Introduction to Human Rights

Human rights are the rights and freedoms that belong to each and every person because we are all human beings.

There is not one single definition of human rights, but common to all approaches is the conviction that human rights are fundamental for us to live in dignity as human beings. Human rights guarantee the equality of all people, integrity of the person, privacy, personal freedoms and fulfilment of basic existential and social needs.

So, we are all entitled to these rights and freedoms whatever our nationality, place of residence, sex, gender, caste, color, religion, language or any other status. Human rights help to define how we can live together peacefully, while safeguarding the rights and freedoms of each individual.
Types of Human Rights:

1. Absolute Rights

When it comes to absolute human rights, they cannot be restricted under any circumstance. Every time the state interferes with these human rights, this is qualified as a human rights violation.

Examples of some absolute rights are prohibition of torture, prohibition of slavery, right to be recognized as a person before the law, freedom of conscience and freedom to profess, practice and change one's religious faith.

2. Relative Rights

When it comes to relative human rights, states can restrict these rights under certain conditions (the interference must have a legal basis, must pursue a legitimate aim, and must be necessary and proportionate).

If any one of these conditions is not met, the interference/limitation is qualified as a human rights violation. The guarantee of relative rights needs to include balancing considerations - the rights of one person can only go so far as the rights of another person are not unduly interfered with. Example of relative rights are right to a fair trial, freedom of expression, right to liberty, right to adequate standard of living including right to housing, health, education and employment.

Where did Human Rights come from?

While the principles underlying human rights can be traced further back in time, it was only after the atrocities of World War II that the protection of human rights emerged prominently as an urgent challenge that states committed to address at the international level.

In 1948, the first international document on human rights, the Universal Declaration of Human Rights (UDHR), was adopted by the United Nations. Although only a declaration, the UDHR now serves as part of customary international law and the provisions in it are binding to all UN member states.
The first article of the UDHR states, “All human beings are born free and equal in dignity and rights.”

- The UDHR was one of the first steps in giving individuals a tool in the fight against oppression, impunity and attacks on human dignity.

The UDHR includes (amongst many others):

- Right to life
- Right to education
- Right to freedom of expression
- Right to adequate standard of living (including housing, food, clothing and medical care)
- Right to social security
- Prohibition of torture
- Right to work
- Right to liberty

Following the adoption of the UDHR, states have adopted additional international treaties and agreements that further elaborate the type of human rights to be protected as well as their scope. For example:

- Rights on civil and political issues.
- Rights on economic, social and cultural issues.
- Rights against racial discrimination.
- Rights of migrant workers.
- Rights of people with disabilities.
- Rights of women
- Rights of children
WHAT ARE SOME OF THE INTERNATIONAL TREATIES/CONVENTIONS THAT NEPAL HAS RATIFIED?

For the answer, please refer to the last page.

Convention: Binding agreement between states; used synonymously with Treaty and Covenant. Conventions are stronger than Declarations because they are legally binding for governments that have signed them.

Declaration: Document stating agreed upon standards, but which is not legally binding. Such as the Universal Declaration of Human Rights.
Who is responsible for protecting our Human Rights?
1. Role of State

It is primarily the states and their organs (for example: courts, lawmakers, police, public officials) who must guarantee human rights for all people on their territory. Legally, states are obliged to follow the national and international human rights standards they have accepted.

Many of these documents like the International Covenant on Civil and Political Rights (ICCPR), Convention on the Rights of the Child (CRC), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) create binding obligations for all states who have accepted them. The compliance with these obligations is monitored by international protection mechanisms, for example the United Nations treaty bodies or regional human rights courts in the Americas, Africa and Europe. These documents also represent an important point of reference for holding states accountable when it comes to their human rights records.

Under these treaties, it is the states that are obliged to respect, protect and fulfil these rights for all persons on their territory.
How is the State supposed to protect our rights?

