

Universal Declaration of Human Rights *Reflections of the UDHR at 70*

On 5 April 2018, staff and postgraduate students in Maynooth University gathered to share their reflections on the Universal Declaration of Human Rights (UDHR) as part of the events in the Department of Law to mark 70 years of this significant human rights instrument.

During the insightful event, participants shared their perspectives on the positive and the negative aspects of the UDHR on both a domestic and an international level. Two of the most common themes from the presentations were: (1) that the UDHR is a remarkable document, and (2) that its aspirational content leaves much room for progress.

This research bulletin provides a summary of the presentations on the day, with an emphasis on showcasing the contributions from postgraduate students in Maynooth University Department of Law.

Student Contributions



DIARMAID MAC A BHAIRD
(LL.M in International Justice) on the
UDHR generally



(Article 1, UDHR)

The UDHR is a living instrument that is a cornerstone in the development of human rights. The rights in the UDHR are broader than those provided in the European Convention on Human Rights. In addition, it is an example of customary international law. Notwithstanding these points, the UDHR is not immune from criticism.

In particular, the parity of collective rights is notable, as is the lack of guidance on the hierarchy of some provisions (as noted by the European Ombudsman, Ms. Emily O'Reilly). What is more, Article 23 of the UDHR provides for the right to work, with subsection 2 providing for 'the right to equal pay for equal work'. Yet, the existence of the gender pay gap in Ireland (as reported in a recent report by the Irish Congress of Trade Unions) begs the question of what needs to be done to make the realisation of this right a reality.

On the positive side, since its creation, the UDHR has inspired the drafting of national Constitutions. Ultimately, the UDHR reminds us that law exists as the promise of justice.

MORIA CROWLEY

(M.A in Comparative Criminology and Criminal Justice) on the implementation of the UDHR in the United States:

While the United States was instrumental in developing the United Nations, it has not ratified a number of international human rights instruments. The UDHR is not legally binding, however, its provisions have been adopted, in whole or in part, in numerous State laws. Some aspects, such as the right to a fair trial or the right to association or education, may be found in federal documents (most notably, in the Constitution of the United States) or upheld through Supreme Court decisions. There are many areas in need of improvement regarding the implementation of the principles of the UDHR in the United States.

GERARD MAGUIRE

(Ph.D candidate) on the UDHR and the rights of indigenous people:

The important status afforded to the UDHR means that the document is sometimes difficult to critique. Historically, there has been a long history of a lack of equality in respect of the rights of minorities and indigenous peoples. For example, the shortcomings of Article 27 UDHR concerning cultural rights can be illustrated by the reluctance of some countries to recognise minority groups, which prevents the creation of specific protections for indigenous peoples.

On the other hand, the UDHR laid the groundwork for future developments in the codification of the rights of minorities, such as Article 27 of the International Covenant on Civil and Political Rights 1966 (ICCPR) and the United Nations Declaration on the Rights of Indigenous Peoples, which was adopted by the UN General Assembly in 2007.



ANASTASIA CAMPBELL

(LL.M in International Justice) on Direct Provision in Ireland:

The UDHR is a pivotal document that is a catalyst for change in the development and promotion of human rights both domestically and internationally.

Unfortunately, the fundamental rights and principles contained within the UDHR are not always followed. The system of Direct Provision in Ireland demonstrates the failings of the Irish government in respecting the UDHR.

Although the provisions and restrictions for asylum seekers in Direct Provision are somewhat improving in Ireland, the rights laid out in the UDHR are still far from being realised.

CAROL LAWLESS

(LL.M in International Justice) on gender equality in Ireland:



(Eleanor Roosevelt, Chairman of the UN Commission on Human Rights)

Ireland has ratified seven of the core international human rights treaties created under the UN framework. By ratifying the ICCPR in 1989, Ireland undertook a legal obligation to align domestic laws with the provisions of the Treaty. Until legislation is enacted to give effect to the result of the referendum of May 2018, women do not possess gender-equal health rights, nor do they have the right to bodily autonomy. As noted by the Irish Council for Civil Liberties, ‘The HSE’s investigation into the death of Savita Halappanavar concluded that because of Article 40.3.3 [the Eighth Amendment] and the criminalisation of abortion, doctors were unsure of how close to death Ms Halappanavar needed to be before they could lawfully intervene to save her life’. It can be argued that Ireland has a terrible track record regarding the treatment of women. The Magdalene Laundries, the Mother and Baby Homes and the carrying out of Symphysiotomy on pregnant women represent some of the worst abuses inflicted on women in Ireland by the State.

DR NOELLE HIGGINS

As academics based in Ireland, gathering to share our reflections on the UDHR at 70 we are aware that we do not work in an environment where our freedom of expression is under threat. We acknowledge that in some parts of the world this type of a gathering of reflections on human rights would be prohibited or lead to academics becoming Scholars at Risk.

Staff Contributions

DR AMINA ADANAN

Notwithstanding that the UDHR was created by a privileged elite, the Declaration has extended privileges to many, but it must continue to do so. In the current global climate of divisions in society, we must remember that human rights are for all.

DR CLIODHNA MURPHY

The UDHR is an unfulfilled promise. The text itself represents a symbol of equality, which has yet to be achieved. On the one hand, the content of the UDHR can be viewed as being aspirational, while on the other hand, it encompasses rights that are also now legal obligations.

DR MARIA HELEN MURPHY

While technology evangelists may argue that existing human rights standards are outdated and antagonistic to our information driven futures, it is important to remember that human rights were not created in a vacuum. The rights to freedom of expression and privacy (as protected by Articles 19 and 12 UDHR) have a valuable role to play in the debate on government restriction of encryption.

CHARLES O’SULLIVAN

References to dignity and decommodifying labour are evident in some of the UDHR Articles, namely Article 22 concerning social security and Article 25(1) concerning assistance. However, social rights are the last human rights to be developed, as noted by T.H. Marshall (‘Citizenship and Social Class’, in T.H. Marshall & T. Bottomore (eds.), *Citizenship and Social Class* (London, Pluto Press, 1992)). A human rights discourse has developed since the UDHR, however its enforcement has yet to become a reality.

DR JOE LARRAGY

(Department of Applied Social Sciences):

The UDHR provides a language for rights that can transcend boundaries. The UDHR was a good statement for its time and allows for potential in lots of areas, for example in the area of environmental rights and the rights of older people.

DR JOHN REYNOLDS

The UDHR is a remarkable document for its time. Its legacy continues to unfold in profound, diverse and unexpected ways. One continuing challenge stems from the reality that the UDHR's promise of universality remains unfulfilled. Colonial governments involved in the creation of the UDHR in 1948 had no intention of extending its guarantees to the colonies, and actively refused to do so. Today, the illusion of universality is exposed by the lack of rights granted to people seeking refuge, migrants and stateless peoples. Hannah Arendt’s critique of the distinction in practice between citizen’s rights and human rights remains prescient, with many still denied the right to have rights.



LL.M students Diarmaid Mac A Bhaird (top), Moria Crowley (bottom) and Dr Maria Helen Murphy (centre).

DR DELIA FERRI

Although the UDHR is silent of the rights of Persons with Disabilities, it represents the starting point for the development of these rights. The UDHR can be considered a source of inspiration for the United Nations Convention of the Rights of Persons with Disabilities.