

Introduction

Human Rights belong to everyone, or they are guaranteed to no one.

—Amnesty International

The concept of human rights has long occupied many individuals and groups. The belief that all people who inhabit our world share inherent privileges and rights has significant attraction. This commonality among all who reside on the planet, regardless of country or nationality, helps bring individuals and countries closer together than might otherwise be the case. If someone who lives in the United States acknowledges that someone living in China or Russia has the same right to a safe, nonviolent environment, this link can lead to greater cooperation in resolving key issues affecting human existence.

In the social work profession, human rights have only recently begun to have significance. For too long, social workers have stood aside from human rights, considering discussion of the topic to be more international and legalistic. Fortunately, this reluctance to integrate human rights into social work policies and practices has started to fade. Human rights now cover domestic, as well as international, circumstances and, in many cases, human rights principles have a direct impact on local social work issues. Unless individuals, communities, corporations, governments, and other groups recognize human rights at home, promotion of human rights on a broader level will be meaningless or, at best, superficial. The most appropriate place to begin the study and application of human rights is in a person's

own environment. Only after the person, entity, or group thoroughly understands human rights in a local sense can human rights be expanded to a broader spectrum of circumstances.

What Are Human Rights?

When beginning any study of human rights, the first and most obvious question that arises is, What are human rights? Without a coherent and thoughtful response to this question, human rights cannot be understood. Unfortunately, many individuals (especially, it seems, politicians) blithely use the words *human rights* as if everyone knows what they mean. For instance, U.S. politicians frequently criticize China for its violations of human rights, but without explaining exactly what those violations are. What specifically has China done to run afoul of human rights? Why are those acts considered violations of human rights? Who defines human rights? Do only China and other countries outside the United States violate human rights? General statements alleging that a country violates human rights are confusing because such generalizations usually offer only scant insight into the true concept of human rights. Before a politician, lawyer, social worker, or other individual accuses another individual or entity of violating human rights, that person needs to have at least a basic grounding in the concept of human rights.

Human rights define the needs and also the set of rights that each individual may claim, no matter where he or she resides. The concept of human rights can generally be defined as “those rights, which are inherent in our nature and without which we cannot live as human beings. Human rights and fundamental freedoms allow us to fully develop and use our human qualities, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs” (UN 1987, 4).

While useful in obtaining a general notion about human rights, this definition immediately raises questions about whose “nature” is being defined. A U.S. resident might feel that having access to running water, electricity, and similar resources is inherent in her or his nature and therefore necessary to develop fully as a human being. In contrast, a resident of a less economically developed country might feel that simply having sufficient food and warm clothing is enough to live with dignity as a human being. Whose version of human rights should prevail? Are some people

Human Rights and Law

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Social workers may harbor the misconception that the study of human rights is mainly for lawyers and the courts. Nothing could be further from reality, for left to merely legalistic tools, human rights might never see the light of day.

Consider the United States Supreme Court case of Dred Scott, a former slave who tried to keep his freedom under constantly shifting legal grounds (*Scott v. Sandford* 1857). Before the legal abolishment of slavery after the U.S. Civil War (U.S. Constitution 1787, amends. 13 and 14), Dred Scott had been a slave in the state of Missouri, which allowed slavery. Scott's owner then moved with him to the free state of Illinois and the free territory of Wisconsin, areas that prohibited slavery. Because he resided in a free state and a free territory, Scott gained his freedom. But he then returned to Missouri, where the prevailing law stated that if a slave returned to Missouri after having resided in a free state or territory, he or she could remain free (*Rachael v. Walker* 1837). Accordingly, to obtain his freedom legally, Scott began court proceedings in Missouri. As his case wound its way to the Missouri Supreme Court, the debate over slavery became increasingly heated. Then, instead of following previous legal precedents, the Missouri Supreme Court overturned those principles and refused to grant Scott his freedom (*Scott v. Emerson* 1852).

