

HUMAN RIGHTS AND THE ARTS

“All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”

—International Covenant on Economic, Social and Cultural Rights

WHY ARTS AND HUMAN RIGHTS?

In liberation struggles throughout the history of the United States and across the world, arts activism has been central to the fight for human rights. The Human Rights Project at the Urban Justice Center (HRP) situates itself in the timeless tradition of using of the arts to raise consciousness, build community, and enunciate social inequities. Individual or collaborative, private or public, artistic expression allows us to find, examine and share what is within ourselves, what we witness in the world, and what we are fighting toward. Our puppet theater, our protest songs, our novels, our poems, and our dance are integral parts of our fights for human rights. The arts allow us to articulate and challenge oppressions and expand our imaginations. We write, paint, weave and sculpt our struggles, our movements and our vision for the future.

Moreover, the freedom to participate in arts and cultural work is itself a human right. The right to experience, develop, and articulate our cultures is a necessary component of realizing the full range of human rights to which we are all entitled by virtue of being human. All people have the right to develop, participate in, and enjoy cultural lives.

Under a human rights framework, our governments have the obligation to protect, uplift and promote the attainment of these rights.

WHAT ARE HUMAN RIGHTS?

Human rights are universally accepted rights to which all people, by virtue of being human, may lay claim.

The Universal Declaration of Human Rights (UDHR) was adopted in 1948 in an effort led largely by the United States. The UDHR outlines a series of basic civil, political, economic, cultural, and social rights that all people are entitled to, regardless of “distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”¹ That basic tenet—that human rights are to be extended to all people—has guided the work of human rights activists in the years since.

Human rights are indivisible and interdependent.

All human rights impact one another, and the violation of one right inhibits the actualization of others. For example, a person's human right to education may be inhibited by her experience of racial discrimination in the education system. If her right to education is not met, her ability to enjoy the right to decent work will likely be impacted, which in turn could impact her rights to housing and to health.

Governments should be proactive in advancing human rights.

Under human rights law, governments are called on to take concrete and appropriate steps to ensure the realization of human rights such as the right to an adequate standard of living including adequate food, clothing and housing, and to the right to continuous improvement of living conditions. Using this framework, advocates can call on governments to take steps to proactively advance human rights and prevent human rights violations. For example, collecting disaggregated data on social service programs would help governments and advocates to identify patterns of discrimination in order to address them.

Human rights principles call for governments to operate in a transparent fashion, with mechanisms of accountability built in and with the fullest participation of community members possible.

Members of the community should be aware of and involved in policy-making to the greatest extent possible. A human rights framework emphasizes that those most directly impacted by human rights violations have valuable insight into solutions for those violations, and should be involved in crafting and assessing policies designed to address them. Open forums, transparent decision making processes and comprehensive outcome reviews are necessary to the establishment and maintenance of human rights.

The utilization of a human rights framework requires advocacy.

Governments rarely meet human rights standards without pressure from their constituents. Human rights at home are only as strong as we make them.

WHERE ARE SOCIAL AND CULTURAL RIGHTS PROTECTED?

The International Covenant on Economic, Social and Cultural Rights

Article 1:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 15:

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

Everyone has the right to cultural development, and the rights to enjoy, participate in and benefit from in cultural life.

Governments should take steps to develop, respect and protect cultural production.

The Universal Declaration of Human Rights

Article 27:

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

All people may participate, enjoy, and benefit from the cultural life of their communities.

The Convention on the Elimination of All Forms of Discrimination Against Women

Article 13:

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Women have the right to freedom from discrimination and equal participation in social and cultural arenas.

Convention on the Rights of the Child

Article 20:

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

In planning care for any child separated from her or his family, continued access to the child's cultural background should be taken into account.

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

Education should promote knowledge of and engagement with cultural identity and values.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

Children belonging to ethnic, religious or linguistic minorities and/or indigenous communities have the right to participate in and enjoy their own cultures.

Article 31:

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Governments have an obligation to promote the rights of children to participate fully and equally in cultural and artistic activities.

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#)

Article 31:

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin. 2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Migrant workers have a right to maintain cultural links to their State of origin. Governments must ensure this right is respected.

Article 34:

Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

Article 43:

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

- (a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
- (b) Access to vocational guidance and placement services;
- (c) Access to vocational training and retraining facilities and institutions;
- (d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;
- (e) Access to social and health services, provided that the requirements for participation in the respective schemes are met;
- (f) Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;
- (g) Access to and participation in cultural life.



Migrant workers have the right to equal access to and participation in cultural life.

2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

Article 45:

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

- (a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;
- (b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met;
- (c) Access to social and health services, provided that requirements for participation in the respective schemes are met;
- (d) Access to and participation in cultural life.



The family members of migrant workers have the right to equal access to and participation in cultural life.

2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavor to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

The children of migrant workers have the right to be taught about their culture. Governments should support this right.

Convention on the Rights of Persons with Disabilities

Article 30:

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

(a) Enjoy access to cultural materials in accessible formats;

(b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;

(c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities,

People with disabilities have the right to equal participation in cultural life, a right which should be supported by governments.

Cultural activities and materials should be presented in accessible formats.

Governments should take action to enable people with disabilities to develop and share creative and artistic potentials.

People with disabilities have the right to recognition and support of their specific cultural and linguistic identities.

States Parties shall take appropriate measures:

(a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

(b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

(c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;

(d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

(e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

African [Banjul] Charter on Human and Peoples' Rights

Article 17:

1. Every individual shall have the right to education.
2. Every individual may freely, take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.



All people have the right to participation in the cultural life of their communities.

Article 18:

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.