

30 ARTICLES ON THE 30 ARTICLES

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AT 70: STILL WORKING TO ENSURE FREEDOM, EQUALITY AND DIGNITY FOR ALL

Article 6: Right to Recognition Before the Law

After setting standards for dignity and freedom, the Universal Declaration of Human Rights (UDHR) devotes a cluster of articles to standards for the administration of justice including what is often known as “due process.” Roughly one-fourth of the UDHR is devoted to legal human rights. As we have already seen, in the late 1940s, the abuses of the Nazi regime were fresh in the mind of the UDHR’s drafters, who thought these provisions would entrench the strongest protection against future Nazi-type human rights violations. And indeed, by the late 1940s all of these provisions had been incorporated in the legal systems of developed nations.

Articles 6-11 are closely related and for the most part focus on some of the civil and political rights all humans should expect, with the second half of the UDHR devoted to social, economic and cultural rights. Article 6 itself, however, applies across the entire spectrum of rights. If an individual is not recognized “as a person under the law,” numerous rights, including ones in the social and economic spheres, may be threatened.

Article 6 has come into sharp focus with the phenomenon of enforced or involuntary disappearances – the practice of certain countries of snatching, detaining -- and likely killing -- people, with their families seldom able to find out their fate.

People like The Mothers of the Plaza de Mayo (*Asociación Madres de Plaza de Mayo*) who protested for years against the enforced disappearance of their children during Argentina’s “Dirty War” between 1976 and 1983. Wearing white scarves to symbolize the diapers of their children, the women defied the military dictatorship to demonstrate in front of the presidential palace to try to get information about their missing children.

“Injustice anywhere is a threat to justice everywhere.”
– **Martin Luther King, African-American civil rights activist**

During the period of military rule in Argentina, security forces ‘forcibly disappeared’ – the technical term when a kidnapping is carried out by the state – around 30,000 people, many of whom are still unaccounted for. The long list of the disappeared even included two of the founders of the Mothers of the Plaza. Similar policies of enforced disappearance were pursued in several other Latin American countries run by military dictators, such as Chile, Guatemala and Peru.

However, Latin American generals did not invent the concept. During the Spanish Civil War in the late 1930s, more than 143,000 people disappeared without a trace.

And the first instance of enforced disappearance being explicitly and unashamedly sanctioned by law occurred when Hitler issued the directive 'Nacht und Nebel' ('Night and Fog') in December 1941, in order to secretly transfer thousands of people to Germany from the occupied parts of Europe, many of whom were presumably later killed. The measure targeted the civilian population, with the aim of deterring all forms of resistance. The uncertainty of the fate of the disappeared – removed from all the normal legal protections and processes they should have enjoyed after being picked up in the dead of night – was deliberately designed to terrorize and paralyze society as a whole. They were, to use a term employed by the Nazis, "transformed into mist."

Regional bodies – such as the European Court of Human Rights, which protects the rights of some 800 million people – have played an important part in recent years in providing remedies for victims of this crime, and deterring States from committing it.

However, enforced disappearance is a global problem, not restricted to a specific region, with the UN Working Group on Enforced or Involuntary Disappearances reviewing some 840 cases from 46 countries in September 2018. Amnesty International has identified Syria and Sri Lanka as two of the worst countries for enforced disappearance. Russia and the U.S. (with its rendition programme during the "War on Terror") have also been accused of committing this violation.

But the problem is not necessarily confined to government security forces, with disappearances at the hands of criminal gangs, often entwined with the authorities at some level, becoming a chronic problem in recent years in Central American countries and Mexico, as well as in countries like Iraq. Human rights defenders and environmental defenders have become particular targets, both in Latin America and in some countries in South-East Asia, often while standing up for the rights of local populations against business and economic interests.

Failure to achieve recognition before the law as required by Article 6 is, of course, much broader than the issue of enforced disappearance. In some countries women still do not have the same rights under the law as men. For example, there are some 32 countries where women need their husband's permission to apply for a passport, and 30 where women cannot choose where to live.

And perhaps the biggest issue facing the world's 3.9 million known stateless people, is that they are excluded from some – or even all -- laws and systems designed to protect a country's citizens. This legal limbo can have a devastating impact not just on stateless people themselves: their children and grandchildren may inherit their statelessness, like some abstract genetic disease, as their births cannot be registered, because their parents do not exist in the eyes of the law.

As a result, they may suffer violations of almost the entire range of social, political, economic and civil rights: unable to vote, marry, get an education, bring a court case, or receive medical care. While some people become stateless as an unforeseen consequence of a change or flaw in domestic legislation, a sizeable minority are, in the words of the UN Refugee Agency, UNHCR, "the victims of a more pernicious form

of statelessness: the deliberate exclusion of entire groups because of some political, religious or ethnic discrimination.” The most egregious current example of this is the Rohingya minority in Myanmar, who are deprived of many of their rights because they are denied citizenship.

Many still share the dream of physicist Albert Einstein, who said in 1933, as his homeland Germany began to sink into fascism: “As long as I have any choice, I will only stay in a country where political liberty, toleration and equality of all citizens before the law are the rule.” But in an age when refugees are finding more and more obstacles being placed in the way of their legal right to seek asylum from persecution, Einstein’s dream – and the pathway to it laid down in the UDHR -- is still unattainable for many.

ENDS

This is one in a series of articles published by the Office of the High Commissioner for Human Rights (OHCHR) to mark the 70th anniversary of adoption of the Universal Declaration of Human Rights on 10 December 1948. All rights enshrined in the UDHR are connected to each other, and all are equally important.