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# SOLIDARITY RIGHTS: UNIVERSALITY AND DIVERSITIES

The oposition between the individual and the community is one of the central themes in the non-Western cultural criticue of international human rights.[[1]](#footnote-1) Throughout the centuries concepts of human rights and fundamental freedoms provided that the beneficiaries of those rights and freedoms are individual human beings in whom these rights inhere inalienably by virtue of their humanity, and the dignity and integrity to which that characteristic entitles them.[[2]](#footnote-2) For long, one of the key features of human rights thinking was the centrality of the dignity and well being of individuals. On the other hand, man is a „social animal“, and individual human rights have collective interests as legitimate restriction grounds. Moreover, such interests may impose duties on individuals. Some scholars argue that most human rights have a collective aspect.[[3]](#footnote-3) Some human rights are intended on the protection of an individual’s capacity for relating with others (the freedom of expression, the freedom of assembly, etc.). In relation with the state’s obligation to implement human rights, most of the rights are collective as they can be implemented by means of general measures only. Some of the human rights are ascribed to special groups of human beings – such as children, women, prisoners, etc. - but still they belong to individual members of a group, rather than to the group itself as a hypothetical entity.

However, the solidarity rights are difficult to reconcile with the classical theory, as they are held not by individuals, but by collective subjects (“peoples”). They are frequently referred to as “third generation” rights. Karel Vasak, former director of the Division of Human Rights and Peace of UNESCO, began to use these terms at the end of 1970s. According to his explanation, after the first generation of negative civil and political rights, and the second generation of positive economic, social and cultural rights a new third generation of rights receives international recognition. These rights are the so-called rights of solidarity as they can be brought through only by joint activity of all social actors – individuals, state, public and private bodies, and the international community. Using the terminology of the French Revolution of 1789, the first generation of rights implies freedom, the second generation equality, and the third generation (the solidarity rights) – fraternity.[[4]](#footnote-4) This model can be considered a simplified expression of a very complicated historical advance. It does not indicate a linear progression in which every generation of rights appears changing the old one, and disappears with the emergence of the next generation of rights. It also does not suggest that one generation of rights is more important than another is. The three generations are implied to be “cumulative, overlapping… interdependent and interpenetrating.”[[5]](#footnote-5) This triad of democracy, development, and human rights reflects the fundamental conditionality of social and individual life and progress.[[6]](#footnote-6) The “third generation” rights proposed by Vasek include the right to development, the right to peace, the right to a healthy and balanced environment, the property right of the common heritage of mankind, and the right to humanitarian assistance.[[7]](#footnote-7)

Nowadays the range and classification of collective rights is questionable. Some commentators distinguish particular rights as such - for example, the rights to self-determination, liberation and equality, the right to international peace and security, the right to use of wealth and resources, the right to development, the right to environment and the minority rights.[[8]](#footnote-8) Others use classifications of collective rights, distinguishing for example: - “nationalist” collective rights, which imply the group of rights, which in some respect deal with the existence and cultural or political continuation of groups (e.g. the right to self-determination),[[9]](#footnote-9) and other collective human rights;[[10]](#footnote-10)

- or collective human rights reflecting demand for a global redistribution of power, wealth, and other important values or capabilities (the right to political, economic, social, and cultural self- determination, the right to economic and social development, the right to participate in and benefit from "the common heritage of mankind"), and the rights suggesting the impotence or inefficiency of the nation-state in certain critical respects (the right to peace, the right to a healthy and sustainable environment, and the right to humanitarian disaster relief).[[11]](#footnote-11) In the following I will discuss those rights which are recognized by the majority of commentators.

The principle of “equal rights and self-determination of peoples” is cited in the United Nation’s Charter (UNCH) 1 (2) as a basis for friendly relations among nations. This principle is also declared to be one of the four purposes of the UN.[[12]](#footnote-12) Throughout its existence, the UN has undertaken and supported many measures to promote and protect **the right to self-determination**, especially in encouraging and accelerating the grant of independence to colonial countries, trust territories and other non-self-governing territories, 75 of which became independent between the entry into force of the UNCH in 1945 and the end of 1977. As one of those measures this right is incorporated into the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both of these documents (article 1(1)) identically provide this right:

“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.”[[13]](#footnote-13)

In the probably most progressive document concerning collective human rights - the 1981 African Charter on Human and Peoples’ Rights (ACHPR)[[14]](#footnote-14) (article 20) – the right to self-determination is complemented with the “right to existence” and the further right to liberation “from the bonds of domination”, means for liberation being unrestricted, except for recognition of such “by the international community”. Moreover, the ACHPR declares a right to assistance from the other State Parties in any “liberation struggle against foreign domination”. The right of self-determination under the ICCPR and the ACHPR is absolute and immediate and non-derogable in any circumstances.