1. **Respect our rights**, that means to refrain from undue interference (e.g. police violence, torture, arbitrary executions or arrests), also known as negative rights.

2. **Protect our rights**, that means to take measures to prevent abuse of our rights by others (e.g. against domestic violence, against environmental pollution by big companies), also known as positive rights.

3. **Fulfill our rights**, that means to create the legal and institutional framework so our rights can be guaranteed (e.g. build schools and hospitals, adopt laws prohibiting crimes against life and property).

**WHILE STATES ARE THE FIRST GUARANTORS AND PROTECTORS OF HUMAN RIGHTS, THEY ARE ALSO THE ONES WHO FREQUENTLY VIOLATE HUMAN RIGHTS.**

So, who can hold the state accountable?
2. The Role of Non-governmental Organizations (NGOs)

NGOs are widely considered as the “engines of human rights protection”.

They contribute to the development of the international human rights system by monitoring state activities, doing fieldwork and advocating for better human rights policies. They are intermediaries between individuals, state authorities and international organizations, acting as critical watchdogs and a “mouthpiece” for the voice of individuals and groups when it comes to the promotion of human rights.

How NGOs Work:

1. **Monitoring** - NGOs frequently monitor states’ compliance with human rights standards and collect reliable information.
2. **Assist** - They assist state authorities by identifying gaps in human rights protection so the state can change its laws, policies and practices.
3. **Lobby** - They lobby for the development of new human rights standards.
4. **Educate** - They equip people with the knowledge, skills and attitude to claim and defend their human rights and those of others.
5. **Advocate** - They fight individual violations of human rights; they support victims of human rights violations to claim their rights or provide them with psychological, medical, financial or other support.
6. **Campaign** - They raise awareness and apply permanent pressure on state authorities to act according to their human rights obligations.
3. Role of International Organizations

*International organizations have several “tools” at their disposal to promote and enforce the implementation of internationally guaranteed human rights standards.*

1. **Monitoring**
Monitoring aims to reinforce the state’s responsibility to guarantee human rights, preventing human rights violations in the first place. States, as well as civil society report about human rights standards, and these reports form the basis for recommendations on how to improve the protection of human rights.

2. **Inquiries**
Situations of ongoing, alleged human rights violations are being investigated, potentially helping to end the violations.

3. **Complaints by victims**
Victims of human rights violations can lodge complaints and receive a remedy to the violation (such as release from detention, compensation, restitution of property).

4. **Discuss Human Rights**
International organizations also provide an arena for states and non-governmental organizations to discuss human rights issues and to negotiate new human rights standards.

5. **Education**
Human rights education can be defined as any learning, education, training or information efforts aimed at building a universal culture of human rights.
4. Individual’s role in protecting human rights

In order to make sure that human rights are respected, protected and fulfilled, we cannot always rely on state authorities alone. Human Rights also need to be claimed by YOU, the rights holders. For yourselves and for everyone.

We all need to play a part in defending and promoting human rights, wherever they are threatened or violated. We must speak up against injustice, against violence or discrimination. We must point out if an action or inaction by state authorities is violating human rights. Otherwise, states can continue to violate their human rights obligations without being held accountable. Human rights are there for all of us, but they can only work if we use and claim them. We can all contribute to creating a world where all people have their human rights respected and protected.

How can you, as an individual, take action?

1. Research the facts and share your findings

Stay informed and up to date on human rights issues and in general. Follow the local, national and international news, pick a variety of sources to ensure you have a diversity of views and opinions. If you plan to take action for others, listen to them and find out how you can really.

Take further trainings, workshops or courses on human rights issues — online and/or offline. Invite friends or colleagues to take the courses with you. Discuss what you learnt and why it matters.
Read up on research and publications by human rights organizations such as Amnesty International, Amnesty Nepal (available on www.amnesty.org and www.amnestynepal.org).