Scott's plea for freedom next went to the U.S. Supreme Court, which rendered its infamous decision known as the *Dred Scott* case, an abomination of political, social, and cultural integrity. The Court held that as an African Negro, Scott could never be a citizen of the United States and, furthermore, was considered to be a piece of property protected (for the benefit of the slave owner) by the Constitution (*Scott v. Sandford* 1857). Outrage followed this decision, but Congress did not begin overturning the legal principles established by the *Dred Scott* case until after the Civil War. Indeed, decades passed before Congress removed all the legal residue of this malicious court ruling. Moreover, until prohibited by court decisions in the 1950s and 1960s, segregation enabled many southern states legally to separate races in schools, eating facilities, public transport, and other institutions.

Even today, ghosts from the *Dred Scott* case remain, a reminder that a society must always be diligent in the protection of basic human rights and freedoms. Perhaps, though, the most significant lesson from *Dred Scott* is that the misuse and distortion of laws can perpetuate violations of human rights. The law is not always on the side of human rights.

entitled to greater human rights than others because they have the means to obtain or purchase valuable resources? From a purist's view, certainly not; every individual is entitled to the same human rights. The difficulty arises in allocating resources to achieve human rights. A fundamental issue concerning human rights is constructing policies enabling human rights to apply to everyone, not just selected individuals and groups.

Human rights principles require a cultural understanding of and attention to existing resources. A social work practice based on human rights is no panacea for discrimination, inequality, poverty, and other social problems, although knowledge of human rights can help the practice better understand its role as a helping profession. Thus by integrating human rights into the profession, social workers obtain a unique insight into issues central to their profession.

Human Rights Include Economic and Social Rights

Before President Barack Obama took office, former U.S. President Jimmy Carter wrote that President Obama would have huge challenges ahead of him, with a high priority being the "restoration of human rights, which have been badly eroded in recent years" (Carter 2008). To which human rights is President Carter referring?

President-elect Obama has reiterated his decision to close Guantanamo Bay detention center and end U.S.-sponsored torture. Also under discussion is the establishment by the U.S. government of an independent commission to examine the actions that led to these shameful policies and practices. Together, these steps would signal a renewed commitment to the cause of universal human rights long championed by the United States. As this year [2008] marks the 60th anniversary of the Universal Declaration of Human Rights, the reassertion of these fundamental rights is necessary. (Carter 2008)

So far, so good. But even a cursory reading of the Universal Declaration of Human Rights reveals that human rights encompass much more than preventing torture and unlawful detention. What about education, employment, health care, housing, and other social and cultural rights specifically mentioned in the Universal Declaration?

The focus on political human rights as if those were the only rights that mattered omits the essence of human rights and is not a true appreciation of the human rights concept. Although political rights are important, so are economic and social human rights. Indeed, at a time of financial distress for many people around the world, economic and social human rights have become even more important to discussions about human rights.

The framers of contemporary human rights never intended to limit them to political ideals, meaning democratic elections, freedom of speech and religion, and other rights typically associated with the U.S. governmental system. Instead, human rights concern a wide variety of political, economic, and social areas. For example, a specific human right includes the right to adequate health care, which the United States does not legally recognize. Does this mean that the United States is violating its residents' human rights by not providing adequate health care to each of them? Some would answer this question affirmatively, while others might say that health care is an individual, not a government, responsibility, regardless of any human rights principle.

A selective recognition of human rights by U.S. politicians and other individuals indicates a lack of understanding of the overall concept of human rights or perhaps a reluctance to discuss economic and social human rights. Yet, without viewing economic and social rights as key components of human rights, the overall importance of human rights significantly diminishes.

Universality and Indivisibility

To begin any study of human rights, social workers need to understand two basic concepts relating to those rights: universality and indivisibility. The concept of *universality* (or *universalism*) underpins human rights. Every individual has a claim to human rights, wherever he or she resides. For example, human rights include adequate nutrition and shelter for everyone. Perhaps a country's resources are insufficient to satisfy these rights. But because nutrition and shelter are integral to human rights, governments have an obligation to provide a framework to ensure the delivery of these rights. A government that claims it does not have sufficient resources to provide food and shelter for everyone may be using this as an excuse for ignoring these rights. Yet, by classifying certain rights and freedoms, like adequate food and shelter, as human rights, all governments

are recognizing a common goal of creating conditions to guarantee those rights and freedoms.