 There is an opinion, that “self-determination has been the single most powerful legal concept shaping the world since the World War II”; being, however, at the same time very strongly affected by economic self-efficiency.[[15]](#footnote-15)

**The right of a group to existence** is generally protected by the prohibition of **genocide** and **apartheid**. Article II of the Convention on the Prevention and Punishment of the Crime of Genocide[[16]](#footnote-16) defines genocide as “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such”. The International Convention on the Suppression and Punishment of the Crime of Apartheid relates the definition of the crime both to acts against individuals and to acts against groups. For example, article II (c) tells about “measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country”.[[17]](#footnote-17)

The right not to undergo **group-based discrimination,** granted to individuals, is frequently cited as an example of a collective right. This viewpoint finds support in many international human rights instruments. The most important example is the International Convention on the Elimination of All Forms of Racial Discrimination.[[18]](#footnote-18) In particular, the State Parties under this convention have an obligation “to engage in no act or practice of racial discrimination against persons, groups of persons or institutions” (article 2 (a)). Even so, that these provisions are formulated as state obligations, rather than as collective or individual human rights, “their result is a recognition of the rights of groups.”[[19]](#footnote-19)

 **The protection of minorities,** reflectingthe needs of minorities and groups as collectives,[[20]](#footnote-20) is the oldest illustration of collective rights’ protection. Since the seventeenth century international treaties included provisions guaranteeing certain rights to religious minorities. Examples are the Treaty of Westphalia (1648), granting religious rights to the Protestants in Germany; the Treaty of Olivia (1660), in favour of Roman Catholics in Livonia, ceded by Poland to Sweden; the Treaty of Ryswick (1697), protecting Catholics in territories ceded by France to Holland, and the 1763 Treaty of Paris between France, Spain and Great Britain, protecting Catholics in Canadian territories ceded by France.[[21]](#footnote-21) After the First World War the system of minority rights protection was established by the League of Nations. By means of special provisions in peace treaties this system provided for securing of legal equality for individuals belonging to minorities, as well as preservation of the group identity and traditions of minorities.[[22]](#footnote-22) After the Second World War to the protection of minorities was applied rather an individual human rights approach. In the first place minority rights are secured trough the prohibition of group-based discrimination. In the second place, the ICCPR includes a special provision on the rights of individuals belonging to minorities serving as a starting point for further international and domestic legislation:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.” (article 27).[[23]](#footnote-23)

Modern human rights development makes clear the movement in favour of collective rights for minorities. However, in most international and domestic human rights instruments these rights are declared alongside with rights of individual members of minority groups without any distinction. Examples are the Council of Europe’s 1995 Framework Convention for the Protection of National Minorities[[24]](#footnote-24); the 1993 Vienna Declaration;[[25]](#footnote-25) the 1978 UNESCO Declaration on Race and Racial Prejudice;[[26]](#footnote-26) the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities.[[27]](#footnote-27)

As a particular minority rights category can be considered the **rights of indigenous peoples**,[[28]](#footnote-28) as historically the indigenous population was the target of discrimination.[[29]](#footnote-29) Compared with minority rights, rights of indigenous people are more often to encounter in domestic legislation[[30]](#footnote-30) and more readily recognized as group rights[[31]](#footnote-31) than minority rights. For example, the 1994 United Nations Draft Declaration on the Rights of Indigenous People declares to be “collective rights” many of the rights included in the Declaration.[[32]](#footnote-32) An exception in this tendency is the Vienna Declaration referring to “the rights of indigenous people”, not peoples.[[33]](#footnote-33)

A group of so called **collective cultural rights** implies an individual’s right in community with others to take part in cultural life. This right is recognized in the 1966 UNESCO Declaration of the Principles of International Cultural Co-operation[[34]](#footnote-34) and separately protected in ICESC[[35]](#footnote-35) 15 (1)(a). The right to profess and practice a religion in community with others is declared in ICCPR[[36]](#footnote-36) 18 (1). Surprisingly, the right to use a language is provided by neither of them.[[37]](#footnote-37) The right to the common heritage of mankind is included in the UNESCO Draft Declaration on the Safeguarding of Future Generations of 1997.[[38]](#footnote-38) This right is supposed to be more comprehensive than other cultural rights. It provides every individual, in community with others, with the right to share “Earth and space resources, scientific, technical, and other information and progress, and cultural traditions, sites, and monuments.”

## The collective right to peace and security or “the right to life in peace” is declared as a right of “every nation and every human being” in the Declaration on the Preparation of Societies for Life in Peace, adopted by the UN General Assembly in 1978[[39]](#footnote-39). The Declaration on the Right of Peoples to Peace, adopted by the UN General Assembly in 1984[[40]](#footnote-40) (§ 1) “solemnly proclaims that the peoples of our planet have a sacred right to peace.”

The **right to use of wealth and resources** or **the right to sovereignty over natural resources** might be described as an economic counterpart of the right to self-determination. There is an opinion that the permanent sovereignty of peoples and nations over their natural resources is a component of the “principle of equal rights and self-determination of peoples” declared in the UN charter (article 1).[[41]](#footnote-41)

This right is formulated in article 1 (2) of the ICCPR and the ICESCR as follows:

“All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence”.

Moreover, the article 47 of the ICCPR and the article 25 of the ICESCR state:

“Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources”.