2. Start a dialogue, engage in a discussion about human rights

Discuss current human rights challenges and issues with your friends, colleagues and especially also with people who have different opinions than yours. Challenge friends and family members who tell racist or discriminatory jokes at home. It can be difficult to speak up to the people closest to you, but nevertheless you can explain to them how their comments make you feel and what impact they can have on others.

3. Take a stance in everyday life

Speak up when you see that someone is not treated with dignity, whether it is for a classmate who is being bullied, a colleague that is being harassed or a friend that is being discriminated because of their caste, gender, class or simply because of who they are. Showing solidarity and courage when it is needed can make a whole lot of difference.
4. Get involved in your neighbourhood

Supporting people in your neighborhood who are living at the edge of society - homeless persons, survivors of domestic violence, people with little or no income. Visiting a local women’s shelter for example, can help to break down barriers or prejudices and be a source of comfort to those being visited.

Supporting kids with learning difficulties or young people from disadvantaged backgrounds - helping them to catch up with their peers and benefit as fully as possible from the education system. Helping others to thrive can be an incredibly rewarding experience.

5. Write a letter, change a life

“Write for Rights” is Amnesty International’s largest annual human rights campaign. People like you around the world write letters on behalf of people who need urgent help. Every December, Amnesty supporters across the globe will write millions of letters for those whose basic human rights are being attacked. They are people like you, continuing a long tradition of writing letters to right some of the world’s biggest wrongs. And it’s not just letters — it could be petitions, emails, tweets, Facebook posts, photos, postcards.

Visit www.amnestynepal.org or write to info@amnestynepal.org to know more about the campaign.
1. Death Penalty

The death penalty is the ultimate cruel, inhuman and degrading punishment. Amnesty opposes the death penalty in all cases without exception - regardless of who is accused, the nature or circumstances of the crime, guilt or innocence or method of execution.

Amnesty International holds that the death penalty breaches human rights, in particular the right to life and the right to live free from torture or cruel, inhuman or degrading treatment or punishment. Both rights are protected under the Universal Declaration of Human Rights, adopted by the UN in 1948.

Countries that practice the death penalty commonly cite it as a way to deter people from committing crimes. This claim has been repeatedly discredited, and there is no evidence that the death penalty is any more effective in reducing crimes than life imprisonment. Further, execution is the ultimate, irrevocable punishment; the risk of executing an innocent person can never be eliminated.
The death penalty has also been seen to be discriminatory - the weight of the death penalty is disproportionately carried by those with less advantaged socio-economic backgrounds or belonging to a racial, ethnic or religious minority.

**Situation in Nepal**

Article 16 (2) of Nepal’s constitution, dealing with fundamental rights, states, “No law shall be made providing for the death penalty to any one.” Nepal is one of the countries that has abolished the death penalty.

When Amnesty started its work in 1977, only 16 countries had abolished death penalty. In 2018, that number rose to 106 - more than half the world's countries. More than two-thirds of the world's countries are abolitionist in law or practice.

2. **Abortion**

*Access to safe abortion services is a human right.*

Human rights law clearly spells out that decisions about your body are yours alone — this is what is known as bodily autonomy.

Forcing someone to carry on an unwanted pregnancy, or forcing them to seek out an unsafe abortion, is a violation of their human rights, including the rights to privacy and bodily autonomy.
Amnesty International believes that everyone should be free to exercise their bodily autonomy and make their own decisions about their reproductive lives including when and if they have children. It is essential that laws relating to abortion respect, protect and fulfil the human rights of pregnant persons and not force them to seek out unsafe abortions.

However, Amnesty International does not support sex-selective abortion. The practice of sex selective abortion stems from a deeply rooted preference for the male child. Sex-selective abortion is a global issue reflecting the unequal position of girls and boys in the society. Majority of sex selective abortions result in female foeticide as a result of preference of the male child in society.

**Situation in Nepal**

Section 189 of the Country Penal (Code) Act 2017 (2074) lays down instances where abortion is permitted.