Difficulty with the universality concept frequently arises when a country's view of a particular human right is different from that of most other countries. When a country does not accept a particular human right, a reluctance to promote it usually results. The notion of universality may clash with local cultures, laws, policies, morals, and other commonly held beliefs that fail to recognize the human right in question. In some countries, discrimination against gays and lesbians is allowed because cultural or religious norms permit it. Yet even though human rights require sensitivity to culture and religion, such discrimination violates general human rights principles. Another example of sidestepping human rights concerns the use of torture in interrogating suspected terrorists. Human rights principles clearly ban the use of torture. But what if the use of torture could lead to information that would prevent a great harm? Should cultural or legal norms allow torture in these circumstances? Which should prevail, the cultural, legal, or religious norm or the human right? The answer is that if human rights apply to everyone, then the human rights principle must prevail, even in the case of a suspected terrorist or terrorist.

The reluctance of a country or group to acknowledge a human right that conflicts with local traditions or laws can often be traced to their origin and the rejection of being told what to do by an outside group. The following questions help determine the circumstances of the local tradition or law:

- Who defined the local tradition or law?
- Who benefits from the definition?
- Who loses from the definition?
- Whose voices are being heard in the decision not to acknowledge the proposed human right?
- Who defines culture, religion, and legal norms?
- Does one government or group have the right to tell another government or group that its beliefs or policies violate a human right?
- In the case of disagreement over the interpretation of a human right, who decides which is correct?

Obviously, universality presents challenges in interpreting and exercising human rights. The principle of universality places a unique stamp on the body of laws and other guidelines referred to as human rights:

Human rights doctrine is now so powerful, but also so unthinkingly imperialist in its claim to universality, that it has exposed itself to serious intellectual attack. These challenges have raised important questions about whether human rights norms deserve the authority they have acquired: whether their claims to universality are justified, or whether they are just another cunning exercise in Western moral imperialism. (Ignatieff 2001, 102)

Social workers may find the notion of universality difficult to fit into other social work principles, especially those pertaining to cultural diversity and self-determination. Universality does not mean that everyone is alike or should develop in the same manner. Universality allows all types of diversity and differences among individuals and groups. The key to understanding universality is to accept that the goal is not to create sameness among different cultures. Rather, the purpose of universality is to ensure that individuals and peoples everywhere have basic rights within their existence, but not that everyone will exist in the same manner. This book addresses specific issues surrounding the universality principle, especially in the context of culture.

In addition to universality, another important concept in human rights doctrine is indivisibility. The concept of *indivisibility* refers to the necessity for governments and individuals to recognize each human right and not selectively promote some and ignore others. The fact that U.S. policy does not guarantee health care to all its citizens highlights the importance of indivisibility among human rights. Without adequate health care, an individual may fail to attend to an illness that becomes life threatening or debilitating. Impaired health also reduces an individual's enjoyment of other human rights, such as the promotion of family or employment. Impaired health could even affect the will or ability of an individual to participate in an election or other activities viewed as human rights. Consequently, the denial of one human right can easily impinge on the enjoyment of other human rights and directly or indirectly deny others. For this reason, the notion of indivisibility plays a key role in the exercise of human rights.

Indivisibility, like universality, generates controversy. Not every country has adequate resources to provide all the economic rights defined as human rights. Some countries also have political traditions that place little emphasis on democratic elections and other political rights. Should such

circumstances excuse the recognition of certain rights? If a country views a particular human right as unsuitable for its residents, can this country refuse to acknowledge that human right? Even though indivisibility occupies a key position within human rights, the concept may create ambiguity in the acceptance of some rights. Consequently, resolving the ambiguity is an important part of any study of human rights.