In the most completed form this right is declared by the article 21 of ACHPR.[[42]](#footnote-42) All the above mentioned documents limit the right to sovereignty over natural resources by “obligations arising out of international economic cooperation” and by international law.

One of the most significant collective rights- **the right to development**, according to some commentators, is “difficult to define as a human right”, because it rather “tends to suggest the presence of certain conditions conducive for human rights ”.[[43]](#footnote-43) The origin of this right is tracked back by some authors to the 1944 Declaration of Philadelphia,[[44]](#footnote-44) adopted by the General Conference of the International Labor Organization, which stated, that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual freedom in conditions of freedom and dignity, of economic security and equal opportunity”.

The right to development as a human right was launched by Keba M’Baye, that time Chief Justice of Senegal, in his inaugural lecture on that subject to the 1972 study session of the International Institute of Human Rights in Strasbourg. In 1986 the General Assembly adopted the United Nations key document in this field - the Declaration on the Right to Development setting up the right to development as “an unalienable human right”.[[45]](#footnote-45) The Vienna Declaration and the Programme of Action (articles I/10-11 and II/72-74) states this right as “a universal and inalienable right and an integral part of fundamental human rights”.[[46]](#footnote-46) However, the most commentators agree, that this right doesn’t really have any enforceable means of implementation except for in the regional ACHPR system.[[47]](#footnote-47) The right has been discussed broadly in recent years.[[48]](#footnote-48) Partly, because the economic circumstances in many countries are such, that their inhabitants’ rights are violated steadily, and partly also because some programs for the economic development of these countries may themselves result in deprivation of human rights.[[49]](#footnote-49) There is no generally agreed definition of the nature or scope of the right to development in the context of human rights. Many authors agree with the collective nature of this right[[50]](#footnote-50), however, the right to development might be considered as being both of collective and individual nature.[[51]](#footnote-51) The UN Declaration on the Right to Development defines the right to development as right to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be realized;[[52]](#footnote-52) So, the right to development is supposed to have not only economical and social dimensions, but cultural and political as well.[[53]](#footnote-53)

As individual human right, the right to development, represents a kind of combination of all individual human rights or the basis of all other rights. The individual right to development is a right to human flourishing in all spheres of life[[54]](#footnote-54) in other words the individual right of every person to benefit from a developmental policy.”[[55]](#footnote-55) An important element of the right to development as an individual human right is politic and economic “active participation”.[[56]](#footnote-56) Article 3 (3) of the Declaration on the Right to Development states, that national development policies must be based on “active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.” The article 8 (2) requires, that “States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.” Pursuing these aims states are obliged to ensure “equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income”.[[57]](#footnote-57) It should be noted that the participatory element is essential in other collective rights as well.

As a collective right the right to development implies full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources. (Article 1 (2) of the United Nations Declaration on the Right to Development)). The double role of the state in relation to collective rights can be illustrated the best on the example of this right. Acting as responsible for the promotion and protection of the right to development on national level states have the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals (article 2 (3) of the United Nations Declaration on the Right to Development)). Acting as representatives of nations on the international level states are obliged “to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development” (article 4 (1)).

A **collective human right with regard to the environment** is not generally accepted. It is included in the Rio Declaration concluding the 1992 United Nations Conference on Environment and Development[[58]](#footnote-58) by reference to the right to development. The Vienna Declaration adopted the same position. § I/11 of the Declaration states “The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.”[[59]](#footnote-59) In many documents this right was mentioned not as a collective right but among the rights of individuals.[[60]](#footnote-60) The collective environmental right is provided by the 1981 African Charter on Human and Peoples’ Rights in the following formulation: “All peoples shall have the right to a general satisfactory environment favorable to their development”(article 24).[[61]](#footnote-61)

The **right to humanitarian assistance is** described in the guiding principles for the strengthening of the coordination of humanitarian emergency assistance of the United Nations as having cardinal importance for the victims of natural disasters and other emergencies[[62]](#footnote-62). However, there is no mechanism to enforce this right at the international level (except for the ACHPR).

We could see that there are many collective rights declared in international and regional human rights instruments, and recognized by the international community. However, some commentators suggest that the status of collective rights as international human rights standards still remains ambiguous.[[63]](#footnote-63) On the reason that a “people” cannot consist of anything more than the individuals who make it up, collective human rights are viewed as a non-existing concept and considered as rights of all individual human beings.[[64]](#footnote-64) Many authors consider these rights to be too vague to be justifiable, and nothing more then slogans promoting goals of the United Nations, and sometimes even used for propaganda purposes in some countries.[[65]](#footnote-65) Besides, the skeptical attitude towards collective rights is largely based on supposed impossibility of enforcement of collective rights.[[66]](#footnote-66) The current trend in the international human rights law and theory shows weakness of these views[[67]](#footnote-67) Moreover, many authors and legislators agree that the traditional system of individual human rights combined with non-discrimination provisions is not sufficient for the protection of the rights of individuals as group members. [[68]](#footnote-68)