The Right to Safe Motherhood and the Reproductive Health Act 2075 (2018) embody within them the right of women to access safe abortion services in Nepal. The act lays down the right of a woman to opt, as per her own consent, for safe abortion services up to 12 weeks of pregnancy. In circumstances such as rape, incest, HIV cases or when acting on the opinion of licensed doctors that the life of the pregnant woman may be in danger or her physical or mental health may deteriorate, or a disabled infant may be born in case abortion is not performed, the act allows safe abortion up to 28 weeks of pregnancy.

3. **LGBTI Rights**

In too many countries, being lesbian, gay, bisexual, transgender or intersex (LGBTI) means living with daily discrimination. This discrimination could be based on your sexual orientation (who you’re attracted to), gender identity (how you define yourself, irrespective of your biological sex), gender expression (how you express your gender through your clothing, hair or make-up), or sex characteristics (for example, your genitals, chromosomes, reproductive organs, or hormone levels).
From name-calling and bullying to being denied a job or appropriate healthcare, the range of unequal treatment faced is extensive and damaging. It can also be life-threatening. LGBTI people, especially transgender and gender non-conforming people, are often at risk of economic and social exclusion.

Situation in Nepal

Article 18 of Nepal’s constitution, on the right to equality, allows for the making of special provisions by law for the protection, empowerment or development of gender and sexual minorities.

Further, Article 42, on the right to social justice, provides for gender and sexual minorities the right to participate in the state bodies on the principle of inclusivity.

Same-sex relations or LGBTI identities are not a criminal offence in Nepal. However, same-sex marriage is still not a right, proving that marriage equality is yet to become reality for Nepali citizens. While a 2007 Supreme Court decision ordered investigations into the possibility of same-sex marriage and the introduction of anti-discrimination laws, nothing has happened yet.¹

¹BEING LGBT IN ASIA: NEPAL COUNTRY REPORT
LGBTI Definition

**Lesbian** - Attraction towards the same gender. The term lesbian is used to refer to those who identify as a woman and are attracted to other women.

**Gay** - Attraction towards the same gender. The term gay is used to refer those who identify as a man and are attracted to other men.

**Bisexual** - Attraction towards two types of gender.

**Transgender** - Individuals whose gender identity is different from their sex.

**Intersex** - A term used to refer to a variety of situations where an individual is born with sexual or reproductive organs that does not fit the customary definitions of “male” or “female”.

4. Torture and ill-treatment

*Torture can never be justified. It is barbaric and inhumane, and replaces the rule of law with terror. No one is safe when governments allow its use.*
Torture is when somebody in an official capacity inflicts severe mental or physical pain or suffering on somebody else for a specific purpose. Sometimes authorities torture a person to extract confession for a crime, or to get information from them. Sometimes torture is simply used as a punishment to spread fear in society.

Torture methods vary. They can be of a physical nature, like beatings and electric shocks. They can be of a sexual nature, like rape or sexual humiliation. Or they can be of a psychological nature, like sleep deprivation or prolonged solitary confinement. High profile torture cases around the world have led to a common misconception that torture is generally confined to issues around national security and counter-terrorism. But Amnesty’s research shows that it could happen to anyone - petty criminals, people from ethnic minorities, protesters, student activists, and people who were simply in the wrong place at the wrong time.

It is most often poor and marginalized people who get beaten, humiliated or raped by police and other officials when there is no one to protect them or hear their cries for help.

**Situation in Nepal**

Article 22 of Nepal’s constitution, which deals with fundamental rights, provides for the right against torture. It states: “no person who is arrested or detained shall be subjected to physical or mental torture or to cruel, inhuman or degrading treatment.” The Article also provisions for the perpetrator to be punished and victim to receive compensation according to law.

Further, Section 167 of The Country Penal (Code) Act 2017 (2074) prohibits and criminalizes mental and physical torture, cruel, brutal, inhuman or degrading treatment by authorities who have the power by law to investigate or prosecute any offence, implement laws, take any one into control, or hold any one in custody or detention. Although Nepal acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 14 May 1991, domestic laws addressing torture is limited to the Torture Compensation Act, 1996. This law fails to provide standards to prevent torture.