Human rights may appear impractical, strange, or even utopian to social workers. But by analyzing specific human rights and the justification for a particular human right, they can better understand how human rights naturally connect to their profession.

Human Rights and U.S. Social Work

Since the first edition of this book was published in 2003, the social work profession in the United States has begun to view human rights seriously as an integral component of social work. A major example of this effort to integrate human rights into social work is the introduction of human rights into academic curricula by the Council of Social Work Education (CSWE) (CSWE 2008). Social work literature from the United States now includes substantive efforts to analyze and link human rights to social work (Gamble and Weil 2009; Mapp 2007; Reichert 2007; Wronka 2008), and social work educators have begun to integrate human rights into social work teaching, research, and practice (Mayadas and Elliot 1997; Roche and Dewees 2001; Roche et al. 1999; Witkin 1993, 1998). Social work literature on connecting women's rights to human rights also exists (Reichert 1996, 1998; Roche 1996; Wetzel 1993). Nonetheless, despite recent efforts by the CSWE and others to integrate human rights into social work education, social workers in the United States have yet to fully acknowledge the connection of human rights to social work. For example, the U.S.-based National Association of Social Workers (NASW) does not even mention the term *human rights* in its most recent code of ethics (NASW 1996).

On an international level, social workers have already embraced the concept of human rights as a key component of their profession (Ife 2001; IFSW 2010; Staub-Bernasconi 1998), and the concept of human rights is equally important to U.S. social workers. Indeed, social workers in the United States follow many of the concepts in the Universal Declaration of

Human Rights (the declaration is reproduced in appendix A) and other human rights instruments.

Why has there been so little discussion by the social work profession in the United States about human rights? The continued reluctance of U.S. social workers to join their international counterparts in promoting human rights appears to be the result of three factors:

1. *A focus in the United States on social justice instead of human rights.* U.S. social workers continue to regard the concept of social justice as paramount to their profession and thus make little mention of human rights (Pelton 2001). The promotion of social justice as the profession's central theme began with the historical and philosophical theories that now frequently appear confusing and outdated. For example, we do not even have a clear definition of social justice. Instead, social work academics describe various types of social justice without explaining what kind of social justice applies to the circumstances at hand (Hartman 1990; Tyson 1995). Consequently, by focusing on social justice, U.S. social workers might believe that they also are addressing human rights. But human rights encompass a more comprehensive set of guidelines for the social work profession:

Social work can be proud of its heritage. It is the only profession imbued with social justice as its fundamental value and concern. But social justice is a fairness doctrine that provides civil and political leeway in deciding what is just and unjust. Human rights, on the other hand, encompasses social justice, but transcends civil and political customs. It takes into consideration the basic life-sustaining needs of all human beings, without distinction. (NASW 2009, 205)

This statement from NASW clearly indicates why social justice is only one part of the human rights structure.

2. *The inclination of U.S. social workers to view human rights as only political rights.* Aside from using as its ideal an amorphous concept of social justice, the social work profession in the United States often equates human rights with constitutional and legal issues, thereby sidestepping any apparent importance of human rights for nonlawyers. As reflected in early documents like the Declaration of Independence and the Bill of Rights in the Constitution, the liberal U.S. political tradition emphasizes individual political and civil rights (Roche and Dewees

2001). These documents are relatively indifferent to economic and social rights (Charlesworth 1994) and instead concentrate on civil and political rights, such as freedom of speech, press, and religion, as officially protected cornerstones of U.S. public policy. Economic, social, and cultural components of human well-being, such as food, shelter, health care, and cultural identity, tend to be relegated to individual initiative and personal achievement (Flowers 1998). Accordingly, social workers may discount the importance of human rights by viewing the Constitution and other basic documents as encompassing the entire gamut of human rights, thus assuming that it is unnecessary to explore the topic further. Therefore, when U.S. social workers encounter the term *human rights*, they may view those rights as only indirectly related to the social work profession.