Nonetheless, there is widespread opinion that indiscriminate recognition of numerous demands or values as human rights would weaken the idea of human rights in general. [[69]](#footnote-69) However, the inclusion of collective rights (the right to political determination and the right to sovereignty over natural resources) in the two fundamental universal human rights instruments over thirty years ago has not ruin individual human rights and it is doubtful to do so.[[70]](#footnote-70) In the same way many authors are afraid of possible underestimation of individual rights in favor of collective rights. This idea is supported by the fact that the worst violations of individuals’ human rights occurred in the name of some “inspiring abstraction”, such as “the one true faith”, “the nation”, “the State”, etc. The term “people” is an abstraction as well. As a result, grave abuses of individual human rights might occur under “legitimating” label of collective interest, if any of the individual rights and freedoms protected by modern international human rights law ever will be regarded as in some sense inferior to peoples’ rights. [[71]](#footnote-71) On the other hand, there is a view that “peoples... are above all people”[[72]](#footnote-72) and that consequently such order has its advantages as well. According to the latter approach the main function of collective rights is still their benefit to the individual. Groups have no ultimate or necessary value, but they are a way in which individuals achieve various ends, which are necessary or desirable (in particular the good of community and the fulfillment of certain human capacities and attributes which are best fulfilled in community.)[[73]](#footnote-73) There is an opinion, that recognition of collective rights as human rights is meaningful as far as specific collective goods are essential for human self-realization. Such a conception of collective rights is called the “collective” conception, as opposed to the “corporate” one. The latter conception implies that rights are held by a single corporate entity and used for pursuing a common aim, unconnectedly to any individual composing it; whereas in the “collective” conception the rights are united, but the interests of the group members are different.[[74]](#footnote-74)

At all events, collective human rights are considered as an important component of the protection of individual human rights, as, for example, wars and local armed conflicts are clearly the most significant causes of violations of individual human rights. The collective character of the first rights is justified from the insider perspective of the suffering individuals, who frequently experience their suffering as group suffering.[[75]](#footnote-75) Furthermore, since 1945 the object for many serious human rights violations were ethic groups as such. Therefore as the injustice is uphold by hostile attitude towards groups, the solution requires the promotion of the dignity of groups.[[76]](#footnote-76) A clearer definition of collective rights would probably help reconcile conflicting views. The meaning of “peoples” notion is uncertain itself. There are many groups within a State – is every one of them entitled to be called “peoples” and claime, as a result, for its rights to be recognized? Is any given individual a member of a certain group sharing the group’s rights? Perhaps the most advanced definition would be the following one: “[Peoples are] collective entities based upon unifying, spontaneous [as opposed to artificial or planned] and permanent factors, as rule beyond the will of the members of the group.”[[77]](#footnote-77) In addition, the territorial basis of such unifying has to be taken into consideration in almost all situations.

The next suggestion of the collective rights’ critic is the uncertainty of the opposing party in emerging obligation. It is not difficult to identify the entities that have the duty to respect and secure the rights of individuals (the State, its government, or other public authorities). This obligation is imposed on those who have it in their power to perform them. Hence, it is not clear who is in power to ensure for people the right to dispose of its natural wealth and resources for example. In Karel Vasek’s view the solidarity rights are rights with undetermined subjects and opposing to all centers of power.[[78]](#footnote-78) That power can be spread very thinly over other States, public and private ,national and international bodies, and many individuals. The right to peace, the right to a healthy environment and similar rights can be considered as rights even not of a group of people, but of the whole human race entailing obligations of all the above-mentioned subjects and the human race itself. It is almost impossible to demonstrate that any one, or more of them has breached the obligation, since collective rights might be viewed as being “higher” than the level of states’ responsibility, which argument supports the opinion about legal non-enforceability of collective rights.

The possible solution could be to regard a state as responsible before it’s population for performing in it’s competence the duties imposed by collective rights’ obligations, and as a representative of it’s population in protecting these rights on the international level,[[79]](#footnote-79) bearing in mind that these are primarily governments, who have to take the prime responsibility for promoting and protecting human rights.[[80]](#footnote-80)

Some commentators consider collective rights as a product of both the rise and the decline of the nation-state in the last half of the 20th century.[[81]](#footnote-81) In this case collective rights are understood as reflecting the emergence of Third World nationalism and its "revolution of rising expectations" (i.e., its demand for a global redistribution of power, wealth, and other important values or capabilities) and suggesting the impotence or inefficiency of the nation-state in certain critical respects. [[82]](#footnote-82)

Considering the role of states with regard to collective rights some writers “distrust” collective rights since states might interpret these rights as state’s rights widening the area for individual rights abuses. However, states violate the rights of collectives in the same way as they violate the rights of individuals. They also promote the rights of collectives as they promote the rights of individuals. Therefore, collective rights have to be opposable to the states in the same manner as individual rights. Considering the nature of collective rights, some of them have to, and are able to be opposed against foreign states and against the international community as well. The latter characteristic demonstrates an unarguable advantage of collective rights before individual rights. [[83]](#footnote-83)

