants must rotate constantly between the team, **NEVER REMAINING WITH THE SAME PERSON** throughout the activity. For example, if the label says “gay”, they could be described as “effeminate, queer, faggot”.

ON WE GO

CONSIDERATIONS

At the end of the activity, each person must say what they think is written on their label and check if they guessed correctly. Afterwards, whoever is facilitating the activity will ask each person about their experiences, if they were discriminated against by the rest of the team and how they felt about it.

The principle of **NON-DISCRIMINATION** is a basic pillar of human rights. As stated in the The Charter of the United Nations and other international treaties on human rights, **NOBODY MAY BE DISCRIMINATED** against for reasons of race, sex, language, religion, age, social condition, sexual orientation or whatever other reason that violates **HUMAN DIGNITY** or restricts a person's enjoyment of their rights.

DYNAMIC 3

For this activity it is necessary to divide into **4 OR 5 GROUPS**. Each group represents a new State which has recently become independent. The participants who form each group have been elected by their communities to **DRAFT A NEW CONSTITUTION** for their country. However, they can only include the **THREE MOST IMPORTANT HUMAN RIGHTS** into the Constitution. The team will have to debate, and using the arguments put forward by each member, they must reach **A CONSENSUS** as to which are to be the three rights to be included. The groups will be given approximately **20 MINUTES**.

The facilitator of the activity can read out loud or write **A SERIES OF RIGHTS** on the board to trigger debate. Below are presented some which could be used:

RIGHT TO EQUALITY
RIGHT TO WORK
RIGHT TO HEALTH
RIGHT TO FREEDOM
RIGHT TO PEACE

FREEDOM OF EXPRESSION
PROHIBITION OF TORTURE
ACCESS TO JUSTICE
FREEDOM OF RELIGION
RIGHT TO DUE PROCESS

RIGHT TO LIFE
RIGHT TO WATER
NON-DISCRIMINATION
RIGHT TO EDUCATION
RIGHT TO FOOD

At the end of the activity, each team must present which three rights they have **INCLUDED** in their new Constitution and briefly explain **THE REASONING** behind their choices.

ON WE GO

CONSIDERATIONS

The interdependence of rights has allowed to advance towards the demand for the fulfillment of all rights for all people. This means that there is no right which is more important than another, and as such, if all rights are not guaranteed as a whole, then human dignity will be affected. In 1993, the General Assembly of the United Nations concluded that human rights are **INTERDEPENDENT, INDIVISIBLE AND FUNCTION IN RELATION TO EACH OTHER.**

During the Cold War, the international community – and human rights scholars – understood human rights in two generations:

1. **FIRST GENERATION HR** Those civil and political rights, such as the right to life, to personal integrity, freedom of expression, due process, the right to vote and be voted for, etc.
2. **SECOND GENERATION HR** Those social, economic and cultural rights, such as the right to health, to education, to culture, to work, to a healthy environment, etc.

This division was a response to the political context of the time, in which the countries of the West – fronted by the United States – valued civil and political rights more, and those socialist countries – fronted by the USSR – which prioritized economic, social and cultural rights. At the end of the Cold War, this division of HR into generations was superseded, and today it is understood that all rights must be guaranteed as a whole, and so we can ask, “What would be the right to work if we don’t enjoy the right to life?”, or, “Why would we want the right to equality if we don’t have the right to food?”.

It is important to stress that human rights are not a finished list. On the contrary, if we accept that HR are a historical concept, then we understand that at the same time the values of society change, according to its needs. Therefore, with the passing of time there will arise “new rights”, which will be demanded according to the changing needs of society. For example, some years ago there was no discussion about a right to water, as then it did not appear that there would be a shortage of an abundant natural resource. Similarly, today we speak of the internet access as a human right. Is there any other value which you think could become safeguarded as a human right in the future?

HOW TO THINK ABOUT PUBLIC POLICY WITH A HR PERSPECTIVE

In theory, human rights are no more than a dead letter, or aspirational ideals at best. If we do not bring them down into concrete policies that result in improving the quality of life for people, then they will have no purpose. Therefore, it is essential to understand what we refer to, and what we must take into account, when we talk about public policy with a human rights perspective.