3. *A belief that human rights are international and not local.* Another factor inhibiting U.S. social workers from embracing human rights is the common perception that they are restricted to international circumstances. Social workers in the United States often do not connect human rights to local situations. The most recent policy statement from the U.S.-based National Association of Social Workers on human rights continues to bear the title of International Policy on Human Rights, even though it discusses domestic social work issues (NASW 2009, 202–7). This connection of human rights to something international may contribute to the reluctance of U.S. social workers to specifically embrace human rights (Reichert 1998). Nonetheless, human rights include cross-cultural concepts, which transcend national boundaries. In that respect, human rights have an international aspect, although most pertain to principles that have a local application, without any reference to international circumstances.

The reluctance to promote human rights does not mean that U.S. social workers are less competent than their international counterparts. But because human rights occupy a central role in the social work profession, in both the United States and elsewhere, social workers could benefit from a better understanding of human rights and the relationship of those rights to the profession.

Certainly, as indicated by recent NASW policy statements, CSWE educational requirements, and contemporary social work literature, the social profession in the United States has begun to acknowledge a connection between human rights and social work. These voices in the social work profession remain few, however, and all too often, the social work treat-

ment of human rights simply merges the topic into a vague classification of social and economic justice.

Social Justice: An Outdated Concept?

Social workers in the United States generally encounter a guiding principle in their training, known as *social justice*, which tends to concentrate on the *needs* of a client rather than on the *rights* of a client. In the education of social workers, the National Association of Social Workers' Code of Ethics reflects this strong commitment to social justice (NASW 1996).

While the social work profession groups all types of goals under the umbrella of social justice, scrutiny of this concept reveals shortcomings, primarily in the precise contours of social justice itself. The satisfying sound of this term clearly helps support its continued use in the profession. But the use of a term simply because it evokes a desirable resonance is meaningless if the term itself lacks a clear definition and ready application to social work practice. Social justice encompasses three main theories: libertarian, utilitarian, and egalitarian. Each has its followers and adherents, though the egalitarian theory is apparently the most relevant to social work practice.

Libertarian Theory

The libertarian theory of social justice states that each individual is entitled to any material possession that he or she has legally acquired (Nozick 1974). According to this theory, the individual has autonomy and has no obligation to share resources with others. This autonomy militates against any forced redistribution of resources from the haves to the have-nots. Charity, or service to others, occurs from the largess of the benefactor, rather than through any right of the recipient to obtain what the benefactor possesses.

As an entitlement-based form of social justice, the libertarian theory rejects distributive justice, and for this reason, social workers may not readily subscribe to it. In reality, however, many of the basic principles in the organization and sentiment of U.S. government structures follow a libertarian theory, frequently with only limited attention to the redistribution of resources.

Utilitarian Theory

The second theory of social justice evaluates actions on the basis of whether they provide the greatest happiness for either the individual or the greatest number. This utilitarian theory holds that although an individual has the right to be free from coercion, a redistribution of scarce resources sometimes meets the interest of the common good and thus should be observed (Van Soest 1994). For example, according to this theory, conditions that encourage the greatest production of food for all, regardless of an individual's circumstances, should be promoted.

Essentially, providing the greatest good for the greatest number is the basis for the utilitarian theory's primary principles. In contrast to the libertarian theory, a utilitarian does not hesitate to infringe on an individual's rights to resources if the sharing or redistributing of those resources would benefit the greatest number within a defined region. Obviously, the inherent conflict with this theory of social justice is determining what benefits the greatest number.

Egalitarian Theory

The egalitarian theory of social justice corresponds most closely to what the social work profession appears to mean by social justice (Reisch and Taylor 1983). According to this theory, the needs of all must be considered (Rawls 1971). The redistribution of scarce resources becomes a moral imperative, and any redistribution should benefit, or at least not harm, the most vulnerable in society. Essentially, the disadvantaged have a right to basic resources for living.