 The status of collective rights differs not only in scientist’s views, but also in accordance with a kind of geographical criterion. Collective rights are traditionally given more attention in the non-Western societies, where the communal dimension is more important to individual well being than in the Western societies. The interests of the group are automatically among person’s interests.[[84]](#footnote-84) On this reason international human rights frequently undergo critic in the non-Western countries, since the conflict between the individual and the community is the base of the human rights law originated in the Western countries. The promotion of collective human rights expresses the efforts of non-Western governments to assert their values on international level. As an example of this tendency may serve the 1976 Universal Declaration of the Rights of Peoples adopted in Algiers. Upon the non-Western way of thinking are based the so-called collective “Third Worldist” and “globalist” approaches[[85]](#footnote-85) to collective human rights similarly perceiving these rights as a proper response to the globalization and the unconditional control of the Western countries over the international politics.

In this way some commentators challenge the universality of collective rights on the ground, that some groups of peoples do not need them at all. It can be true with regard to minority and indigenous peoples’ rights, but this argument is void concerning other collective rights, which are attributed to all people. For example, peoples from rich countries enjoy a right to development on an equal base with people from poor ones, but the protection of the first’s right does not require any action. In the same way providing for special rights to children or women doesn’t violate their universality. Eva Brems argues that human rights can be stipulated on behalf of certain categories of individuals or groups as long as these same rights are not denied to others.[[86]](#footnote-86)

It seems that the arguments against collective rights are often based on the fact that many people are less sympathetic to the rights of others as a group, especially, when that group is perceived as very different.[[87]](#footnote-87) The international collective human rights’ concept is still in process of development, and that we may say about many of international human rights. However, such a view is particularly true with regard to this group of rights. The potential of collective rights is great and the view that “individual human rights … are a safer and probably more effective course to pursue human rights”[[88]](#footnote-88) will probably change. Collective human rights are recognized and protected in many of international human rights documents. There is a large academic interest to the topic as well, especially in connection with the globalization issues. And, although there is a role for international human rights instruments they in themselves will not rid the world of human rights violations.[[89]](#footnote-89)