All public policy, if it is to have a human rights perspective, must consider them and make them a reality both in its content and in the process of its design and evaluation. Below are some basic precepts which must be considered when designing any public policy:

SOME BASIC PRECEPTS

CONTENT

- Encourage the exercise of human rights, not the violation of them
- Guarantee respect of the principle of non-discrimination
- Incorporate international standards on the matter *
- Principles of due diligence (prevention, investigation, punishment and redress)
- Respect of the principle of progressivity and maximum use of available recourses⁴

PROCESS

- Equality and non-discrimination
- Inclusive participation of civil society
- Transparency and access to information
- Accountability

The inclusion of a human rights perspective into public policy allows us to focus on the work of the State in ensuring human dignity, and prevents future violations of human rights. Furthermore, it allows the government to fulfill its international commitments and establish cross-cutting means and actions of eliminating discrimination and marginalization engendered by power.


The inclusion of a human rights perspective into all daily actions of the State is still a pending challenge. We will not achieve in assuring the protection and respect of human rights if we do not make the, the guideline for all governments. For many years, the struggle for the defense and promotion of human rights has been enshrined in having a legal framework, having as a result many diverse laws and regulations on several issues. However, the impact that day-to-day public policy has on the validity of human rights has been overlooked.

Therefore, it is essential to fully understand what human rights are, and how to make them an intrinsic part of all public policy.

INTERNATIONAL STANDARDS

The list of international treaties on human rights is very extensive and range from treaties that encompass a series of general rights (such as for example the International Covenant on Civil and Political Rights or the International Covenant on Economic, Social and Cultural Rights) to more specialized treaties on a certain issue or on marginalized groups in a state of vulnerability (like for example the Convention Against Torture or the Convention on the Rights of the Child). However, international standards needn't be understood solely as the mere context of the text, but should also be read alongside the legal developments each of them have had, especially that examined by the different specialized Committees of the United Nations (there is a specialized body to revise the content of each international treaty), as well as the jurisprudence on the matter (for example, the regional Courts, such as the Inter-American Court on Human Rights or the European Court of Human Rights). To consult the list of international treaties on human rights and the state of ratification, follow this link: <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

1. La Carta de las Naciones Unidas es el documento suscrito el 26 de junio de 1945 que da origen a la Organización de las Naciones Unidas. En tal año, cuando se vislumbraba el fin de la Segunda Guerra Mundial y se planteaban los cimientos de un nuevo orden internacional, 51 Estados firmaron este documento. Actualmente, 193 países han suscrito la carta y pertenecen a la ONU. Para leer la Carta de las Naciones Unidas, ingresa a <http://www.un.org/es/documents/charter/index.shtml>
2. Para leer la Declaración de Derechos del Hombre y del Ciudadano, ingresa a <http://www.juridicas.unam.mx/publica/librev/rev/derhum/cont/30/pr/pr23.pdf> Para leer el *Bill of Rights* ingresa a <http://biblio.juridicas.unam.mx/libros/6/2698/20.pdf>
3. "La construcción internacional de los derechos humanos: el papel de las Relaciones Internacionales", en *Revista de Relaciones Internacionales de la UNAM*, núm 104, mayo-agosto de 2009, pp. 58
4. *Progressivity and the maximum use of resources* The principle of progressivity of human rights is enshrined in Article 2.1 of the International Covenant on Economic, Social and Cultural Rights, and also in Article 26 of the American Convention on Human Rights, which refers to the obligation of the State to gradually move towards the guarantee of the universality of rights, particularly when we refer to economic, social and cultural rights, as these require positive actions on the part of the State for their fulfillment. The principle of progressivity implies, in itself, the prohibition of regression, i.e. moving back on the fulfillment of these rights. For example, if the State has offered the right to free secondary education, in the future it cannot "withdraw" this right or tighten the budget set aside for it.



The views expressed in the text, as well as the analyses and interpretations contained therein, have not been subjected to editorial review and are the sole responsibility of their authors. They do not necessarily reflect the views and stance of Espolea A.C.

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