Clearly, the egalitarian theory of social justice rebuts the libertarian and utilitarian theories when equality is the defining value (Rawls 1971). In an egalitarian society, citizens must have equal rights, equal opportunities, and equal access to social resources. Inequalities in resources should be allowed only when those in the lowest margin of society benefit (Van Soest 1992). Although social resources generally refer to economic benefits, the egalitarian theory can also be applied to noneconomic goods or services. That is, alleviating noneconomic "deprivations" can be a form of social justice (Rawls 1971; Wakefield 1988).

Summary of the Three Theories

Even when it is based on the preceding three theories, the term *social justice* remains elusive, for it defies a single, relatively concrete definition. According to the libertarian theory, social justice protects the rights of the individual. The utilitarian theory tempers the libertarian theory to provide for the greatest good of the people, and the egalitarian theory forms the basis for redistributing resources to the less endowed in society. In other words, depending on the theory, social justice means different things to different people.

In a social work context, social justice appears to reflect the egalitarian theory more than the other theories, as the social work profession uses social justice to encompass fairness in the distribution of resources, rights, opportunities, and duties (Rose-Miller 1994). Social policy concerns the allocation of resources, whereas social justice is about ensuring that all people have the same access to those resources. Social work addresses the way that injustices are structured into the allocation of resources and the disadvantages that accrue from such injustices (Benn 1991).

While concepts of social justice may seem obvious, one case study indicates that social workers appear to lack a coherent sense of what constitutes social justice, sometimes equating it with John Rawls's fairness model of individual rights and at other times calling for equality of social groups (Longres and Scanlon 2001). No theory fully explains the concept of social justice, and definitions simply beg more questions about the meaning. In light of these difficulties, social workers should view the current usage of the term critically (Rose-Miller 1994).

Like social justice, definitions of human rights can also present open-ended responses, although human rights encompass a more comprehensive and defined set of guidelines for social work practice than social justice does. Human rights focus on what must be given to a client, which elevates the discussion into one not simply of recognizing the needs of a client but also of satisfying those needs. Even though social workers may perceive human rights as being overly legalistic and a topic more appropriate for lawyers, this belief should not prevent their studying them. By learning more about human rights, social workers will understand why they are important to the profession.

Human rights do not replace principles of social justice, no matter how amorphous the definition of those principles may seem. Rather, the

study of human rights complements and broadens the perspective of social workers when carrying out policies and practices. When they recognize the importance of human rights, social workers enhance the profession. A foundation in human rights can provide a much clearer framework and structure with which to connect the social work profession to economic, political, and social aims.

Outline and Purpose of This Book

The first edition of this book established the groundwork for the study and introduction of human rights to the social work profession. Since then (a period of seven years), the social work profession has begun to recognize the importance of human rights as a fundamental pillar of social work policy and practice. Besides incorporating many of the human rights principles explained in the first edition, this later edition expands on areas of human rights that appear more urgent than ever before, especially in respect to economic and social rights. The ongoing global recession not only provides an opportunity to reflect on what societies should view as important but also mandates a new paradigm in social welfare. This paradigm should be based on human rights.

Chapters 1 through 4 examine important human rights documents that form the foundation of human rights theory. Chapters 5 and 6 cover issues relating to the diversity of populations; chapter 7 describes the international perspectives of human rights, and chapter 8 addresses social work policy and practices. This second edition has updated all the original chapters of the first edition, particularly by including the results of various studies that have appeared since then. Most important, this edition highlights the need to place economic and social human rights on the same footing as political and civil rights.

Questions and Exercises

1. Distinguish the concepts of social justice and human rights, and define both social justice and human rights.
2. Should every person residing in a country enjoy the same basic rights? Why or why not?

3. What human rights issues have you have encountered personally or professionally?
4. Should culture play a role in determining the validity of a human right?
5. Should some human rights be more important than others?
6. Should we even recognize human rights?
7. What obstacles do you see in promoting human rights as social work policy or practice?
8. How can human rights be enforced on the local, national, and international levels?

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