1. Eva Brems, Human Rights: Universality and Diversity 67 (2001). [↑](#footnote-ref-1)
2. Paul Sieghart, The international law of human rights 367 (1995); Jose Ayala-Lasso, *The Universality of Human Rights, in* Human Rights and Humanitarian Law. The Quest for Universality 93 (Daniel Warner ed., 1997). [↑](#footnote-ref-2)
3. Eva Brems, Human Rights: Universality and Diversity 67 (2001). [↑](#footnote-ref-3)
4. Eva Brems, Human Rights: Universality and Diversity 67 (2001). [↑](#footnote-ref-4)
5. Burns H. Weston,*Human Rights the Content of Human Rights: Three Generations of Rights* (visited Aug. 14, 2002) <http://www.uichr.org/features/eb/weston4.shtml>. [↑](#footnote-ref-5)
6. Jose Ayala-Lasso, *The Universality of Human Rights, in* Human Rights and Humanitarian Law. The Quest for Universality 91 (Daniel Warner ed., 1997). [↑](#footnote-ref-6)
7. Eva Brems, Human Rights: Universality and Diversity 68 (2001). [↑](#footnote-ref-7)
8. Paul Sieghart, The International Law of Human Rights 368 (1995). [↑](#footnote-ref-8)
9. James Crawford, *The Rights of Peoples: ‘Peoples’ or ‘Governments’?, in* The Rights of Peoples 57 (James Crawford ed.,1988). [↑](#footnote-ref-9)
10. Ian Brownlie, *The Rights of Peoples in Modern International Law, in* The Rights of Peoples 124 (James Crawford ed., 1988). [↑](#footnote-ref-10)
11. Burns H. Weston,*Human Rights the Content of Human Rights: Three Generations of Rights* (visited Aug. 14, 2002) <http://www.uichr.org/features/eb/weston4.shtml>. [↑](#footnote-ref-11)
12. Charter of the United Nations (visited July 20, 2002) <http://www1.umn.edu/humanrts/instree/chapter1.html>. [↑](#footnote-ref-12)
13. International Covenant on Civil and Political Rights (visited July 20, 2002) <http://www.unhchr.ch/html/menu3/b/a\_ccpr.htm>; International Covenant on Economic, Social and Cultural Rights (visited July 20, 2002) <http://www.unhchr.ch/html/menu3/b/a\_cescr.htm>. [↑](#footnote-ref-13)
14. African Charter on Human and Peoples' Rights (visited July 21, 2002) <http://www1.umn.edu/humanrts/instree/z1afchar.htm>. [↑](#footnote-ref-14)
15. Paul Reeves, *The Human Rights of Indigenous People: Tiptoeing Towards Self-determination, in* Universal Human Rights? 68-69 (Robert G. Patman ed., 2000). [↑](#footnote-ref-15)
16. Convention on the Prevention and Punishment of the Crime of Genocide (visited July 20, 2002) <http://www.preventgenocide.org/law/convention/text.htm>. [↑](#footnote-ref-16)
17. International Convention on the Suppression and Punishment of the Crime of Apartheid (visited July 20, 2002) <http://www.unhchr.ch/html/menu3/b/11.htm>. [↑](#footnote-ref-17)
18. International Convention on the Elimination of All Forms of Racial Discrimination (visited July 20, 2002) <http://www.unhchr.ch/html/menu3/b/d\_icerd.htm>. [↑](#footnote-ref-18)
19. Eva Brems, Human Rights: Universality and Diversity 479 (2001). [↑](#footnote-ref-19)
20. Nathan Lerner, Group Rights and Discrimination in International Law 10 (1991). [↑](#footnote-ref-20)
21. Nathan Lerner, Group Rights and Discrimination in International Law 11-14 (1991). [↑](#footnote-ref-21)
22. For example, Articles 86 and 93 of the Treaty of Versailles of 1919 (visited July 20, 2002) <http://www.lib.byu.edu/~rdh/wwi/versailles.html >; the Polish-German Upper Silesia Treaty of 1922 not only guaranteed certain rights – including life, liberty, and the free exercise of religion – for all inhabitants, and equal treatment before the law and the same civil and political rights for all nationals, but also the same treatment and security in law and in fact to all linguistic, or ethnic minority groups of nationals; the right of minority groups to establish schools and religious institutions and to use their own language for publications, at public meetings, and before the courts. (visited July 24, 2002) <http://history.binghamton.edu/resources/bjoh/PolesAndJews.htm>. [↑](#footnote-ref-22)
23. International Covenant on Civil and Political Rights (visited July 20, 2002) <http://www.unhchr.ch/html/menu3/b/a\_ccpr.htm>. [↑](#footnote-ref-23)
24. Framework Convention for the Protection of National Minorities (visited July 24, 2002) <http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm>. [↑](#footnote-ref-24)
25. Vienna Declaration and Program of Action (visited July 24, 2002) <http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En?OpenDocument>. [↑](#footnote-ref-25)
26. Declaration on Race and Racial Prejudice (vidited July 21, 2002) <http://www.unhchr.ch/html/menu3/b/d\_prejud.htm>. [↑](#footnote-ref-26)
27. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (visited July 21, 2002) <http://www.unhchr.ch/html/menu3/b/d\_minori.htm>. [↑](#footnote-ref-27)
28. Eva Brems, Human Rights: Universality and Diversity 480 (2001). [↑](#footnote-ref-28)
29. Rebecca M. M. Wallace, International Human Rights Text and Materials 104 (2001). [↑](#footnote-ref-29)
30. E.g.: Federal Law on Territories of Traditional Exploitation of Nature by Indigenous Small Numbered Peoples of North, Siberia, and Far East in Russian Federation of Apr. 4, 2001 (visited July 24, 2002) <http://black.inforis.nnov.su/infobase/www.exe/a/90.new/upload.html?doc=77965 >. [↑](#footnote-ref-30)
31. E.g.: ILO Convention Nr. 107, on the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (June 26, 1957), declaring the collective rights of indigenous people, such as the right to decide their own priorities for the process of development and to participate in the formulation, implementation and evaluation in national and regional development plans affecting them (article 7 (1)), the right to retain their own customs and traditions (article 8 (2)), the rights of ownership and possession over the lands which they traditionally occupy (article 14 (1)), and the right to the natural resources pertaining to their lands (article 15 (1)). (visited July 24, 2002) <http://www.cwis.org/fwdp/International/ilo\_107.txt>. [↑](#footnote-ref-31)