5. **Freedom of Expression, Opinion, Assembly and Association**

*Your voice matters. You have the right to say what you think, share information and demand a better world. You also have the right to agree or disagree with those in power, and to express these opinions in peaceful protests.*
Exercising these rights – without fear or unlawful interference – is central to living in an open and fair society; one in which people can access justice and enjoy their human rights. Yet governments around the world routinely imprison people – or worse – for speaking out, even though almost every country’s constitution refers to the value of ‘free speech’.

Governments have a duty to prohibit hateful, inciteful speech but many abuse their authority to silence peaceful dissent by passing laws that criminalize freedom of expression. This is often done in the name of counter-terrorism, national security or religion. More recently, freedom of expression has come under threat by authorities clamping down on activists, NGOs and individuals helping refugees and migrants.

How governments tolerate unfavorable views or critical voices is often a good indication of how they treat human rights generally.

**Situation in Nepal**

Article 17(1)(a) of Nepal’s constitution states that every person shall have the right to freedom of opinion and expression. Although the constitution also provides for enactment of legislation to impose reasonable restriction on certain type of expression and speech, many bills tabled in 2019 severely threaten the freedom of expression, like the Information Technology Bill. The IT Bill has provisions for long prison sentences and hefty fines against those who freely express their opinion through electronic mediums. Amnesty Nepal has called on the government to amend the bill and bring it in line with international standards.
6. Right to Equality and Non-discrimination

*Discrimination strikes at the very heart of being human. It is treating someone differently simply because of who they are or what they believe.*

All of us have the right to be treated equally, regardless of our race, ethnicity, nationality, class, caste, religion, belief, sex, language, sexual orientation, gender identity, age, health, disability or other status. Yet all too often we hear heart-breaking stories of people who suffer cruelty simply for belonging to a “different” group from those in power. Discrimination doesn’t only mean a lack of equality, it actually perpetuates harm. When the state dismisses violence against women and other marginalized communities as a private or domestic matter, it sends a clear message that violence is condoned.

**Situation in Nepal**

Again, Article 18 of the Constitution, in outlining fundamental rights, provides for the right to equality and says that all citizens shall be equal before law. It also ensures that the state will not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or on similar other grounds.

However, even today there are many laws which do not treat all individuals as equals in our society. For example, even to this day, women in Nepal do not have the rights that men enjoy to pass citizenship to their children. Further, marriage equality for members of the LGBTI community is still a distant reality.
TAKING YOUR SCHOOL'S HUMAN RIGHTS TEMPERATURE
Assessing how human rights friendly your school is can help develop its vision, goals, and action plan. It will also help you understand the progress your school makes as it becomes more and more human rights friendly.

**Note** – when assessing human rights friendliness, it is essential that you include viewpoints from a range of school community members, including people from a variety of:

- **Roles** – such as teachers, students, administrators, and parents
- **Ages** – including students of all grade levels
- **Social identities** – such as those attached to gender, race, ethnicity, disability, language status, and social class.

To give voice to all these perspectives, make sure that people have the opportunity to communicate their experiences and ideas in a safe way. For example, some people may only feel comfortable expressing their ideas anonymously. In other cases, small discussion groups may be useful in understanding the experiences of groups, such as women, teachers, or students with disabilities.
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**My school is a place where students are safe and secure**
(UDHR, Articles 3 and 5)

**No one in my school is discriminated against for any reason, for example because of their gender, religion, the way they dress, who their friends are, the colour of their skin, their caste or class, or what they do when they are not in school**
(UDHR, Articles 1, 2, 7 and 16)

**My school provides equal access to human rights, including resources and activities for everyone**
(UDHR, Articles 2 and 7)