32. E.g., the collective right to live in freedom, peace and security as distinct people and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext (article 6); the collective and individual right not to be subjected to ethnocide and cultural genocide (article 7); the collective and individual right to maintain and develop their distinct identities and characteristics (article 8); the right to determine their own citizenship in accordance with their custom and traditions (article 32) etc. (Draft Declaration on the Rights of Indigenous People (visited July 24, 2002) <http://www.usask.ca/nativelaw/ddir.html>. [↑](#footnote-ref-32)
33. Vienna Declaration, § II, 28-29. (visited July 21, 2002) <http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En?OpenDocument>. [↑](#footnote-ref-33)
34. Declaration of the Principles of International Cultural Co-operation (visited July 21, 2002) <http://www.unesco.org/culture/laws/cooperation/html\_eng/page1.shtml>. [↑](#footnote-ref-34)
35. International Covenant on Economic, Social, and Cultural Rights (visited July 28, 2002) <http://www.tufts.edu/departments/fletcher/multi/texts/BH497.txt>. [↑](#footnote-ref-35)
36. International Covenant on Civil and Political Rights (visited July 24, 2002) <http://www.tufts.edu/departments/fletcher/multi/texts/BH498.txt>. [↑](#footnote-ref-36)
37. However, the European Court of Human Rights has held that the right to education would be meaningless if it did not imply the right to be educated in their national language. Judgement of the European Court of Human Rights in *Six Groups of Belgian Citizens v. Belgium* (visited Aug. 5, 2002) <http://www.coe.int/portalT.asp>. [↑](#footnote-ref-37)
38. Draft Unesco Declaration on Cultural Diversity (visited Aug. 5, 2002) <http://unesdoc.unesco.org/images/0012/001234/123405e.pdf>. [↑](#footnote-ref-38)
39. Implementation of the Declaration on the Preparation of Societies for Life in Peace (visited Aug. 5, 2002) <http://www.un.org/documents/ga/res/42/a42r091.htm>. [↑](#footnote-ref-39)
40. Declaration on the Right of Peoples to Peace (visited Aug. 5, 2002) <http://www.unhchr.ch/html/menu3/b/73.htm>. [↑](#footnote-ref-40)
41. Paul Sieghart, The International Law of Human Rights 368 (1995). [↑](#footnote-ref-41)
42. African Charter on Human and Peoples' Rights (visited Aug. 5, 2002) <http://www.hrcr.org/docs/Banjul/afrhr.html>. [↑](#footnote-ref-42)
43. Rebecca M. M. Wallace, International Human Rights Text and Materials 1 (2001). [↑](#footnote-ref-43)
44. Declaration of Philadelphia (visited Aug. 5, 2002) <http://www.idhbb.org/uk-page4.1.htm>. [↑](#footnote-ref-44)
45. Declaration on the Right to Development (visited Aug. 8, 2002) <http://www.unhchr.ch/html/menu3/b/74.htm>. [↑](#footnote-ref-45)
46. Vienna Declaration (visited Aug. 7, 2002) <http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En?OpenDocument>. [↑](#footnote-ref-46)
47. Gudmundur Alfredson, *The right to Development: perspectives from human rights law, in* Human Rights in Domestic Law and Development Assistance Policies of the Nordic Countries 84-85 (Lars Adam Rehof et al. ed., 1989). [↑](#footnote-ref-47)
48. See, for example, the 1992 Rio Declaration on Environment and Development (visited Aug. 18, 2002) <http://sedac.ciesin.org/pidb/texts/rio.declaration.1992.html>; Program of Action of 1994 Cairo Conference (visted Aug. 18, 2002) <http://www.undp.am/archive/gender/UN/Coordinator/Cairo/Cairo\_1.htm>; Declaration and the Programme of Action of the World Summit for Social Development (Copenhagen, 1995) (visited Aug. 14, 2002) <http://www.visionoffice.com/socdev/wssd.htm>; the 1995 Platform of Action of the Beijing World Conference on Women (visited Aug. 14, 2002) <http://www.undp.org/fwcw/fwcw2.htm>. [↑](#footnote-ref-48)
49. Paul Sieghart, The International Law of Human Rights, 401 (1995). [↑](#footnote-ref-49)
50. Philip Kunig, *Human Rights Approach to the Right to Development: Merits and Shortcomings, in* The Right to Development in International Law 84 (Erik M. G. Denters et al. ed., 1992). [↑](#footnote-ref-50)
51. Eva Brems, Human Rights: Universality and Diversity 71 (2001). [↑](#footnote-ref-51)
52. Declaration on the Right to Development (visited Aug. 5, 2002) <http://www.unhchr.ch/html/menu3/b/74.htm>. [↑](#footnote-ref-52)
53. An international conference, convened by the International Commission of Jurists in 1981, formulated the right to development as follows: “Development should… be seen as a global concept including, with equal emphasis, civil and political rights and economic, social and cultural rights… True development requires recognition that the different human rights are inseparable from each other, and development is inseparable from human rights and the Rule of Law. Likewise, justice and equity at the international level are inseparable from justice and equity at the national level… Development should be understood as a process designed progressively to create conditions in which every person can enjoy, exercise and utilize under the Rule of Law all his human rights, whether economic, social, cultural, civil or political. Every person has the right to participate an, and benefit from, development in the sense of a progressive improvement in the standards and quality of life. The concept of the right to development… serves to express the right of all people all over the world, and of every citizen, to enjoy all human rights. The primary obligation to promote development, in such a way as to satisfy this right, rests upon each State for its own territory and for the persons under its jurisdiction.” (Reported in *Development, Human Rights and the Rule of Law;* also UN General Assambly Resolution 32/130 of 16 December 1977). [↑](#footnote-ref-53)
54. Eva Brems, Human Rights: Universality and Diversity 72 (2001). [↑](#footnote-ref-54)
55. Burns H. Weston. *Human Rights the content of human rights: Three generations of right* (visited July 21, 2002) <http://www.uichr.org/features/eb/weston4.shtml> [↑](#footnote-ref-55)
56. United Nations Declaration on the Right to Development, Article 2 (1) (visited Aug. 8, 2002) <http://www.unhchr.ch/html/menu3/b/74.htm>. [↑](#footnote-ref-56)
57. It also says that: “Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices ”. [↑](#footnote-ref-57)
58. The Rio Declaration on Environment and Development (1992) (visited Aug. 5, 2002) <http://sedac.ciesin.org/pidb/texts/rio.declaration.1992.html>. [↑](#footnote-ref-58)
59. Vienna Declaration (visited Aug. 5, 2002) <http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En?OpenDocumet>. [↑](#footnote-ref-59)
60. For example, Commision on Human Rights Resolution 1999/23, “Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights”, § 4. (visited Aug. 5, 2002) <http://www.un.org/documents/ecosoc/dec/1998/edec1998-242.htm>. [↑](#footnote-ref-60)
61. African Charter on Human and Peoples' Rights (visited Aug. 5, 2002) <http://www.hrcr.org/docs/Banjul/afrhr.html>. [↑](#footnote-ref-61)
62. See, for example, General Assembly RES/45/100 of 14 December 1990 (visited Aug. 5, 2002) <http://www.un.org/documents/ga/res/45/a45r100.htm>. [↑](#footnote-ref-62)
63. Burns H. Weston *Human Rights the Content of Human Rights: Three Generations of Rights* (visited July 24, 2002) <http://www.uichr.org/features/eb/weston4.shtml>. [↑](#footnote-ref-63)
64. Jack Donnely, *Human rights and collective rights, in* Human Rights in a Pluralist World. Individuals and Collectives 43 (Jan Berting et al. ed., 1990). [↑](#footnote-ref-64)
65. Richard B. Lillich & Hurst Hannum, International Human Rights Problems of Law, Policy and Practice 201 (1995). [↑](#footnote-ref-65)
66. Richard B. Lillich & Hurst Hannum, International Human Rights Problems of Law, Policy and Practice 204 (1995). [↑](#footnote-ref-66)
67. . “Unqualified resistance to the idea of collective human rights is not very productive for the pragmatic reason that such rights already exist.” (Eva Brems, Human Rights: Universality and Diversity 73 (2001).) [↑](#footnote-ref-67)
68. J. Donnely, *Third Generation Rights, in* Peoples and Minorities in International Law 91 (Catherine Brolmann et al. ed., 1993.) [↑](#footnote-ref-68)
69. Richard B. Lillich & Hurst Hannum, International Human Rights Problems of Law, Policy and Practice 201 (1995). [↑](#footnote-ref-69)
70. Eva Brems, Human Rights: Universality and Diversity 73 (2001). [↑](#footnote-ref-70)
71. Paul Sieghart, The International Law of Human Rights 368 (1995). [↑](#footnote-ref-71)
72. Eugene Kamenka, *Human Rights, Peoples’Rights, in* The Rights of Peoples 133 (James Crawford ed., 1988). [↑](#footnote-ref-72)
73. James Crawford, The Rights of Peoples 167 (1992). [↑](#footnote-ref-73)
74. Peter Jones, *Human Rights, Group Rights, and Peoples’ Rights*, Human Rights Quarterly 2. 86-88 (1999). [↑](#footnote-ref-74)
75. William F. Felice, *The Case for Collective Human Rights: the Reality of Group Suffering*, Ethics and International Affairs 48 (1996). [↑](#footnote-ref-75)
76. Michael Freeman, Are there Collective Human Rights? 32-33 (1995). [↑](#footnote-ref-76)
77. J. Donnely, *Third Generation Rights, in* Peoples and Minorities in International Law 92 (Catherine Brolmann et al. ed., 1993). [↑](#footnote-ref-77)
78. Eva Brems, Human Rights: Universality and Diversity 74 (2001). [↑](#footnote-ref-78)
79. Eva Brems, Human Rights: Universality and Diversity 485 (2001). [↑](#footnote-ref-79)
80. Jose Ayala-Lasso, *The Universality of Human Rights, in* Human Rights and Humanitarian Law. The Quest for Universality 94 (Daniel Warner ed., 1997). [↑](#footnote-ref-80)
81. Burns H. Weston *Human Rights the content of human rights: Three generations of rights*  (visited July 24, 2002) <http://www.uichr.org/features/eb/weston4.shtml>. [↑](#footnote-ref-81)
82. Burns H. Weston *Human Rights the content of human rights: Three generations of rights* (visited July 24, 2002) <http://www.uichr.org/features/eb/weston4.shtml>. [↑](#footnote-ref-82)
83. Jack Donnely, *Human rights, individual rights and collective rights, in* Human Rights in a Pluralist World. Individuals and Collectives 72-73 (Jan Berting et al. ed., 1990). [↑](#footnote-ref-83)
84. Eva Brems, Human Rights: Universality and Diversity 67 (2001). [↑](#footnote-ref-84)
85. Eva Brems, Human Rights: Universality and Diversity 70 (2001). [↑](#footnote-ref-85)
86. Eva Brems, Human Rights: Universality and Diversity 71 (2001). [↑](#footnote-ref-86)
87. J. Donnely, *Third Generation Rights, in* Peoples and Minorities in International Law 149 (Catherine Brolmann et al. ed., 1993). [↑](#footnote-ref-87)
88. J. Donnely, *Third Generation Rights, in* Peoples and Minorities in International Law 149 (Catherine Brolmann et al. ed., 1993). [↑](#footnote-ref-88)
89. Rebecca Wallace, International Human Rights: Text and Materials 104 (2001). [↑](#footnote-ref-89)