**Everyone in my school community is provided with equal information and encouragement about academic, extra-curricular and career opportunities**
(UDHR, Articles 2 and 19)

**I have the freedom to express my beliefs and ideas (cultural, political, religious or other beliefs) without fear of being discriminated against, teased or mocked**
(UDHR, Articles 2 and 19)

**My school community welcomes students, their families, teachers and other staff from diverse backgrounds and cultures**
(UDHR, Articles 2, 6, 13, 14 and 15)

**My school is democratic. Everyone in my school (students, teachers, support staff and parents) has an opportunity to participate in making decisions about things that affect them, such as rules and school policies. Given the particular setting of schools, it is natural that not all stakeholders can participate to an equal degree in all decisions**
(UDHR, Articles 20, 21 and 23)

**When someone misbehaves, or an incident happens in my school, everyone involved is treated fairly and in the same way by the teachers and school leaders in finding out what happened and deciding what punishment is given**
(UDHR, Articles 6, 7, 8, 9, 10 and 29)

**When someone in my school does something that negatively affects the rights of another person, they are helped to learn how to change their behaviour**
(UDHR, Article 29)
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<td>(UDHR, Articles 12 and 17)</td>
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<tr>
<td>In my school I take responsibility to ensure other people do not discriminate against others and that they behave in ways that protect the safety and well being of the whole school community</td>
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<td>(UDHR, Articles 1 and 29)</td>
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<tr>
<td>In my school I am confident that no one can take away my rights</td>
<td><img src="1" alt="Image" /></td>
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<td>(UDHR, Article 30)</td>
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</tbody>
</table>

**HUMAN RIGHTS TEMPERATURE TOTAL =**
What are some of the international treaties that Nepal has ratified?

<table>
<thead>
<tr>
<th>Treaty Description</th>
<th>Treaty Name</th>
<th>Signature Date</th>
<th>Date of Ratification, Accession(a), Succession(d) by Nepal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment</td>
<td>CAT</td>
<td></td>
<td>14 May 1991 (a)</td>
</tr>
<tr>
<td>International Covenant on Civil and Political Rights</td>
<td>CCPR</td>
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<td>14 May 1991 (a)</td>
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<tr>
<td>Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty</td>
<td>CCPR-OP2-DP</td>
<td></td>
<td>04 Mar 1998 (a)</td>
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<tr>
<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
<td>CERD</td>
<td></td>
<td>30 Jan 1971 (a)</td>
</tr>
<tr>
<td>International Covenant on Economic, Social and Cultural Rights</td>
<td>CESCR</td>
<td></td>
<td>14 May 1991 (a)</td>
</tr>
<tr>
<td>Convention on the Rights of the Child</td>
<td>CRC</td>
<td>26 Jan 1990</td>
<td>14 Sep 1990</td>
</tr>
<tr>
<td>Convention on the Rights of Persons with Disabilities</td>
<td>CRPD</td>
<td>03 Jan 2008</td>
<td>07 May 2010</td>
</tr>
</tbody>
</table>

Glossary:

**Acceptance and Approval:** The instruments of "acceptance" or "approval" of a treaty have the same legal effect as ratification and consequently express the consent of a state to be bound by a treaty.

**Accession:** Accession is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification.

**Ratification:** Ratification is an act or a process that a state adopts in order to demonstrate its consent to be bound to a treaty including through steps such as the adoption of the treaty through its parliament and/or passing of domestic laws to give effect to the treaty provisions.

**Signature Subject to Ratification, Acceptance or Approval:** A signature subject to ratification, acceptance or approval does not establish the consent to be bound. However, it is a means of authentication and expresses the willingness of the signatory state to continue the treaty-making process.

This handbook is a compilation of various Amnesty International resources ranging from Amnesty International’s online human rights academy, Human Rights Education toolkit as well as Amnesty Nepal’s inputs on contextualized information for the Nepali audience.

https://treaties.un.org/Pages/Overview.aspx?path=overview/glossary/page1_en.xml